PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CHAPMAN: A bill (H. R. 11403) granting an increase of pension to Mary Reynolds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11404) granting an increase of pension to Mary Newton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11405) granting a pension to Mariah Matilda Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11406) granting a pension to Lucy Leach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11407) granting a pension to Maggie Berry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11408) granting a pension to Lou A. Strother; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11409) granting a pension to Nannie Floyd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11410) granting an increase of pension to Ellar Bales; to the Committee on Invalid Pensions.

By Mr. CROSBY: A bill (H. R. 11411) granting a pension to Elsie Latshaw; to the Committee on Invalid Pensions.

By Mr. RANDOLPH: A bill (H. R. 11412) for the relief of Lily Singleton Osburn; to the Committee on Claims.

Also, a bill (H. R. 11413) for the relief of Elizabeth Butcher; to the Committee on Claims.

By Mr. ROBSION of Kentucky: A bill (H. R. 11414) granting a pension to Francis Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11415) granting a pension to Allie Burnett; to the Committee on Pensions.

By Mr. THOMPSON: A bill (H. R. 11416) for the relief of Edwin Petis Peterson; to the Committee on Military Affairs.

By Mr. THOMAS: A bill (H. R. 11417) granting an increase of pension to Kate M. Farrell; to the Committee on Invalid Pensions.

SENATE

MONDAY, FEBRUARY 24, 1936

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

Almighty God, our Heavenly Father, whose love, reaching unto the world's end, doth embrace all the nations upon earth, be graciously pleased to direct and prosper all the consultations of these Thy servants toward the attainment of Thy purpose for our country.

Grant to each one of us the wisdom of a loving heart, patient and ever wondrous kind; may we hearken to the voice of history as it sounds across the centuries the law of right and wrong.

Give us the courage to banish sloth and pride, which foil the spirit's high emprise and veil the goal for which our fathers lived and died.

Bestow upon us all the confidence of reason, that, under the light of truth, inspired by love, we may ever stand upon the sunnier side of doubt and cling to faith even beyond the forms of faith.

We ask it in the name of the Master of mankind, Jesus Christ, Thy Son, our Lord. Amen.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Saturday, February 22, 1936, was dispensed with, and the Journal was approved.

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.

AGRICULTURAL RELIEF—COMPARISON OF BILLS PASSED BY SENATE AND HOUSE

Mr. ROBINSON. Mr. President, for the convenience of Senators I have had prepared by an authority in the Department of Agriculture a statement showing the material differences between Senate bill 3780, the agricultural relief bill, as passed by the Senate and as passed by the House of Representatives. I ask that this memorandum be printed in the RECORD as a part of my remarks.

The VICE PRESIDENT. Is there objection?

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

MEMORANDUM RE DIFFERENCES BETWEEN S. 3780, AS PASSED BY THE SENATE, AND AS AMENDED BY THE HOUSE OF REPRESENTATIVES

In this memorandum, S. 3780, as passed by the Senate, and the House amendment, are referred to as the Senate bill and the House bill, respectively.

The first section of the bill provides for the addition of sections to the act of April 27, 1935. References to sections in the discussion of the first section of the bill are to the sections proposed to be added to that act.

Although similar in fundamental plan, the bills differ in essential detail both in the manner of stating the objectives and in provisions for their achievement.

Section 7 in each bill states the objectives and makes provision for grants to States to assist them in carrying out State plans.

Section 7 (a): The House bill has added section 7 (a), which contains the statement of objectives, a more definite standard of parity of farmers' income and a more definite statement of provisions for the protection of consumers' interests. Certain differences exist in the language and order in which the objectives are stated in the two bills which would make considerable difference in administration. The House bill does not include as a stated objective protection of navigable streams and harbors against results of erosion.

Sections 7 (b), 7 (c), 7 (e), 7 (f): The bills differ in sections 7 (b), 7 (c), 7 (e), and 7 (f) only in that the House bill permits approval of plans which will effectuate any one or more of the purposes whereas the Senate bill requires that each plan shall concurrently contribute to the accomplishment of all the purposes.

Section 7 (d): Section 7 (d) (1) of the House bill makes specific reference to land-grant colleges as one of the agencies which may be designated to administer the plan in any State, whereas the Senate bill lacks specific reference to land-grant colleges.

Section 7 (g): The elements to be taken into consideration in making an apportionment to the States of funds available for carrying out the purposes of the act are specified in section 7 (g). The House bill specifies three distinct elements to be considered. The specification of the Senate bill is limited to the acreage and value of the major soil depleting or export crops produced in the State during a representative period. The House bill provides that apportionments to States may be made at any time during the calendar years 1936 and 1937, whereas the Senate bill requires an apportionment to be made on or before November 1 of the preceding year, except in the case of 1936. In view of the fact that there is not likely to be an appropriation available before November 1, 1936, of funds adequate to carry out the plan through the entire calendar year 1937, the extension of the provision for deferred apportionment to 1937 was considered advisable. Section 7 (g) of the House bill also makes the provision for disposition of funds not required to carry out a State plan during any year throughout the term of the bill, whereas in the Senate bill this provision was limited to the temporary period.

The House bill substitutes the word "may" for "shall", in section 8 (a), thereby making operation of the conservation program during the temporary period discretionary with the Secretary rather than mandatory, as provided in the Senate bill, and omits the provision of the Senate bill expressly limiting authority to make direct payments in any State to payments in connection with joining operations commenced before the approval of a State plan for the State.

Section 8: Section 8 (b) of the House bill differs materially from section 8 (b) of the Senate bill. In each bill the section provides for payments directly to producers during the temporary period.

Standards prescribed in this section of the two bills for measuring payments differ.

The language of the Senate bill requires the Secretary to consider the payments with reference to all the purposes specified in section 7 (a), whereas the House bill specifies the Secretary shall consider only the purposes specified in clauses 1, 2, and 3 of section 7 (a).

The language of the Senate bill makes it clearer than does that of the House bill that standards specified in the section relate only to the measure of payment rather than to conditions precedent to payment.

The Senate bill relates the payment to certain land. It is not clear that the House bill does so.

The House bill specifies that tenants and croppers are included in the term "agricultural producers", and expressly requires the Secretary to take into consideration, in apportioning payments with respect to any land, services of tenants and croppers and any loss of income to them by reason of changes in farming practices. It also expressly requires protection of the interests of small producers. The Senate bill lacks such provisions.

The statement of the Senate bill with respect to the services of committees of producers, the extension service, and other agencies more precisely expresses the authorization intended.

The House bill requires the Secretary to encourage soil conserving and rebuilding practices rather than the growing of soil-

depleting commercial crops. Section 8 (b) of the Senate bill contains no provision of this sort.

Section 8 (c): The language of the Senate bill more clearly indicates that payments may be made to farmers who do not own their own farms.

The conditions in both bills are referred only to the purposes specified in clauses 1, 2, or 3 of section 7 (a). It is to be noted that reference to purpose (4) of the Senate bill (the Logan amendment) is omitted.

The Senate bill specifies that conditions shall be those which tend to effectuate purposes specified in clauses 1, 2, or 3 of section 7 (a), whereas the language of the House bill might be interpreted to preclude payments to producers whose farming practices, although designed to effectuate these purposes, having been prevented from having that effect by uncontrollable circumstances.

Section 11 of the House bill provides for allotment and transfer of funds to facilitate effective administration. The Senate bill lacks this provision. Section 11 of the Senate bill, which is comparable to section 12 of the House bill, contains provisions for stabilization of markets and authority to enter into contracts with associations of producers or associations of associations of producers. No such provisions are contained in the House bill. Section 11 of the Senate bill contains a reference, apparently erroneous, to clause 4 of section 7 (a) resulting probably from the insertion of the Logan amendment between clauses 3 and 4 of the bill as it read prior to that amendment. The reference is probably intended to be to clause 5 of the Senate bill.

Section 12 of the Senate bill contains a provision, omitted from the comparable section (section 13 of the House bill), which limits the authority of the Secretary in utilizing the personnel of the Agricultural Adjustment Administration to carrying out the provisions added to Public, No. 46, Seventy-fourth Congress, by this bill. The provision was inserted in the Senate bill to make it clear that the personnel and organization of the Soil Conservation Service are not to be disturbed by the bill.

Section 13 of the Senate bill differs from section 14 of the House bill in the language defining the limitation upon the reviewability of the Secretary's determinations with respect to payments or grants under section 7 or 8. The language of the House bill probably limits somewhat more narrowly the scope of review by officers or employees of the Government other than the Secretary than does the language of the Senate bill.

Section 14 of the Senate bill authorizing annual appropriations limited to $500,000,000 is omitted from the House bill.

Section 15 of the House bill modifies section 15 of the Senate bill, which limits expenditures under the act during any fiscal year to $500,000,000 by making the limitation apply to calendar years and by expressly confining its applicability to sections 7 to 14, inclusive, of the act. The modification is designed to facilitate operations which must necessarily be on a calendar-year basis and to exclude from the limitation operations under the first six sections of Public, No. 46, Seventy-fourth Congress, which apply primarily to the existing Soil Conservation Service.

Section 2 of the Senate bill amends section 32 of Public, No. 320, Seventy-fourth Congress, merely by confirming the construction that moneys appropriated by that section may be used for any one of the three purposes specified in the section. The House bill further amends section 32 by substituting for the third clause (rendered substantially useless by the abandonment of the adjustment programs under the Agricultural Adjustment Act) an authorization of payments in connection with the normal production of any agricultural commodity for domestic consumption and by making final the Secretary's determination as to what constitutes diversion, normal channels of trade, and normal production for domestic consumption. The House bill also eliminates an ambiguity in the language of the Senate amendment to this section by providing that the Secretary may make expenditures under section 32 which he finds will "effectuate substantial accomplishment of any one or more of the purposes" of that section.

Section 3 of the House bill clarifies the provisions of the same section of the Senate bill regarding the extension of authorizations for appropriations contained in section 37 of Public, No. 320, Seventy-fourth Congress, and Public Resolution No. 27, Seventy-third Congress.

The House bill contains a new section, section 4, making available $2,000,000 of the unobligated balance of funds appropriated by the Emergency Relief Appropriation Act of 1935 for allocation to States or farmers in the Southern Great Plains area for wind erosion control under plans to be approved by the Secretary of Agriculture.

AGRICULTURAL RELIEF—REPRINT OF BILL

Mr. ROBINSON. Mr. President, at the request of the Senator from South Carolina [Mr. SMITH], I ask for the printing of the farm-relief bill, being Senate bill 3780, showing, by different types, the form of the bill as passed by the House of Representatives and as passed by the Senate.

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

ORDER TO DISPENSE WITH CALL OF THE CALENDAR UNDER RULE VIII

Mr. ROBINSON. I ask unanimous consent that the call of the calendar today under rule VIII be dispensed with.

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

CALL OF THE ROLL

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

The VICE PRESIDENT. 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	Connally	Johnson	Pope
Ashurst	Coolidge	Keyes	Radcliffe
Austin	Costigan	King	Robinson
Bachman	Couzens	Lewis	Russell
Bailey	Davis	Logan	Schwellenbach
Barbour	Dieterich	Lonergan	Sheppard
Barkley	Donahey	Long	Smith
Benson	Duffy	McAdoo	Steiwer
Bilbo	Frazier	McKellar	Thomas, Okla.
Black	George	McNary	Thomas, Utah
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkley	Glass	Murphy	Truman
Bulow	Gore	Murray	Tydings
Burke	Guffey	Neely	Vandenberg
Byrd	Hale	Norbeck	Van Nuys
Byrnes	Harrison	Norris	Wagner
Capper	Hastings	Nye	Wheeler
Caraway	Hatch	O'Mahoney	White
Chavez	Hayden	Overton	
Clark	Holt	Pittman	

Mr. DUFFY. My colleague the senior Senator from Wisconsin [Mr. LA FOLLETTE], is necessarily absent from the Senate because of temporary illness, due to a bad cold. I ask that this announcement may stand for the day.

Mr. LEWIS. I desire the RECORD to disclose that the Senator from Alabama [Mr. BANKHEAD], the Senator from Florida [Mr. FLETCHER], and the Senator from Washington [Mr. BONE] are absent because of illness, and that the Senator from Nevada [Mr. MCCARRAN], the Senator from New York [Mr. COPELAND], the Senator from Connecticut [Mr. MALONEY], the Senator from New Jersey [Mr. MOORE], the junior Senator from North Carolina [Mr. REYNOLDS], the Senator from Massachusetts [Mr. WALSH], and the Senator from Kansas [Mr. MCGILL] are necessarily detained from the Senate.

Mr. AUSTIN. I announce that the Senator from Wyoming [Mr. CAREY], the Senator from Iowa [Mr. DICKINSON], and the Senator from Minnesota [Mr. SHIPSTEAD] are necessarily absent.

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

TRIBUTE TO THE MEMORY OF THE LATE HON. HENRY L. ROOSEVELT

Mr. WAGNER. Mr. President, we, here in the Capital, and the Nation are deeply grieved because of the sudden death on Saturday last of a patriot of America and a citizen of the world, Henry L. Roosevelt, Assistant Secretary of the Navy. The innumerable recipients of his warm and gracious friendship—and I among them—will find none to take his place.

Scholar and cosmopolitan, he began and ended his career in the service of his country. To his most recent work, as to everything in his life, he brought the unflinching sense of responsibility of our finest heroic traditions. He deliberately and knowingly sacrificed himself to duty as surely as if he had been swept from the gun deck of a cruiser of the Navy which he loved and served so well.

A fervent proponent of peace, he strove to maintain the security and honor of America. America sensed his services and deeply mourns his loss.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a letter in the nature of a petition from Hon. Charles H. Martin, Governor of Oregon, praying for the enactment of the so-called Fletcher bill, being the bill (S. 3417) to provide for extending credit to aid in the conservation and operation of forest lands, to establish a forest credit bank, and for other purposes, which was referred to the Committee on Banking and Currency.

He also laid before the Senate a resolution of the Commissioners' Court of Demmit County, Tex., favoring the enactment of legislation providing protection against the spreading of communicable or infectious diseases, known to be prevalent in Mexico, throughout the Nation by immigrants carrying such diseases and entering the United States at various

border ports, which was referred to the Committee on Commerce.

He also laid before the Senate a resolution adopted by Townsend Club No. 2, of Olympia, Wash., favoring the prompt adoption of the so-called Townsend old-age revolving pension plan, which was referred to the Committee on Finance.

He also laid before the Senate resolutions of the executive committee of the Bar Association of St. Louis, Mo., and the State Bar Association of South Dakota, favoring the enactment of House Joint Resolution 237, for the establishment of a trust fund to be known as the Oliver Wendell Holmes Memorial Fund, which were referred to the Committee on the Library.

He also laid before the Senate letters in the nature of petitions from R. O. Lindsay, director of aeronautics, Aeronautics Commission of Tennessee, Nashville, Tenn., and Sidney Oviatt, managing editor of the Yale Alumni Weekly, New Haven, Conn., favoring the creation of a committee on civil aviation in each branch of Congress, which were referred to the Committee on Rules.

He also laid before the Senate a letter in the nature of a petition from the North Carolina League of Municipalities, Raleigh, N. C., praying for the enactment of the bill (S. 2883) to provide for the further development of vocational education in the several States and Territories, which was ordered to lie on the table.

He also laid before the Senate a resolution adopted by the Downtown Local of the Unemployed Citizens' League of Seattle and Kings County, Wash., protesting against the enactment of legislation abridging the freedom of speech or of the press, which was ordered to lie on the table.

Mr. CAPPER presented a petition numerously signed by sundry citizens of Ness County, Kans., praying for the enactment of Senate bill 541, to prohibit the advertising of intoxicating liquors, which was referred to the Committee on Interstate Commerce.

RECIPROCAL-TRADE AGREEMENT WITH CANADA

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution adopted at the annual convention of the National Grange, denouncing the Canadian reciprocal trade agreement because of its injurious effect on the American farmer.

I desire to state, Mr. President, that this resolution expresses my own opinion of the Canadian agreement, and the general opinion of the farmers of the United States. It should be further stated, that, with a few minor exceptions, the trade agreements so far made by the State Department have been harmful rather than helpful to American agriculture.

There never has been a time in our history when the American farmer was more entitled to the American market for his products than the present time. I had hoped when the Congress gave the Executive power to negotiate and put into effect trade agreements, that they would result in broadening the export market for American farm products, but to date such agreements have not done that. Instead, they have narrowed the domestic market, by giving slices of the domestic market to farmers of other nations. Either Congress should take back the power to approve these agreements before they become effective, or the authority should be taken entirely from the Executive. I ask that the Grange resolution be printed as a part of my remarks at this point in the RECORD.

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

One of the chief planks in the tariff platform of the National Grange is that so long as the protective system prevails we demand the American market for the American farmer in the case of all commodities which can be advantageously produced in any part of our country.

Judging from the information contained in press dispatches from Washington, the reciprocal trade agreement just made with Canada will, on the whole, prove injurious rather than beneficial to farmers of the United States.

We already have a domestic surplus of practically every agricultural commodity on which tariff concessions have been made to Canada. Foreign imports cannot fail to add to these surpluses and depress the domestic price level of farm commodities.

Even though quotas have been fixed in the case of some commodities, it cannot be denied that even a small surplus is sufficient to convert a seller's market into a buyer's market and to depress the price level of an entire crop or commodity.

With potatoes having sold at ruinous prices for several years due to overproduction and with domestic growers being asked to submit to a compulsory reduction in acreage, there is no justification for slashing the tariff on seed potatoes. Seed potatoes grown in northern United States are just as vigorous and disease resisting as potatoes imported from Canada.

Our dairy and livestock interests will suffer because of the reduction in tariff rates on cream and cattle. The domestic poultry industry, one of the most important branches of agriculture, needs further protection, and not the lower duties contained in the Canadian pact.

Prices received by American producers of maple sugar have been so low in recent years that only a fraction of our trees have been tapped, yet the tariff on this product has been reduced.

Good timothy hay, which in normal times brought $20 per ton, has been selling in some sections at from $6 to $7 per ton.

AMENDMENT OF FOURTH SECTION OF INTERSTATE COMMERCE ACT

Mr. WAGNER presented a resolution of the Chenango Unit, R. R. Employees and Taxpayers Association of the State of New York, which was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

PETTENGILL BILL (H. R. 3263)

Whereas the long-and-short-haul clause of the Interstate Commerce Act took its present form in 1910 at a time when railroads were the only important form of inland transportation; and

Whereas other forms of transportation have come into competition with the present railroad systems using publicly built facilities and are not restricted by any long-and-short-haul clause; and

Whereas the recent legislation regulating motor carriers does not contain any long-and-short-haul clause, leaving the railroad the sole subject of such a restriction; and

Whereas it is for the welfare of all railroads, as well as the communities served by them that such long-and-short-haul clause should be eliminated in order that competition could be met on an equal basis; and

Whereas the Pettengill bill has been proposed as an amendment to the fourth section of the Interstate Commerce Act by eliminating the long-and-short-haul clause applicable only to railroads: Now, therefore, be it

Resolved, That the Chenango Unit R. R. Employees and Taxpayers Association of the State of New York do hereby request the United States Senators and Representatives in Congress to use all honorable means to provide for the passage of the Pettengill bill, so that fair and more equal conditions of competition will be allowed for the railroads and in order to permit better service for all points and better conditions as to pay rolls and taxes for those intermediate points dependent on railroad service; further

Resolved, That the secretary be, and he hereby is, directed to send a copy of this resolution to the Senators and Members of the House of Representatives for the counties constituting the membership of this unit.

OLIVER WENDELL HOLMES MEMORIAL FUND

Mr. WAGNER presented a resolution of the Rochester (N. Y.) Bar Association, which was referred to the Committee on the Library and ordered to be printed in the RECORD, as follows:

Resolution of the board of trustees of the Rochester Bar Association of Rochester, N. Y.

Whereas the trustees of the Rochester Bar Association are in full accord with the proposal to perpetuate the memory of the late Oliver Wendell Holmes through the establishment of a collection of fundamental works in the field of jurisprudence, to be maintained in the National Library at Washington, D. C., and to be perpetually known as the Oliver Wendell Holmes Collection; and

Whereas this proposal is embodied in House Joint Resolution 237, which passed the House of Representatives unanimously on the 15th day of June 1935: Now, therefore, be it

Resolved, That the Rochester Bar Association, through its board of trustees, hereby records its hearty support and approval of House Joint Resolution 237 and urges upon the Congress of the United States of America the enactment thereof.

NATIONAL CEMETERY NEAR NEW YORK CITY

Mr. WAGNER presented a resolution of the Queens County, N. Y., committee of the American Legion, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Resolved, That the Queens County Committee of the American Legion respectfully requests the Secretary of War and the Congress of the United States to select, as soon as possible, and to

appropriate sufficient funds to establish a new national cemetery located as near as possible to the center of population of the city of New York and, be it

Further resolved, That a copy of this resolution be forwarded to the Secretary of War, the Representatives in Congress from the county of Queens, and the two United States Senators from the State of New York.

REPORTS OF COMMITTEES

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

S. 3974. A bill to amend the act entitled "An act to provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes", approved July 2, 1926 (Rept. No. 1606); and

S. 4026. A bill to amend the National Defense Act of June 3, 1916, as amended (Rept. No. 1600).

Mr. SHEPPARD also, from the Committee on Military Affairs, to which was referred the bill (S. 3821) granting the Purple Heart decoration to Maj. Charles H. Sprague, reported it with amendments and submitted a report (No. 1601) thereon.

Mr. BACHMAN, from the Committee on Military Affairs, to which was referred the bill (S. 3537) for the relief of Felix Griego, reported it without amendment and submitted a report (No. 1602) thereon.

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

S. 3128. A bill for the relief of Daniel Yates (Rept. No. 1603); and

H. R. 2469. A bill for the relief of Michael P. Lucas (Rept. No. 1607).

Mr. THOMAS of Utah, from the Committee on Military Affairs, to which was referred the bill (H. R. 3340) for the relief of Jesse S. Post, reported it without amendment and submitted a report (No. 1605) thereon.

Mr. JOHNSON, from the Committee on Commerce, to which was referred the bill (H. R. 7147) authorizing a preliminary examination of the San Gabriel and Los Angeles Rivers and their tributaries; to include both drainage basins and their outlets, in Los Angeles County, Los Angeles, Calif., with a view to the controlling of floods, reported it without amendment and submitted a report (No. 1604) thereon.

BILLS INTRODUCED

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

By Mr. VANDENBERG:

A bill (S. 4074) to reduce the interest rate charged by the Reconstruction Finance Corporation on loans to closed banks and trust companies; to the Committee on Banking and Currency.

By Mr. TOWNSEND:

A bill S. 4075) granting a pension to Nettie LaTour Welcome (with accompanying papers); to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 4076) exempting newspapermen from testifying with respect to the sources of certain confidential information; to the Committee on the Judiciary.

By Mr. BARKLEY:

A bill (S. 4077) granting an increase of pension to Mary E. Racener; to the Committee on Pensions.

By Mr. LOGAN:

A bill (S. 4078) to authorize the award of the Distinguished Service Cross to John C. Reynolds; to the Committee on Military Affairs.

By Mr. SCHWELLENBACH:

A bill (S. 4079) for the relief of Ernest Bollin;

A bill (S. 4080) for the relief of John M. Elliott; and

A bill (S. 4081) for the relief of Theophilus Steele; to the Committee on Military Affairs.

By Mr. BARBOUR:

A bill (S. 4082) to authorize the presentation of a Congressional Medal of Honor to Taliesin Waters; to the Committee on Military Affairs.

By Mr. HATCH:

A bill (S. 4083) for the relief of John E. Joy, Walter Beale, Mrs. Lilly Ross, Lee C. Yokum, and Verna E. Yokum; to the Committee on Claims.

A bill (S. 4084) granting an increase of pension to Lawrence J. Waterhouse; to the Committee on Pensions.

By Mr. CLARK:

A bill (S. 4085) to amend section 36 of the Emergency Farm Mortgage Act of 1933, as amended; to the Committee on Agriculture and Forestry.

By Mr. BACHMAN:

A bill (S. 4086) to authorize the acquisition of the John Ross House, together with certain surrounding lands situate in the town of Rossville, Ga., and to preserve same as a national monument, and for other purposes; to the Committee on the Library.

A bill (S. 4087) to provide for the purchase of General Grant's headquarters in Chattanooga, Tenn., and to include such headquarters in the Chickamauga and Chattanooga National Military Park; to the Committee on Military Affairs.

A bill (S. 4088) granting an increase of pension to Arthur Grey; and

A bill (S. 4089) granting an increase of pension to Robert P. Martinez; to the Committee on Pensions.

By Mr. WHEELER:

A bill (S. 4090) to amend the Farm Credit Act of 1935, to provide lower interest rates on Federal Land Bank loans, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. BULKLEY:

A bill (S. 4091) for the relief of Gustava Hanna; to the Committee on Foreign Relations.

By Mr. BYRD:

A bill (S. 4092) to correct the naval record of Comdr. Royall Roller Richardson; to the Committee on Naval Affairs.

COMMITTEE SERVICE

On motion of Mr. ROBINSON, and by unanimous consent, it was—

Ordered, That the Senator from Louisiana (Mrs. LONG) be assigned to service on the following committees: Interoceanic Canals, Post Offices and Post Roads, Public Lands and Surveys, Immigration, and Claims.

WAR DEBTS, DISARMAMENT, CURRENCY STABILIZATION, AND WORLD TRADE

The VICE PRESIDENT. If there be no concurrent or other resolutions, the Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The resolution (S. Res. 141), submitted by Mr. TYDINGS on May 21, 1935, was read, as follows:

Whereas the people of the United States, irrespective of political affiliations, have been desirous of promoting in every practical way the peace of the world and the economic and political welfare of other nations as well as their own, and have never failed to respond to the call of distress of other peoples and countries; and

Whereas the people of the United States are equally desirous of correcting any misapprehensions in this regard and to proclaim that no reason shall exist for questioning their desire to aid in every reasonable way the solution of the acute problems of the world arising from the war and depression; and

Whereas the present administration has frequently declared that national economic recovery and world economic recovery are inextricably bound together and that the principle of the good neighbor should characterize the relationship between the United States and all other nations; and

Whereas similar views have been held by Republican administrations and leading statesmen of the Republican Party, so that these broad views have the endorsement of both our major political parties; and

Whereas it is universally recognized that there is no problem existing today which is operating more directly, constantly, and powerfully to make understanding and good will between nations difficult, and therefore to postpone the return of economic well-being and durable world peace than the chronic problem of intergovernmental debts arising and resulting from the war; and

Whereas the next installment of allied war debts owing to the United States is due and payable on the 15th of June 1935, and no payment on these debts was made when the last installment came due on December 15, 1934, and the value and collectibility of these debts are becoming more and more jeopardized by the passing of time and the failure to devise and consummate a workable and mutually reasonable settlement thereof; and

Whereas such officials and leaders of European public opinion and action as Premier Flandin, of France; Economic and Finance Minister Schacht, of Germany; and the Chancelor of the Exchequer Chamberlain, of Great Britain, have within recent weeks given public indication of their recognition of the gravity of the problem created by the unsettled state of intergovernmental debts and of their desire for an equitable settlement that will promote and not retard world trade and that is in keeping with the present economic and financial conditions of the world; and

Whereas in June and also in December of 1934, in the exchange of notes on the allied-debt subject, both France and Great Britain did not repudiate them but frankly acknowledge the validity and legality of their respective war debts to the United States and expressed a desire and willingness to make a reasonable and feasible settlement of these debts; and

Whereas it is the desire of the people of the United States as indispensable both to economic recovery and to world peace to secure reduction of armaments by all nations and to inaugurate an immediate 5-year holiday in arms construction, in order to facilitate and insure rapid recovery from the ravages of the protracted depression and to prove good faith to one another in their treaty commitments to peace; and

Whereas general and drastic reduction of armaments is vital to both world peace and to economic recovery, the expenditures for armaments and war being by far the largest items in the budgets of the nations; and

Whereas responsible statesmen of all the large nations of the world have repeatedly expressed their willingness to join in a general universal movement for the reduction of armaments, but the disarmament conferences have, during the past few years, failed to reach any substantial accord as to reduction largely because of the ill will, fear, and resentments engendered, particularly in Europe, by the destructiveness of the last war and the treaties resulting therefrom; and

Whereas a strong indication of the sentiment in Great Britain has just been obtained by a popular referendum wherein the vote on the question of all-around drastic reduction of armaments by international agreement showed over 90 percent in favor of such reduction and agreement, a percentage that well represents the overwhelming public opinion of our land; and

Whereas a 5-year holiday in arms construction accompanied by gradual, drastic, and pro-rata reduction in arms, agreed to and carried out by the nations of the world, would be not only the sincerest guaranty of world peace but would also result in bringing national income and national expenditures within balance in all nations, would greatly reduce taxation, would vastly increase the buying power of all countries, and consequently would go far toward restoring to normal the benefits of the world trade, both for agriculture and for the industry; and

Whereas for the further advancement of world trade and therefore for the prosperity of all peoples there should be a revival of confidence in the money units of the world, now so disordered and almost chaotic, by a working stabilization of international currencies under international agreement, such as would inspire confidence in businessmen and producers everywhere, and which would largely restore normal foreign trade, thus tending to relieve unemployment and to reflate our sadly deflated market value of commodities, securities, and real estate; and

Whereas the United States, by reason of its unprecedented contributions to the World War, its unselfish and equally unprecedented abstention from all the spoils of war at the peace table in harmony with the magnanimous pronouncements of President McKinley in 1898, and of President Wilson in 1917, namely, that it is our settled policy not to wage wars of aggression and not to accept the spoils of victory, is in a position to take the lead in a world-wide movement for the solution of these four acute international problems, (1) war debts, (2) disarmament, (3) stabilization of currencies, and (4) a sound revival of world trade, which now so harass the world and retard both economic recovery and world peace, and to the solution of which a world conference should be called to be held at the city of Washington at the earliest convenient and practicable time: Now, therefore, be it

Resolved, That the President of the United States is requested, if not incompatible with the public interest, to advise such governments as he may deem appropriate that this Government desires at once to take up directly with them, with a view to entering into international agreements and treaties with other nations at a conference to be held in the city of Washington the following matters: The settlement of the intergovernmental debts, the means of obtaining a substantial curtailment in world armaments and a holiday in world armament construction, the means of securing a stabilization of the currency systems of the world, and the means for reviving world trade, all to such an extent and under such terms as may be agreed upon.

Mr. ROBINSON. Mr. President, I ask that the resolution go over.

The VICE PRESIDENT. The resolution will be passed over.

APPOINTMENT AND CONFIRMATION OF CERTAIN FEDERAL EMPLOYEES

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

The resolution (S. Res. 152), submitted by Mr. GORE on June 15, 1935, was read, as follows:

Resolved, That the Comptroller General is hereby directed to submit to the Senate a report showing the names, residence, and annual rate of compensation of all persons who have been appointed or employed under any act of Congress who receive compensation at a rate of $4,000 or more per annum and indicating those who are required by existing law to be appointed by and with the advice and consent of the Senate, who have not been so confirmed, and also those who are not required by existing law to be so confirmed; and further indicating in each case the date of the appointment or employment and under what act or by what authority such person was appointed or employed.

Mr. ROBINSON. Mr. President, I ask that this resolution go over.

The VICE PRESIDENT. The resolution will be passed over.

COTTON PRODUCTION IN THE UNITED STATES

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

The resolution (S. Res. 222), submitted by Mr. GORE on January 30, 1936, was read, as follows:

Resolved, That the Secretary of Agriculture is directed to transmit to the Senate immediately one of the 25 copies of the original draft of the unreleased manuscript entitled "Cotton Production in the United States", being part 2 of the work entitled "The World Cotton Situation."

Mr. ROBINSON. Mr. President, I know of no reason why this resolution should not now be agreed to.

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

The resolution was agreed to.

OWNERSHIP OF GOLD STOCK IN THE TREASURY

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

The resolution (S. Res. 228), submitted by Mr. SHIPSTEAD on February 6, 1936, was read, as follows:

Resolved, That the Attorney General be requested to furnish the Senate with a formal opinion as to the ownership of and encumbrances on the gold stock of $10,182,372,580.54 reported on February 1, 1936, by the Treasury of the United States as among its assets, with particular reference to the status of the gold taken from the Federal Reserve banks.

Mr. ROBINSON. Mr. President, the Senator from Minnesota [Mr. SHIPSTEAD] is absent on account of illness. He stated to me before he left that he would have no objection to this resolution going to a committee. However, in his absence, I will ask that the resolution be passed over, so that he may be present and make his own statement.

The VICE PRESIDENT. Without objection, the resolution will be passed over.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 3780) to promote the conservation and profitable use of agricultural land resources by temporary Federal aid to farmers and by providing for a permanent policy of Federal aid to States for such purposes, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JONES, Mr. FULMER, Mr. DOXEY, Mr. HOPE, and Mr. KINZER were appointed managers on the part of the House at the conference.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

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

H. R. 11138. An act to extinguish tax liabilities and tax liens arising out of the Tobacco, Cotton, and Potato Acts; and

H. J. Res. 488. Joint resolution to provide for safeguarding of traffic on Military Road.

PREPAREDNESS FOR PEACE—ADDRESS BY SENATOR NYE

Mr. NORRIS. Mr. President, on the 16th of February the junior Senator from North Dakota [Mr. NYE] at Champaign,

Ill., delivered an address on the subject Preparedness for Peace. I ask unanimous consent that the address be printed in the RECORD.

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

CITATION BY THE CARDINAL NEWMAN FOUNDATION

(Read at time of conferring of Newman Award at Champaign, Ill., Sunday, Feb. 16, 1936)

The Cardinal Newman award for 1935 is conferred upon Hon. GERALD P. NYE, United States Senator from North Dakota, in recognition of his distinguished contribution to world peace, through his penetrating investigation of the munitions industry, his sponsorship of neutrality legislation for the United States, and his investigation of the influence of financial interests in drawing this country into the World War.

Senator Nye presents a refreshing example of a public servant who penetrates beyond current shibboleths and party labels and brings before the eyes of the great masses of our citizens the hidden factors which make for war and menace the peace of the world.

Instead of engaging in innocuous and trite platitudes, Senator NYE has talked realities, and has laid bare conditions which demand a remedy, and has worked with courage and insight for the enactment of remedial legislation. In placing the public welfare, social justice, and world peace above party affiliation, he has presented to the youth of America a refreshing and an inspiring ideal.

PREPAREDNESS FOR PEACE

(Address by Senator GERALD P. NYE, of North Dakota, at awarding of the Cardinal Newman Award at the University of Illinois, Sunday, Feb. 16, 1936)

In this hour when the Cardinal Newman Foundation bestows upon me an award much to be prized, I have one natural regret. My small contributions of last year, which your trustees so graciously term the most distinguished American service performed in 1935, were possible only through the vigorous support of my colleagues of the Senate Munitions Committee. My regret is that these several Senators are able to share only indirectly in this honor to which they are so richly entitled.

I have also at this moment the very real sadness which comes from feeling that the honor is being bestowed for work which was intended to be fundamental, intended to protect this country from the ravages of war, but which is now, unfortunately, at this very minute, being swept aside in the general whirlwind of fear and suspicion that another war is almost upon us and that it is too late to think or to plan or to prevent.

Our hopes as Senators of the Republic have been that we might see, and that the young men and women of this Nation and their parents might clearly see the way in which the world fought a great war and in which humanity lost the peace which should have followed that war. Our hope was that we, as Americans, might have learned a little from what we saw, that we might have learned not only the train of events which led to our entry into the war and to our refusal to join with our Allies in the peace finally imposed upon the defeated nations, but also of the events of a post-war period, now coming to a close. That post-war period was little more than a prolonged armistice and, during that armistice, much was done to bring us to where we are today. We had hoped that the knowledge given to the world of the hidden workings of some of the forces tearing down the walls of our city would have helped free that world from some small amount of the misery and death visited upon every generation in the name of war and in the name of preparation against war. We had hoped that knowledge would have taught the world to follow banners not inscribed "Prepare for War" but to follow instead banners inscribed "Prepare for Peace."

It was many years ago that a great American philosopher, William James, called for a "moral equivalent for war." As I remember it, he knew that there was a fervor in people which wanted expression. He knew that young men would always fight if their elders told them that they were fighting for truth and justice. He saw that when the use of force starts, the use of intelligence stops, with the result that war settles nothing. With these things in mind, he sought for a moral equivalent for war, some manner in which that urge of young men and women to give of themselves for their less fortunate fellows and for the great causes of truth and justice might be transmitted into something other than the trenches and shambles to which they are usually led. In our own day we have seen but brief stirrings of that desire to devote life to the public good and the public service which would have pleased the great philosopher who was searching for a moral equivalent for war. Yet, as a nation, we have not found it, nor have other nations found it. So we stand today, I fear, exposed to that whirlwind of fear and suspicion of war preparation. We have, as a nation, little to offer our young men in the name of truth and justice other than a uniform, a rifle, and sealed orders.

Many of us have thought of preparedness for peace and have wondered whether it was a foolish, empty, meaningless cry or really possible in a world where few trust their neighbors, whether it were possible for us to be very different from our barbarian ancestors of thousands of years ago who stood ready to meet death and administer death at every moment.

During the last year and a half I have been thinking much about preparedness for peace, and I have even allowed myself to wonder if the American people wanted peace. I have tried to find if there were among them a will to prepare for peace.

It is hard to see at the moment in the face of the impending whirlwind. Far easier is it to see the clouds that portend the whirlwind itself—the daily columns of news covering reports of war threats in Europe, Asia, Africa, South America; far easier is it to see the orders given by nation after nation for arms, implements of war, navies, armies. Distinguished gentlemen of industry have told us that another war will destroy what we now know as western civilization, and other distinguished gentlemen are telling us daily that the arms race, which is now accelerated, can lead only to war which will destroy that civilization.

In the face of this, in the face of this admitted failure of men to think and plan their way to peace, it is doubtful that anything I say here or elsewhere can help to save, out of the Great War, even that small section of the world's surface which we know and love and call our country.

I should like to save it from involvement in a world war where the interests of the other belligerents are so different from our own. I should like to build barriers across the roads that lead from this country to war, and on those barriers I should like to place huge danger lights, so that when, in the dark or under the pressure of circumstances the barriers are destroyed or removed, the American people in the face of any whirlwind of fear and suspicion, can ever see that the roads along which they are being told to march are still, after all, the roads to war. There are those of us who hope to do this even now, who hope to say, "Here and here and here are the ways in which we become involved in wars", and to ask Congress to stop those ways.

There are few spectacles offered by mankind for our contemplation more appalling than the one of the young men of this world who are not yet aware that they are today simply waiting their turn to die.

How much like the world of 22 years ago is our world of today! The world is on the march again. The machines of death, the gases of torture, are now being rushed through the factories. When they are done, will it again come the turn of the young men, yes, the old men, the women, the children in the cities far back of the front lines? They have a year, perhaps a little longer to live. This summer still, perhaps, they can enjoy vacation and play. This year still, perhaps, they can experience the delight of life and love. Next year, or the year after, may be a very different matter.

So recently as last week, the Government of Great Britain began consideration of plans for an immediate $2,000,000,000 armament program in response to the program of other nations. Therewith was written probably the summation line beneath the whole post-war period of peace. Whatever peace was won 18 years ago is over. The armament race between England, France, Germany, and Russia cannot last forever. It must stop with war, or it must stop with the revolt of the people who are first taxed to death in preparation for war and then marched to death. It may stop with both war and revolt, and the great governments of Europe, as men have known them for hundreds of years, will go with Nineveh and Tyre.

I am greatly impressed with the fact that even in a democracy, such as our own, people never know, until it is too late, the decisions which affect their destinies. Under a dictatorship it is clear that every citizen has put his life in the hands of his master, and that he may be called upon within an hour to storm across some neighboring frontier.

I had not been aware until recently that the decisions that moved countries to war can be taken many years before the first shot is fired. I had not been aware until recently that it was actually within the power of any President of the United States to provoke a war and whip the Nation into line behind him within a few days. Those of us who have hope and faith in democracy, who really want to hold on to it, who do not propose to give it up at the first or even the last call of a man with a colored shirt, must take this matter seriously. It is important for us to know what decisions are being made in secret which will, in the political field, involve us in the use of military force or, in the economic field, involve us in unemployment or poverty.

Our few remaining democracies can survive if they are fought for, but they can be fought for effectively only by men who are informed and taught the inner workings of the world.

I say these things so much at length because I feel certain that within the past few months decisions of overwhelming importance have been made which will affect every young man in the country, whether he is on the farm or on the campus or on the street or in a forestry camp.

Within the past few months some men have surely sat down together and said: "Let us look at these measures to keep us out of war which Congress is considering—these neutrality measures." They looked and saw there a proposal that no longer should an American citizen be allowed to travel on a ship carrying munitions in time of war. It was a proposal to prevent people who are careless of their own lives from involving the lives of hundreds of millions of their fellow citizens with their own particular destinies. It was a proposal that babies and bullets should not go as mixed cargo. It was a proposal with the *Lusitania* experience in mind. They looked then and saw another measure being considered by Congress. It was a measure to prevent the growth of an abnormal war trade. Allowing for normal trade, it said in effect we shall not sponsor economic involvements with foreign countries to a point where our self-interest becomes automatically the self-interest of that country purchasing our war goods. They saw there also a proposal that we should not allow our financial structure to be tied with chains of gold to any other nation. No loans,

no long-term credits, were to be extended to belligerents for purchases here.

They saw also another proposal that would not insist upon our heavily subsidized marine fleet laden with munitions traversing the war zones, to be sunk by torpedoes from below or bombs from the air. These proposals, these gentlemen considered seriously. They hurt. They might stop the main economic and political entanglements by which we were drawn into the World War. But more direct, they hurt. These gentlemen had been given advance warning of how they would be hurt. President Roosevelt had told the oil companies, which were shipping 10 and 20 times as much oil to Italy as they had ever done before; that it would be nice of them if they no longer shipped abnormal quantities to either Italy or Ethiopia. That was an open warning to all the gentlemen whose pockets are not as full as they might be, to be on guard against a Congress which might pass a definite law, warning, in a sense, that the President's proclamation would bind the industries to refrain from abnormal commerce of war.

There were also other men meeting together, men with no commercial motives, who know that none of the larger aims for which we went to war in 1917 were accomplished. They know, also, that none of the controversies we had with all the belligerents from 1914 to 1917 were settled in our favor then and have not been settled in our favor since then. Nevertheless, they said it was better not to block the roads to war. It is better to be proud and try again to seek the rights we failed to secure between 1914 and 1917 than to prevent our economic involvement in war.

These two groups approached the subject from very different angles. But both seem to have arrived at the same result—do nothing, except, perhaps, increase our preparations for another war. During the past few weeks the pressure of the various groups who want nothing done or who are willing to leave everything undone, has been, for the moment, sufficient to threaten these proposals to keep the country out of war; and whether the threat comes from the man who stabs from behind—knowing that he will make money if this legislation dies—or whether the stab comes in front from men who, like Brutus, loved Caesar but loved Rome more, the result is the same. The legislation will die for lack of friends to strike down the blows.

May I amplify my insistence that decisions are taken years before men go to war, decisions which have a profound bearing upon their going to that particular war, and that the men most involved may never know of those decisions to the day of their death?

When the men who will die in the next war—the men born in 1917 and 1918, were only 1 and 2 years old, it is recorded that four men sat about a conference table in Paris, men representing great governments and millions of dead as a result of the war that had just ended. One of these men asked, "Do we want peace?" The others replied, "Yes; of course." Whereupon the questioner said: "Peace can be had at a price. France and England and the United States will have to give up their colonies. England will have to give up her navy. France will have to give up her army. All nations will have to give up their tariffs. Then we can have peace." When the others about the table dissented, Clemenceau, the questioner, is said to have brought his fist down on the table and said, "I thought so! You don't want peace, so you will get war. And since you get war, France must look out for her own security first!" In that spirit was the Treaty of Versailles written and signed.

Thus were the words spoken and the decisions made by wise men whose names the 2-year-old boys of that day may have since read in books. But, those were not the first words which led finally to the last. For, in 1915, approximately 2 years before these youths were born, someone in a great firm of international bankers in New York said, in effect: "Tomorrow we no longer try to hold up the price of sterling." This decision meant a sudden demoralization of our money markets. It came at a time when the United States was being urged to alter its neutrality policy to the extent of permitting loans to be made to the belligerents. The result of the decision to stay out of the sterling market was a resounding one, and the result which America can never forget. The Secretary of the Treasury and the Secretary of State informed the President that the swollen war trade of the United States with foreign belligerents would collapse unless we loaned the belligerents the money with which to continue our war trade. With foreign exchange slumping, a panic for the country was in prospect. There was danger of America having to go back to the normal state that existed before orders for supplies for warring nations came to us in such abundance. With this picture before it, the administration, the custodian of America's neutrality, decided to permit loans of money to the belligerents.

Then, step by step, followed other consequences, quite natural consequences, as we look back at them now. Less than 6 months after this loan decision was made, the Secretary of State and the President agreed that armed British merchantmen were warships and that the Germans had a right, under any international law, to sink them. Our American leaders then proposed a modus vivendi that the British would not arm their merchant ships and that the German submarines would rise to the surface and search them rather than to torpedo them without warning.

This proposal was declined, not by Germany, but by the British Government. In Washington someone said other fateful words, words which we do not yet know but which may well have been: "Let the matter drop; our trade must not be injured." In any case, the matter was dropped, dropped at a time when we had, as we have now, the power to close our ports to armed merchant ships, and to end with justice the armed merchantmen controversy. Later, the Secretary of State wrote that he thought the result of that decision was a needless loss of hundreds of lives, the lives of Americans lost on British munitions ships. He might have added that it created the submarine issue which was the incident for our entry into that war.

After the peace conference, with the decisions arrived at there, there came other decisions. In 1928, the munitions companies discovered that Germany was rearming and was even selling military powder to Turkey, all of which was contrary to the provisions of the Treaty of Versailles. Among themselves, the munitions companies discussed the matter. Who, they wondered, could stop it? It was decided by them that the big British company could, but that company did not, because that company was in commercial relations with German chemical and powder companies and did not want to endanger or jeopardize their profits. The governments of Europe also kept silent. Thus was another decision made. And the boys born in 1917, 9 years old in 1926, never even heard the names of the munitions company in England or Germany, let alone hearing anything of the decisions. Yet, the very fate and future of these youths were wrapped up in those decisions.

Onward works the world. Every modern and liberal government elected by Germany met with international rebuffs in the name of "security." Chaos came and maddened nationalism, and a dictator who wanted to buy war materials came with it. More decisions were made. War materials, licenses for airplane engines, these and other munitions needs were furnished from England, from the United States, from France and from other lands which had had a hand in writing the treaty which forbade the furnishing of these supplies. Germany was soon again the threat to Europe that she had been in 1914. So, back we are to where we started. Twenty-two years have passed since 1914. The boy born in 1917 is now 19. What have we, his elders, learned? What has the boy learned? Oh, how much we could have learned, could we but have had good teachers who were free to teach us truth!

It is impossible, I think, for any honest man to speak to his fellows today and not state one fact: That fact is that our industries are producing almost as much as they ever did and yet close to eleven million men and women are unable to find employment which will give them back their self respect and their economic independence. If these were times of peace, the country would have no greater problem than that of again giving to these eleven million people the American right of opportunity which has been taken away from them. The time may come when that problem will come to the forefront of our consciousness as the slavery problem came to the consciousness of the men of Illinois and the men of the border States, many years ago.

I make this qualification only because I think that we are no longer living in the days of peace. Yet the unemployed are with us, as they are with Hitler and as they are with Mussolini. Like those nations, we seem unable to organize our economic system sufficiently well to return those men to work. Will we, like them, find it easier to give them jobs in the Army at a few cents a day than to give them work in the mines and mills and farms? There are, I am informed, those in this country who see there any easy solution of the problem of unemployment. It is not an original solution; it is a solution of despair!

Why do men fight? Because they are told to, and they are shot if they do not. Why do nations fight? Is it possible that they fight largely because they are not able to give all their citizens an adequate living? We have learned that men who are frightened will fight, and that men are scared easily when their neighbors arm. But why do their neighbors arm? Is it because they feel themselves starved in an economic way or a commercial way? Very much does a man feel starved who gradually finds less and less food to put on the stove for himself and for those dependent upon him. Is it because the statesmen leading such nations, which are badly organized economically and whose people are troublesome, must then feed their people with dreams instead of food, with delusions of persecution, and with appeals to patriotism instead of with physical nourishment? When that is done, of course, the neighboring nations become afraid and, in turn, arm in the name of patriotism and defense, and then in a contagion of fear and madness the whirlwind starts sweeping the earth.

A representative of one of the munitions companies said to a friend of mine in private conversation: "I personally would like to see a Chinese wall built around this country, a stronger wall than any of the Senators have built. I do not want to go to war for the sake of oil companies with interests in China. But then, it is all no use. Anybody with a few million dollars could get this country into war in 4 weeks through the press, through the radio, and through the concentrated power of the administration." My friend countered manfully and said he doubted that very much. He put up a stubborn argument to the effect that it would take at least 6 weeks.

Certainly our inability to be economically self-sustaining, to use all our great territory and all our great national resources to give all of our citizens an adequate living will give any unscrupulous statesman who happens to wish to take it the opportunity to give the people of this country the pride of military conquest in place of bread. It has been done before elsewhere.

If the men of Europe march, can the feet of young men in America stay in the quiet paths of peace? Or, is it only a matter of months before the boys on the farms and the boys on the college campuses will be tramping up gangplanks onto troop transports?

Unless the people of America show a determination to stay out of other people's wars, and to stay out of wars for the protection of certain small, speculative investments in far eastern countries, I fear that the neutrality proposals will die.

The significance of their death may perhaps one day be known to those boys who are now 19 and 20, known after our trade with nations at war is swollen to the point where public officials will again find it necessary to shape and stretch our neutrality policy so that it will no longer keep our Nation neutral, but will simply protect our war-boom trade. Then our Navy will steam off into the unknown, and the troop ships will follow. Then these boys and their parents will have the satisfaction, if we are to call it that, of knowing that there was a moment in the early months of 1936, when the voice of the people of America could have made itself heard by their Representatives in Congress, a voice that would have said, in effect, "Here, wherever there is the slightest danger of our drifting or of our being moved into war by some few men, some few companies, some few industries which find great and abnormal profits in trade with warring nations, write the law, establish the policy, that will prevent that being done!"

These immediate hours may mean everything to this and following generations. This coming week will find Congress moving to a consideration of the neutrality issue. Committees have reported to the two Houses of Congress and compromise neutrality proposals are now awaiting congressional action. Those who favor the compromises are not saying that they do not want to do everything possible to keep America out of another foreign war, of course. But they are saying that compromise is necessary because there is not time for further consideration and debate. This is a political campaign year, and Congress wants to be away from Washington and at home mending fences by the 1st of May.

They are saying, in effect, "Let us compromise now and meet the neutrality issue more squarely when the campaign and elections are over." I am wondering what may be the reaction of the American people to this. Are they, too, for compromise and for leaving this all-important neutrality issue again for decision to another day? To me it seems that there ought to be almost unanimous demand that, even though it be necessary for Congress to remain in session for months and months, this job should be completed. It should be done not without deliberation but done after thorough deliberation and then done fully. We ought to realize now that a compromise on this issue may easily end the question by a public being lulled into the feeling that the job of providing for our neutrality has been fully done.

If only the American people were awake to their power, what might be the splendid deeds of our Government! There are those who insist that our form of government is such that it fails to afford response to the interests and the needs of the masses of people; that our Government is not truly representative of these wishes and interests. O friends of America, our form of government is not at fault. If our Government has not responded as the great majority feels it should, none are to blame but those people who have failed to utilize their power under that form and make their interests and their wishes known to their representative government.

Representatives in Congress strive earnestly to represent truly those who elected them, but if those who elect them fail to indicate their desires and interests while the few are constantly fighting selfishly for their own interests, is it to be wondered that Congress fails to respond as fully as the people of this land feel it should respond, particularly in hours of great emergency? We have among us many who feel that our form of government should be abandoned and another form adopted. Let me say to those people that no form of government has yet been devised that can be made to respond to the needs of the people more readily than our existing form. If people have failed to exercise their right and their power under the existing form of government, by what right shall any of us anticipate that another form of government might be made to respond?

The parade of preparedness for war, the increasing production of war needs by mills and factories, the tremendously increasing budgets of governments to meet the costs occasioned by these activities, we are witnessing from day to day. This is the first muffled beat of the drums of war—the drums of death. An intelligent and enlightened people ought to be straining every energy for the avoidance of a repetition of experiences which we know to be invariably followed by debt, destitution, and heartbreak. Why are we not all fighting the challenge at our door?

I have stated to you, even without the support of the people of the country, that there are Senators who will attempt to block the roads to war so that no leader, unable to solve his problems at home, will be able to turn the attention of his people abroad. These Senators may no win, but we will try to win; and, as time goes on, it is possible that the people of this country will win others to support us—provided, of course, that enough time remains for them to do that. None of those Senators feel that they can claim that by blocking these particular roads to war, the roads we traveled before, that this Nation or any nation can be kept from war. Simply stated, it will make it much harder for us to enter upon war if we have incurred no economic and financial involvements with any particular side.

You have gathered that I feel strongly that the impulses driving European and Asiatic nations across their frontiers are the fears that come in part from economic causes and in part from the delusions of grandeur of conquest held out to them by their military dictators. There are, however, other causes which should, of course, be considered far more elaborately than I am able to do today.

What are those factors upon which all might agree as constituting causes of war—causes which might be brought under some, if not complete, control? I shall dare to enumerate.

There is the desire for territories, for colonies, the alleged desire for outlets for overpopulated nations. There is the element of commercial rivalry. These are causes not easy of control. But may we not be ascribing too much weight to them? Can we overlook the fact, when nations have won territory to serve as an outlet for overpopulation that the people of the overpopulated nation use this outlet in such utterly insignificant numbers?

Another cause is the alleged desire of mad leaders of nations to cover up their own failures, their blundering and weakness at home by causing an entire people to concentrate their energies and their thought upon the common cause of war against another people.

We find also and agree that secret diplomacy, secret treaties, have entered in a large way as breeders of the fear and suspicion that contributes to the making of war.

Likewise, we find militaristic bluffing, bullying, and public demonstration of preparedness, muscle-driving, and frightening other nations into like demonstrations and challengings.

Too, we see repeated failures of international disarmament conferences building in minds throughout the world the suspicion that some nation other than their own is responsible and must be defeated, thus provoking a spirit of war. What the world has not clearly seen is that these conferences are attended too often by delegates whose interests are the same as those of the munitions plants which would lose business however small the degree of disarmament, or by delegates in gold braid, admirals and generals trained in the business of war and armament, not in peace and disarmament.

Then we must see and admit the large part which the absence of a strict neutrality policy plays in bringing war to people whose appetites are trained to desire profit from the blood of other nations—appetites which seriously weaken whatever resistance is to be found in an even stronger appetite for peace. We must see from experience that we cannot be in other people's wars commercially without ultimately being in those wars politically and actively when our commercial advantage is menaced.

A tremendous influence on behalf of war is the profit to makers of national defense and national offense machinery and supplies. Facts, now of official record, clearly reveal that to gain this profit men actually go forth, resorting to bribery, appealing to prejudice, and using despicable practices with the result that the fears, hates, and suspicions of neighbor nations are aroused to a pitch that will demand larger and larger preparations for war. Undeniable is the record revealing how makers of war supplies arm nations against each other with the same instruments of warfare, and how the makers of munitions in our own land are helping to arm the very nations against whom the same makers are warning us to be better prepared.

I have already mentioned the thought that perhaps the quickest recovery from the depression (a depression which the last war gave us) would be through another little war. Thoughtless expressions such as that should let us see that the prospect of profit, of prosperity from war so distorts our judgment that it is imperative that there be removed from every mind in our great country any thought that anybody can make money out of another war.

Thus, do I enumerate briefly what many understand to be emphatic causes leading to war. Surely, I quite agree, we cannot eliminate all these causes. But why not eliminate such as we can, if we but will? How?

By developing a knowledge of truth such as will create as lively a public interest in the cause of preparing for peace as there is in the cause of preparing for war; by developing such a public interest as the facts, if known, will create, and cause a constant searchlight to be turned upon alleged effort to accomplish understanding between nations and a reduction in so-called national-defense burdens.

How eliminate the causes for war?

By cleaning our own yards and our own hands as a Nation instead of confining ourselves to criticism of other nations as the sole threats to peace; by halting and confining our own preparations for war to a defense of such adequacy as will insure ability to repulse a foe so foolish as to try to attack us; by assuring other nations, through our strict plans for defensive warfare only, that those other nations need not count necessary defense against any offensive warfare or attack from us. Does one need an unusual imagination to realize what the result in this world would be if nations actually confined themselves only to preparation for defense against attack?

Do you ask, "How can we lessen the danger of our Nation being drawn into another foreign war in which we had no interest at its inception?"

By enactment of a stern mandatory policy of neutrality—a policy that forbids sale of munitions to nations at war, that limits commerce with nations at war to a normal commerce in all commodities other than those defined as munitions and implements of war, that forces nations at war to take their own risk and use their own flag in trying to accomplish delivery of their purchases from us through dangerous and war-infested waters where there is no recognition of such a thing as international law or rights of a neutral; a policy that forbids American loans and credits to nations at war; a policy which at once curbs the creation of an appetite for greater prosperity through supplying the sinews of war needed to keep blood flowing.

How, you ask; how can we eliminate causes of war?

By destroying the chance for men to make rich livings or store up wealth through the creation of enlarged demands for preparedness for war; by destroying or curbing the private business of munitions making and selling. This might be done by close governmental regulation of the private munitions industry and its profits; it would, I believe, be more adequately done by nationalizing some few of those industries, such as that of shipbuilding, gun making, powder and gas making, and putting the Government itself into the business of supplying its own national-defense requirements.

Also by taking the profits out of war through income-tax legislation to become effective automatically with the entry of our country into war; by fixing those rates not so high as to make livelihood difficult but high enough to convince one and all that there is not going to be as much prosperity in wartimes as there is in peacetime, and high enough to put all people on notice that one and all alike, not only the dollar-a-day boys in the trenches but all, are going to have to sacrifice in another effort to "make the world safe for democracy", to "end war", or whatever you have as a slogan the next time.

Again I say that laws and policies of this kind do not eliminate all the dangers or causes of war. But I insist that such a program would eliminate the greater percentage of the danger of the United States ever being drawn into war or having to defend herself against attack.

O God, give us the courage to face the facts and to follow the dictates of experience; give us again that high and noble resolve which was ours less than 20 years ago when, while the bells sounded the signing of the armistice, we turned our faces heavenward and gave thanks, while fervently and vociferously we resolved that never, never again would we permit an experience, such as that one was, to be visited upon this earth; that our children and their children would never have to bear or witness the destruction and the heartbreak which came to earth because men felt war the only resort in the settlement of dispute.

Give us courage to resolve against the recognized and sometime acknowledged purpose of men to drive the world or portions of it to more mad armament races which always lead to war, though some insist that great preparation for war is the best insurance of continuing peace. O give us the vision which will permit us to see how mankind is played with by greed, greed which seeks to arm all the world with the same identical instruments of warfare. Give us the will to see and the power to grasp the facts which so clearly reveal war and mad preparation for it to be largely the product of men and systems profiting from the perpetuated fears and suspicions of presumably advanced races of people.

If we can have these powers to perceive and the will to progress we shall meet boldly the challenge laid down by the system which has no great fear of war because experience has demonstrated that war is the one and only thing that pays the systems' participants larger returns than do those hours which find nations only preparing for war. If we can but have the courage asked we will take our places, one and all, giving no quarter in our determination to enlarge and brighten the prospects of our own offspring and their children, building for the present and the future, like

> An old man, traveling a lone highway,
> Came at the evening cold and gray,
> To a chasm deep and wide.
>
> The old man crossed in the twilight dim,
> For the sullen stream held no fears for him,
> But he turned when he reached the other side,
> And builded a bridge to span the tide.
>
> "Old Man", cried a fellow pilgrim near,
> "You are wasting your strength with building here;
> Your journey will end with the ending day,
> And you never again will pass this way.
>
> "You have crossed the chasm deep and wide,
> Why build you a bridge at eventide?"
> And the builder raised his old gray head:
> "Good friend, on the path I have come", he said,
> "There followeth after me today
> A youth whose feet will pass this way.
>
> "This stream, which has been as naught to me,
> To that fair-haired boy may a pitfall be;
> He, too, must cross in the twilight dim—
> Good friend, I am building this bridge for him."

On the other hand, denied the power to see truth and the courage to deal with it, denied the will to pierce smoke screens and keep our eye upon facts, we shall ultimately find ourselves face to face with ugly truths, but not so ugly as to prevent our calloused hearts from dancing with glee over the fact that when we send our sons forth as soldiers in another great war it will be as targets for implements of war, powder, shrapnel, shell, and poison gases invented or manufactured in our own land and sold to those who have become our terrible enemy. Let us learn to laugh at what we can and will see when the boys go marching by. What do we or shall we ultimately see? Well, first of all, we see the courageous and handsome bodies of our sons marching away to war. The airplanes which will zoom over and threaten the heads of those soldiers will be powered with engines made in America. When our own airplanes go forth to battle they will be brought down by antiaircraft guns directed and fired by American-made fire directors, and when our boys are shot down it may well be with improved powder invented in America and with shrapnel sold from our own shores.

Laugh at this, Americans! Laugh to your hearts' content when you hear these things; laugh if you can—if you can! For what we may have failed to do in these days will leave us little to laugh at in the days that are to come.

COMMUNICATION AND DEMOCRACY—ADDRESS BY DAVID SARNOFF

Mr. PITTMAN. Mr. President, I ask unanimous consent to have published in the RECORD, a speech entitled "Communication and Democracy", delivered by Mr. David Sarnoff, president of the Radio Corporation of America, before the Third Annual Woman Congress. I think it is a very able address.

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

Since the title of this symposium is America's Next Step, it is a temptation to give free rein to the imagination and to forecast the next steps of American inventive genius. If I resist the temptation, it is because the vista is too large to be embraced in a single speech or by one man's thought. In other branches of human endeavor, each step forward limits the field of operation and brings us closer to some goal. In science, on the contrary, each advance widens the horizon and enlarges the scope for exploration. There is no fixed goal. Nothing that the imagination can picture will match the realities being fashioned at this moment in hundreds of research laboratories by thousands of devoted inventors, the inspired poets of science.

The final value of these achievements of science and invention must be measured in terms of their usefulness and significance to man. Unless such developments bring a fuller, freer, happier existence to the mass of mankind, their gifts are worthless.

The truth of this statement is especially manifest in the field of scientific development covered by radio communications. Speed and accuracy of communication between man and man, between nation and nation have become the symbols of civilized progress. New methods of transporation—and even more so, new methods of communication—have telescoped time and space and provided us with powerful instrumentalities for bringing knowledge and entertainment and a sense of human kinship into the most remote and barren lives. Today it is axiomatic that communication is civilization.

Through the progress of our modern communications nations have been turned into neighborhoods and the accumulated riches of music, and the vast resources of education and entertainment have been made available to tens of millions previously cut off from such opportunities. Radio has drawn the most distant places and the most forgotten lives into the orbit of civilization. Science has thus put art and knowledge on a broad, popular basis. Culture is no longer the prize of the few, because modern communication has brought its gifts within easy reach of the humblest. It has served as the most effective impulse and instrument of democracy and government. Free discussion of all sides of public questions has been made easier, more direct, more complete. The barriers of distance that once separated the elected heads of self-governed nations from the people have been removed. Improved communications have become the strongest allies of civilization and of democratic government wherever these channels remain untrammeled.

But, under the dictatorships of Europe we find a different picture. There these new and great instrumentalities of communication have been converted into tools of reaction, intolerance, cruelty, and despotism. There the press, from a living and untrammeled force, has been turned into an instrument of blind prejudice; there radio broadcasting, motion pictures, theaters, and the printed word have only the function of echoing the official propaganda. Because of its command of these new instrumentalities of communication and education, absolutism has become more dangerous to mankind, for never before has it been so well equipped, so efficient in mobilizing hatreds, so powerful in extending the sphere of its domination.

When America looks across the seas, it may well ask: Will the present and the new forces liberated by science and invention be used for the betterment of peoples or misused for their destruction? Will they enlarge freedom of thought, of opinion, and of democratic action? Or, will they become the tools of autocracy and dictatorship? In the answer to these questions, lies the significance of America's next step.

It is, as it should be, a matter of pride to all of us that in our own country the instrumentalities of science are still wide-open channels for democratic thought and opinion. We accept freedom of the press and freedom of the air so much as a matter of course that we tend to underestimate their value. It is a wholesome thing to pause occasionally and to take stock of our great democratic possessions.

The very forum in which I have the honor at this moment to speak is a token of this priceless heritage. For us in America a forum such as this is one of the commonplaces of democratic procedure, but for millions of people in other lands it is not merely impossible but at present unimaginable. The circumstance that a great newspaper and a Nation-wide broadcasting system are cooperating in this symposium has a further significance. For it is well to remember that nowhere in the world where the press is enslaved is radio free; and, conversely, nowhere has the freedom of the air been abrogated and the press

remained free. Their fate, and the fate of all free institutions, are one and inseparable.

With communications free, public opinion controls democratic government and keeps the people free. By the control of communications, autocratic government suppresses public opinion and forges the chains of dictatorship upon the people. The freedom of communications is the freedom of speech. It is the essence of free, democratic government, and suppression of the freedom of communications is the essence of dictatorship.

We have one duty above all others, as we face America's next step at this juncture of world history, and that is the preservation of those commonplace rights and freedoms which have made our civilization. We have fought with blood to make them live; let us be vigilant in keeping them alive.

Science and invention must remain bulwarks against the hammering tides of autocracy and intolerance. Democracy must not lose these bulwarks by default, as it lost them in certain other countries. That, to my mind, is the supreme urgency of our day. It should take precedence over political differences, over class antagonisms, over group sentiments, over economic problems. However serious and clamoring other necessities may be—and I do not for a moment minimize the problems which confront us—their true and permanent solution can be found only within the frontiers of freedom, of justice, and of self-government.

Sometimes free constitutional government seems to be threatened by an inferiority complex. In a world suffering from the effects of a great war, from the blows of economic depression, from great political changes affecting vast parts of Europe and Asia, it is not unnatural that the prayer should be for "supermen"; that overseas millions bewildered by want and weariness should seem willing to give up their freedom for glibly promised economic "security"; that false Messiahs should arise, promising all things to all men; that demagogues should hold forth to eager listeners. This is not the first time that despairing men have yielded to tyranny, dictatorship, and despotism.

Economic expedients as old as ancient Rome, practices perfected by tyrants since the beginning of history, principles whose falsity has been exposed by the mature thought of men throughout the progress of civilization, have been paraded to us from across the seas as new conceptions in government, in social and political life.

In glowing colors we have painted for us the alleged success of the new totalitarian state, the greatness that comes from false concepts of racial destiny, the promise of a civilization to be built upon the ashes of human freedom and human rights. All the old tyrannies are dressed in new clothes. Yet with what results, as we look across the ocean?

Millions herded into armies for the slaughter of the next great war; industry bled white by state exaction; banks, insurance companies, and other public institutions robbed to support a false economy; labor enslaved and reduced to constantly lowering standards of living; women deprived of their hard-won rights; suspicion and fear enthroned in every home; the human intellect degraded; ruthlessness enshrined as a weapon of statecraft.

Such is the insane egoism of the dictator that he always ends by attacking God Himself, in the attempt to force his own brand of faith or faithlessness upon the people as a whole. True religion rests upon the free conscience and the moral instincts of the individual. There is no place in an autocratic state for an individual conscience or an individual morality.

True, the picture of itself that such dictatorship projects to the western world is much prettier than this. A nation that speaks with one voice, a party that plays the same tune, a press that sings the same song. The proud boast is peace and serenity within and safety from attack without.

And why not? The one voice that speaks is the voice of despotism. The one tune that's played is the tune of hatred and oppression. The peace is the peace enforced by a single, cruel jailer.

But who can name a single great invention, a single great book, a single great drama, a single great song that has come out of such prison statehood. The only privilege that such dictatorship has conferred upon its peoples is the privilege of hating and victimizing helpless minorities.

Under whatever slogans it may parade, the autocratic state is everywhere the same in this: It makes of the individual but a cog in the machine of the state, stripping him of all individual dignity and personal rights. Thus the state becomes a ruthless master and the people its slaves, instead of the state being, as in America, the servant of the people.

The significance of recent events, however, will loom larger and larger in the thought of the great democratic nations of the world. Why? Because dictatorship has failed to make good its arrogant boasts. People entrusted to the keeping of supposed supermen or self-chosen minorities their treasures of human rights, of hard-won political freedoms and accumulated culture. They did this in return for the promise of a safer and better economic life.

But the world is discovering that there is no patent medicine solution for the serious problems that afflict it. Standards of living remain low and are sinking still lower in the dictatorship countries. The boasted permanence of their institutions threatens to crumble with every new expedient that a desperate economy creates.

History has proved that no government can survive if its framework is built upon the foundation of despotism and dictatorship. Propaganda, censorship, and suppression may present a glowing picture of progress. But, when the last tawdry and threadbare expedient is used up, the inevitable course is—war and destruction.

And since we are speaking here under the banner of a woman's congress, it is in place, perhaps, to pause a moment to view the position of women under such rule. An author, recently writing of one of these dictatorships, began his article with the words "No sooner had I crossed the frontier than I saw women exercising their newly won equality. They were carrying logs." And this was under a dictatorship in which women's abandonment of the home in favor of the factory bench, had been made a social obligation.

Elsewhere in Europe, we see dictatorships under which woman is being relegated to the place she had in the Middle Ages. All that centuries of progress have achieved in women's education, political equalities, and larger domestic freedom has been scrapped. With these rights have gone their hopes that their children might breathe the free air of tomorrow; masters of their own destinies, participants in the blessings of a free civilization.

Women, I believe, have a special stake in defending democracy against assaults from any direction, because only in a democracy can they retain the rights they have won and hand them down unimpaired to their daughters as well as to their sons.

Now let us look at America again. Notwithstanding the many problems still unsolved, our own country, and the other democratic nations of the world, have much to be proud of in comparison with the empty boasts of dictatorship. Economic recovery may be a slow and laborious uphill climb. But, America today is further advanced in this direction than those States which are embroiled in war or threatened with it, whose economic distress grows with every passing month, whose people live under fear and cruelty; whose leaders are preparing to write their nations' destiny in blood.

In the heat of political and partisan discussion, there are those who insist that any departure from their own particular brand of political conviction must lead inevitably to bolshevism or fascism. They hold the alternative to our heads like a loaded pistol, and cry: "Choose!"

I submit that the choice is a false one, that the sap of democratic government has not yet run dry. The great, broad road of democratic social progress has not reached the dead end of bolshevism or fascism. Our road is the road of American progress and freedom, and our people do not face the choice between different systems of oppression. Our choice, should one become necessary, would be between autocracy on the one side and self-government on the other.

There are those who would wrench our progress out of its normal evolutionary course and reform us overnight with dangerous panaceas. But no less menacing to our freedom are those "diehards" who believe that progress can be achieved by standing still, and who would freeze American institutions in the mold of their own narrow interests.

It is to the glory of our institutions that we have been able, without departing from our fundamental rights and freedoms, to raise living standards to heights which dictators vainly promise. If there is a silver lining to the clouds of our depression, it is the fact that it has made our society more definitely aware of its duty to the individual. Our institutions have not and do not reject the responsibility of a democracy to its people.

In the development of that responsibility lies America's next step. We must strengthen our democratic institutions to give the fullest opportunities to the individual. But, we must also see to it that the progress of the individual will create a better social and economic structure for the whole of society.

Our destiny will be more profoundly revolutionized by the forces of scientific progress than by the panaceas of theoretical sociologists. And that progress will be more beneficent to the masses under an orderly system of free government than under restrictions imposed by any dictatorship.

Science repeatedly has shown its ability to transcend the limitations of the human intellect. It has crashed through physical barriers too vast for our minds to encompass. It has harnessed natural forces that we can hardly define, let alone understand.

More than that, science often has outstripped the human imagination. We know now that Leonardo da Vinci's daring dream of a man flying through space stopped short of the everyday realities of our own generation. The scientific fantasies of a Jules Verne seem tame against the modern submarine and the stratosphere balloons of our day. Even Shakespeare's immortal fancy lagged far behind the fact of today when he made Puck boast: "I'll put a girdle round about the earth in 40 minutes." Today, radio girdles the earth in one-seventh of a second.

We have watched the unfolding of these scientific miracles in our own lifetime. The spectacle has been so continuous that sometimes it seems that our sense of wonder has been deadened. We have lost much of the thrill felt by our fathers and grandfathers, as the marvels of the steam engine receded before the greater marvels of the electric dynamo, as motion pictures were followed by radio broadcasting. But, however, we may lose the thrill, we do not lose the hope. We accept the latest triumphs of science a little humbly, conscious of the immense mystery still beyond.

Until our own generation the wealth of the world came from below the surface of our globe—from the mines and waters and fertile soils. It is only in the last thirty-odd years that humanity has begun to reach upward for new wealth—upward into the air, into the stratosphere. Already we have made an impressive beginning with transportation and communication through the air

through aviation and radio. It is only a small beginning, but one could speculate at length on the potential resources that still lie untouched in ultra-short waves, in sun energy, and in the stratospheric lanes. Americans once faced the frontiers of geography. Today we face new frontiers of science.

Only about one-half the human race is, at present, within the orbit of industrialized civilization. Untapped resources of science may soon bring the other half into this sphere, may create immense new producing and consuming areas, and provide greater scope for growth and general world-wide enrichment than we now dare imagine. I believe that the solution of the world's economic problems will yet be found through the progress of science.

For a full, unhampered development, we must have freedom of thought, freedom of action, rewards for initiative, for work, and for achievement—in brief, a democratic system of living and of government. We cannot pour inventive genius, which is so closely akin to the spirit of artistic genius, into the hard mold of autocracy. We must not discourage enterprise by abolishing the rewards of success. We must produce leadership as well as goods if our economic and social order is to prosper.

Enlightened democracy therefore must be guided by certain irreducible necessities:

First, the necessity of safeguarding our traditional self-government through democracy, tolerance, equality of opportunity, and individual freedom.

Second, the necessity for the unhampered development of science, invention, and industry through the encouragement of personal initiative and rewards for achievement.

Third the assurance of economic and human justice for all those willing to do their share of the Nation's work.

The hope and the promise of the new communications era which science has brought us lies in the service which it renders to a democratic society in the maintenance of its ideals of freedom, its principles of self-government, and in its preservation of human liberties.

America will solve its problems with democracy instead of dictatorship. It will keep mankind free. In that achievement, as in its contribution to free government a century and a half ago, America will again be an example to the world.

THE FEDERAL FAMILY BUDGET—ARTICLE BY W. M. KIPLINGER

Mr. BARBOUR. Mr. President, I ask unanimous consent to have inserted in the CONGRESSIONAL RECORD an article entitled "The Federal Family Budget", by W. M. Kiplinger, which was published in the February number of Today. I feel that this article, in plain, easily understood language, gives a clear and informing picture of this important and timely subject.

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

THE FEDERAL FAMILY BUDGET

By W. M. Kiplinger

This is your budget; you get the benefits and you pay the bills. If you are "rich", you pay a big share of your income to government; if you are "poor", you pay probably a bigger share of your "margin" than the rich pay—the margin between what you get and what it costs you to live. Perhaps you have no margin. Well anyway, you pay concealed taxes—concealed in the price of things you buy. You don't escape taxes. You pay a lot. If you are "middle class", you belong to the class out of which the bulk of the taxes come.

No matter who you are, you get Government aid, direct or indirect—but you also pay. The Government is your hired agent. It does things for you, and it collects from you for doing them.

You, all together, can make the Government do anything you want it to do. Generally and broadly and long-range, it does what you, the people, order—no more, no less.

Is it spending your money as you wish? Perhaps so, perhaps not. You can determine by examining the Budget. The Budget is complicated. Its figures in small type fill 859 pages, a volume 1½ inches thick, weighing four pounds. It's like an encyclopedia. To read it would take a month; to understand it fully would take a lifetime.

You can't spend a lifetime, but you can spend 20 minutes on the high points, the main features and thus get a sense of direction, a sense of proportion. How is the Government spending? Where is it going?

It is your Budget and your money. It is your Government, and you are one of the bosses.

FOR BUDGET PERSPECTIVE LOOK TO THE PAST

Pre-World War years: Budget ran around $700,000,000 a year. Paltry, measly little 700 million, not the big billions of the present. Receipts were about half from customs, about half from internal taxes. There weren't any income taxes to speak of—just a dribble of them. Expenses were mainly War Department, Navy Departments, and pensions for past wars. The ordinary civil government cost less than 200 million a year. Public debt was around 1 billion, with very small interest burden. Budget was always approximately balanced.

WORLD WAR YEARS: BILLIONS, BILLIONS, BILLIONS

Receipts: New income and profits taxes raised 3 to 4 billion a year. New internal taxes on various commodities raised upward of a billion. Expenses for the war went to 18 billion in 1 year alone. Deficits, met by borrowing, shot up to 9 billion, then to 13 billion a year. Result at the war end: A public debt of 25½ billion, Liberty bonds.

Postwar, predepression decade with war to pay for. Budget around four billion a year. Note well the figure—four billion. Receipts, roughly one-half from income taxes, one-eighth from customs, and three-eighths from wide variety of miscellaneous excise taxes. Receipts around four billion, expenses ranging around three and one-half billion a year, instead of the old prewar seven hundred million. Increase due mainly to war.

Budget surpluses nearly every year, about five hundred million—one-half billion. These were used to pare the debt from twenty-five and one-half to sixteen billion by 1930. Repeat—predepression years—a national annual Budget of four billion, with three and one-half billion for expenses and one-half billion to cut the public debt.

These postwar years were the years of easy income and wholesome Budget position. They were the years of Harding, Coolidge, and Mellon.

They say "Mellon cut the debt." Well, he did, for he was in office in the years when the debt-paring was possible.

The years of depression

Here is the picture of government-in-the-red fiscal years	Deficit in billions	Public debt billions	Debt per capita	Revenue receipts, billions
1930—Last year of gilt era	None	16.1	$131	4.1
1931—First full depression year	0.9	16.8	135	3.3
1932—Depression at its worst	3.1	19.4	156	2.1
1933—Hoover, two-thirds of fiscal year	3.0	22.5	179	2.0
1934—First full year of Roosevelt	3.9	27.0	214	3.1
1935—Second year of Roosevelt	3.5	28.7	225	3.8
1936—Fiscal year, end next June	[1] 4.7	32.4	254	4.4
1937—Mid 1936 to mid 1937	[2] 4.0	[3] 36	282	5.6
1938—Roosevelt, or Republican	???	???	???	More

Note.—Deficit figures for 1936 and 1937 are unofficial estimates. Can't tell now whether certain deficit items will fall into 1936 or into 1937. For most purposes it doesn't make much difference.

[1] 1936: That's the current fiscal year, ending this June. The official estimate of the 1936 deficit is 3.2 billion. But this official estimate is wrong, too low, because it was made up before the Supreme Court invalidated the processing taxes and the A. A. A., and because it didn't figure on the bonus. So add for existing farm contracts about 300 million. Add for new farm subsidies about 200 million. Thus even without bonus, deficit will be at least 3.7 billion. Then add 1 billion—½ of bonus; deficit becomes 4.7 billion.

[2] 1937: That's next fiscal year, starting this July 1, 1936. The official estimate of 1937 deficit is only 1.1 billion. But this purposely omits new outlays for work relief, and it doesn't allow for new farm subsidies and bonus. So add for new work relief 1½ or 2 billion. Add for new farm subsidy about 500 million. Some, but not all, of this new farm subsidy will be covered by new taxes to be determined later. And add one-half of 2-billion bonus hanging over 1937, 1 billion. Thus it is conservative to figure 1937 deficit around 4 billion. New taxes: To whatever extent new taxes provide new revenues, the deficits will be reduced below the figures suggested above.

[3] And up.

Everything goes up and up

(Millions dollars; add 000,000)

Fiscal years end June 30

	Hoover's last year, 1933	Roosevelt's first year, 1934	Roosevelt's second year, 1935	Roosevelt's third year, 1936	Next year, 1937
Receipts	2,080	3,115	3,800	[1] 4,???	[1] 5,???
Income taxes	746	818	1,099	1,434	1,943
Estate and gift taxes	34	113	212	251	293
Liquor taxes	43	259	411	503	555
Cigarettes, tobacco taxes	403	425	459	478	504
Manufacturers' excise taxes	248	381	342	365	393
Processing taxes		353	521	???	???
Customs duties	251	313	343	353	354
Social security taxes				39	547
Expenditures	5,143	7,105	7,375	[1] 8,???	[1] 9,???
Regular civil government	549	606	549	649	726
Army and Navy (war)	659	479	533	745	937
Veterans (war)	863	556	605	717	790
Debt:					
Interest (war and depression)	689	756	821	742	805
Retirement (war and depression)	462	360	573	552	580
Farm aid, A. A. A., etc.	215	865	870	[1] 1,???	[1] 750
Social security funds					480
Relief, public works, C. C. C., homes, etc.	830	2,681	3,466	3,511	[1] 3,???
Veterans' bonus				2,237	
Deficit	3,063	3,990	3,575	[1] 4, up	[1] 4, up
Public debt	22,538	27,053	28,700	[1]32,???	[1]36,???

[1] These figures cannot be more definite now, but the totals are accurate in a round-figure sort of way—the only way possible just now.

Only main items of receipts and expenditures are listed above.

Under expenditures, reading across: Figures on regular civil government, farm aid, and relief should not be compared too closely, for Hoover and Roosevelt regimes used different bookkeeping classifications. In general proportions, however, the figures are comparable.

Public debt: The total eventually will be reduced by these items: Recoverable assets, three to four billion, the amount being indeterminable. Gold profit fund, two billion, which later may be used to reduce debt.

But consider on debit side the contingent liabilities of about four and one-half billion.

The course of things: 7, perhaps 8, years of unbalance, 1931–37 or 38. No definite assurance of Budget balance even year after next—1938. Deficits going up, not down—and despite rising tide of revenues. Current year's deficit, new high record for United States in peacetime. This is the way other nations have slid into budgetary inflation.

There's the story of the Budget in a page.

EXPLANATIONS AND CONCLUSIONS

First, the deficits and the public debt:

A Treasury deficit is the difference between what comes in (mainly from taxes) and what goes out in various expenses. The deficit is the measure of how much the Budget is unbalanced. Deficits started in 1931 and will continue at least through 1937.

The deficits are met by borrowing. The Treasury sells bonds or other obligations. The buyers of bonds (lenders to the Government) are banks, insurance companies, trustees of accumulated funds, corporations, and many individuals who put savings into Government bonds.

These outstanding bonds constitute the public debt.

The debt is owed directly to the various classes mentioned above, and indirectly to all who have insurance policies, bank deposits, etc.

The public debt and the cost of it:

See, by the first table on the opposite page, how debt has risen from 16 billion in 1930, and will be 36 billion by the end of 1937. This is a rise of 20 billion in 7 years of depression.

See also that the debt has gone from $131 to $282 per capita.

The amount of the debt is less important than the carrying charges, which mean (a) interest, and (b) sinking fund to cut down principal.

Interest rates have been reduced by the Roosevelt administration, partly to help all debtors, partly to help the Government as a debtor.

Thus the Government can carry a bigger debt at a smaller interest cost. In 1930, interest on 16 billions of debt was 660 million. In 1937, interest on 36 billions of debt may be nearly 1,000 million. Average interest rate on Government borrowings now is around 2½ percent. This rate probably will not be lower in the future; it may be higher. The average rate on borrowings early in 1933 was just under 3½ percent.

How will the debt be paid off?

By taxes on you, and me, and business—everybody, no exceptions. By taxes on our children, for it will take a generation or more to pay. Our children will pay in taxes a good share of the depression costs. They will pay for the economic blunderings of past generations. But, also, some of them will inherit the bonds, the items due.

Where the money comes from.

See the second table, last column on right. Direct taxes (you know them because you feel them when you pay them) include income taxes and estate and gift taxes—total 2.2 billion. Indirect taxes (you pay them covered up in prices of things you buy) include most of the other taxes—liquor, cigarettes, manufacturers' excise, processing taxes (defunct), customs duties—total above 2 billion.

Social-security taxes, new next year, are taxes on pay rolls.

Where the money goes.

See second table, expenditures, column on right.

Regular civil government, which includes all permanent agencies, costs around 700 million a year—not so big, but rising.

Look at the cost of war, past and future. They include Army and Navy, veterans, half the debt costs—total over 2½ billion. More than half your taxes go to pay for war or national defense. This is a simple arithmetical fact. Apply it to suit yourself.

Social security taxes will mount into tremendous totals, billions, in future years. Truth is, no one knows exactly how much they will be.

Practically all items of regular Government costs are going up: See second table under "Expenditures"; read across.

Further detail on continuing agencies:

	1936 1937
Department of Agriculture (exclusive of A. A. A.)	105 to 167 million.
Department of Commerce (modest increase)	31 to 33 million.
Department of Interior (more regular pub. wks.)	71 to 111 million.
Department of Justice (more suits to defend)	18 to 22 million.
Department of Labor (more activity in labor realm)	15 to 24 million.
Department of State (conservative increase)	16 to 18 million.
Treasury Department (cost of collecting new taxes)	144 to 192 million.
War Department (nonmilitary functions)	75 to 141 million.
Independent commissions (New Deal has new ones)	44 to 91 million.
Tennessee Valley Authority (now more advanced)	20 to 45 million.
Navy Department (more national defense)	425 to 567 million.
War Department (more national defense)	319 to 369 million.
Veterans' pensions and benefits (without bonus)	717 to 790 million.

About the only items going down are these:	*1936 1937*
Postal deficiency (merely less deficiency)	90 to 79 million.
Civilian Conservation Corps	528 to 220 million.

Not included in above list are various emergency and relief items, for they cannot be explained briefly and some are not yet determined.

Are these increases in costs of civil government justified?

As a first-hand observer of government, I should say most of them are. But even if some of them aren't, it doesn't make a lot of difference in the Budget picture as a whole, for the questionable Budget items are not these relatively minor costs of regular civil government, but rather the big billions of the emergency portions of the Budget.

And whether the big billions of the emergency are now justified is a question of political philosophy to be discussed separately.

The purpose here is to give Budget facts and Budget perspective, so that you may see where we are going—not drift blindly.

Budgetary inflation; we may or we may not be sliding into it.

There are many ifs and ands in the situation as affecting the future. But the present drift warrants close scrutiny of the possibilities.

The mechanics of budgetary inflation:

If a government lives beyond its current income for many years, as ours has done, it creates new credit, it manufactures new credit on which to live. For example, it borrows from banks by selling bonds to banks. It creates in the banks new deposits, either in the name of the Government or of other depositors to whom the Government has paid out money.

The banks acquire expanded deposits, subject to check by depositors. This is "credit", and it is the equivalent of money—new money created by government through borrowings to meet recurring deficits. Banks acquire greater bank lending power. Whether or not they do lend depends on many other considerations too involved for discussion here.

The point, for simplicity, is that by long-continued borrowing the Government creates new credit, which is much the same as new money.

The brighter side—that we shall escape budgetary inflation:

Those who have no fears, or small fears, think the Budget will balance in a year or two, that present tax rates applied in a period of rising business volume will yield ample revenues, that danger will then pass.

They point, furthermore, to many new powers to control inflation, possessed by the Federal Reserve Board, the Treasury, and other agencies. They say that now is the darkest budgetary hour before the dawn.

The President and most officials think and talk along these lines.

The alarming side—that we are sliding toward inflation:

Those who fear this have had new fears in the past few weeks, since the bonus was voted, since it became evident that the Budget is not under close control of either the Executive or of Congress, that each branch of Government is passing the buck to the other.

True, Government has good credit. It can borrow, can sell bonds. Banks or other institutional lenders are under compulsion of their own to support Government bonds; many of their funds are in the bonds. But there may come a time when lenders are reluctant to lend to the Government. Such a time is not clearly foreseeable in advance, is not foreseen now. But if some new Treasury bond issue should fail to go over big, investors would whisper, "Government credit isn't what it used to be." Then trouble. The Treasury might have to pay higher interest rates.

Then new pressure arises for meeting expenses by the printing press. Greenbacks or the equivalent. In the past they have been resisted. There has been no dose of paper money as yet. But it may come.

It's the unending unbalance which makes the current worry:

It's not the past. It's not the 36 billions of debt now in sight. (We can carry that.) It's the collapse of previous semipromises, and the wonder whether new promises now can be relied upon. It's the spectacle of Congress succumbing to organized pressures.

If danger's ahead, who's responsible?

Many elements, not just one. The President, for he encouraged Congress in the spending habit, perhaps with justification at the time, but with seeming nonchalance about the outcome. Now he finds the habit hard to stop. And Congress. It succumbed to spending with the greatest of ease. Congress was egged on by the public. Spending is usually popular.

And Republicans quite as much as Democrats. They got theirs for the home districts. They talk economy, but they don't vote it.

And the organized minorities—organized for the focused purpose of getting government money for themselves. Their causes have some merit as individual causes. But what is the cost of all of them?

And good citizens who grumble in private against spendings, but who do nothing to counterbalance the pressure of special-interest groups.

Does this mean you? Did you ever pat some Congressman or Senator on the back for risking his political future by voting an unpopular "No"?

Good citizens are much to blame.

To good citizens this explanation of the Budget is directed.

SPECIAL EDUCATION FOR KENTUCKY—ADDRESS BY HOMER W. NICHOLS

Mr. LOGAN. Mr. President, I ask to have printed in the RECORD an address delivered over the radio by Homer W. Nichols, director of the division of special education, on the subject of Special Education for Kentucky. The address was delivered November 22, 1935.

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

In order to satisfy the demands of this changing modern social order, adjustments in our educational programs are necessary. These adjustments call for emergencies, special plans, special service, and special facilities, especially for the handicapped child, the handicapped citizen, and the untrained adult. Inspired by these facts the Kentucky Education Commission recommended a division of special education in the department of education. This recommendation has become a law of the Commonwealth and the division now has supervision of special programs for the handicapped child, vocational rehabilitation, and adult education.

The President, in his message of June 1934 to Congress, said:

"Our task of reconstruction does not require the creation of new and strange values. It is, rather, the finding of the way once more to known but forgotten ideals and values. If the means and details are in some instances new, the objectives are as permanent as human nature.

"Among our objectives I place the security of the men, women, and children first. Education, training, and vocational guidance are of major importance in obtaining economic security for the individual and the Nation."

Education is a continuous process and does not end at the schoolhouse door, nor with the issuance of license, nor the granting of degrees; nor does it begin with the 6-year-old child. That education does and should continue throughout life is not an abstration, but a truth forced upon us by our ever-changing environment to which we must constantly readjust ourselves. The person who has reached maturity and has not become literate is as much an educational responsibility to the State as is the child.

Education for all is required in a democracy. The progress of this Nation is the sum of the progress of its individuals. The battle in which we are now engaged, in a campaign of democracy, is raging around the possibility of general education for the grown-ups and special programs for the handicapped child, just as the battle of the last century has been about the general schooling for the normal child between 6 and 16 years.

In compliance, with what sound pedagogical facts did we arrive at conclusions that our system of free education should provide only for children from 6 to 16? As the years from 1 to 6 are the most important in the life of the child, why not provide the training needed for this period, especially where it has not been provided by other agencies, such as children from needy families, which our nursery schools are providing.

The education of the citizen is a function of all governments. I believe we can proceed upon the principle that all education is a public responsibility and all governments, local, State, and Federal, should participate in making it available to all the people.

Kentucky is able to finance a program of education from the nursery child to the aged of our land. Last year we spent less than $50 per pupil for education, while it cost more than $400 to maintain a criminal in penal institutions.

Some think we are not able to expand our educational program. Inquire from your druggist how much he receives annually for cigarettes, soft drinks, chewing gum, and intoxicating drinks. Investigate in your community how much is expended annually for gasoline, oil, amusements, and for luxuries.

In 1932 facts indicate that Kentucky's tobacco bill was approximately $25,000,000; for soft drinks and candy $22,000,000; for theater and amusements, $14,000,000; for sporting goods, $6,000,000; passenger automobiles, $160,000,000. How much will it be this year for intoxicating drinks? Facts indicate we spend more than $120,000,000 annually in Kentucky for luxuries, and still some tell us that Kentucky cannot finance an adequate program of education.

THE HANDICAPPED CHILD

True American philosophy in education proclaims equality of opportunity for all children regardless of maladjustments. Within the century education has become America's largest business, but it is only recent that society's obligations to underprivileged groups have been recognized in the light of modern education. The educational trend today is toward the solution of social problems. The recent Social Security Act provides for more than $31,000,000 for handicapped children. Special education for handicapped groups is a rapidly developing phase of our education program. Besides the State institutions for handicapped children, many city school systems, including Louisville, Lexington, Paris, Covington, Ashland, and others, have made some special provisions for such children. Ninety school systems, with Federal aid, are providing special training for the underprivileged groups of preschool children.

The State boards of education and State educational institutions should consider their responsibilities for the handicapped child as equal to their responsibilities for the normal child.

Although the Constitution specifically implies that the General Assembly shall provide for all children, whether normal or abnormal, "an efficient system of public schools", Kentucky has made special provisions for less than one-fifth of her handicapped children who are unable to attend or make satisfactory progress in the public schools. This army of handicapped children will, one day, become an army of adults. Shall they be a contributing part of the social order, or shall they become liabilities that will drain the resources of society? Shall Kentucky spend part of the public money to train them for social efficiency, or shall the State later be required to spend a greater sum for almshouses, hospitals, reformatories, and prisons in an attempt to protect society and reform the handicapped adult? Kentucky's answers to these questions will be expressed in the provisions which she is willing to make for them while children.

The handicapped child is certainly an economic factor. An intelligent consideration of this alone would force the State to double its efforts to bring to him those facilities which will help him to realize his maximum capacity despite his handicap. The conception of educational opportunity, however, should not be limited to the economic aspects alone. If the educational philosophies of Dewey, of Kilpatrick, of Bode, of Rugg, and others agree in any one phase more than in another, it is in the emphasis that is placed upon the child and upon his welfare as a child. Happiness, contentment, adjustment, achievement—these are some of the key words which apply to the education of every child. A twofold service, then, is the cornerstone upon which any program of education is built that considers the special needs of the handicapped pupil—service to the child and service to society—and both are paramount considerations in the welfare of the State.

We found in the recent census, complete in only eight counties, 749 handicapped children, mostly home-bound cases, receiving no educational benefits. This does not include those who are so handicapped they are not making satisfactory progress in the regular schools. These children have never had any educational advantages. They cannot even read and write, though mentally sound.

On the basis of this partially complete census we now have in Kentucky approximately 7,000 mentally sound children, including only those unable to attend school, not able to read, who are not receiving their per-capita share or the $10.95 guaranteed them by the Constitution. This is neglected discrimination against that forgotten group of helpless, neglected, handicapped children who cannot demand their constitutional rights.

VOCATIONAL REHABILITATION

A handicapped child from birth to 3 is a medical problem. From 3 to 16, if left handicapped, is a twofold problem—medical and educational. After 16 this handicapped person becomes a threefold problem—not only medical and educational but also an economic problem, unless rehabilitated and made self-supporting. Rehabilitation through vocational training is a new phase of the educational system. This new idea contends that not only should vocationally handicapped people be trained, but that the training be specifically adapted to the needs of the individual. The Federal and State Governments provide rehabilitation service because it is sound, economic business. It is essentially a social remedy. It helps unfortunate people to help themselves. It fits them for a livelihood. It adds to the productive power of the Commonwealth. Being included in the recent Social Security Act, it is now firmly established as a public policy of governments. With funds available we are helping to establish in employment annually more than 800 physically handicapped adults.

ADULT EDUCATION

The increase of leisure time has brought many important problems. The proper use of such leisure time now is perhaps as important as time spent in preparing for a changeable vocation a few years ago. Heretofore man has been conditioned by his occupation rather than his leisure, but circumstances have changed. The industrial age has been shortened by mechanical devices, and spare time has correspondingly increased. While earning a living is still a prime requisite in the existence of mankind, the successful life depends also upon the proper use of the free hours. It is this leisure-time period that gives opportunity for the individual to broaden and outgrow his job rather than to let his job outgrow him.

Adult education is a profitable investment. The increase of educational opportunities results in better houses, more refinement in art, books, music, and general culture. In fact it creates a new market for the grocer, the book seller, the clothier, the road builder, and the banker. It increases interest in child education. This year the boards of education of many cities recognize the importance of adult education and have made it a part of their regular school programs.

In spite of the wide range of educational opportunities offered, there are still needs which should receive immediate attention. The last census shows 131,545 people in Kentucky over 10 years of age not able to read. Last year we taught more than 6,000 men and women to read their Bibles for the first time. We are now teaching over 11,000 such persons. We now have 1,137 teachers employed by local superintendents in 118 counties receiving $58,000 per month. The 217 participating school districts have enrolled approximately 60,000 people hungry for additional training. The emergency educational project providing for $1,300,000 has been approved by Harry Hopkins, and now awaits the release of this fund by the Comptroller of the Currency. We are expecting this release of funds next week. This project covers salaries and supplies for the whole program and food for nursery schools. The transfer from relief to W. P. A. may necessitate a short recess in emergency classes. Salaries will be determined by the President's security wage and will be paid twice each month. We now go off relief and take on a program of employment. Definite information will go out to superintendents Monday.

Without work and without interest the individual may become discontented and destructively minded. Thus throughout the land we have read much about the highwayman and the gang.

One of the main purposes of these special programs is the treatment in mental hygiene which requires infusion of new interests—aims and purposes.

Connected with this program are two classes of relief—material and morale relief. Morale relief cannot be purchased; however, it can be transmitted in the form of new interests, new purposes, and new goals to depressed minds of the young and old. It is reducing transiency, vagrancy, delinquency, and social unrest.

Considering the wartime rapidity with which this emergency program has been organized, its success as an educational program is most phenomenal. The effective results achieved were largely due to the splendid interest and cooperation of school administrators, teachers, students, and training institutions. We are faced in Kentucky with the problem of untrained teachers for programs of special education. Through all these years we have been training teachers for the specific purpose of teaching only normal children from 6 to 16, and now we are developing agencies so teachers may be given short introductory courses, in a small way, preparing them for the projects they are to undertake.

I would recommend that programs of our State institutions be made so comprehensive as to include training for teachers to begin with nursery pupils, handicapped children, and carry on through the aged adult.

The division of special education has supervision of programs which reach the forgotten child and the forgotten man. Like the lowly Nazarene and the program provided for Him as recorded in biblical history:

As Jesus Father was a workingman, it is likely that He lived in a house with only one room, with no floor except the earth.

Jesus may have learned to read at the village school held in the synagogue. The lessons were from the Old Testament, but Jesus never had a Bible or school books.

This lowly Nazarene never wrote a book nor painted a picture, yet there has been more written about Him and more pictures painted of Him than any other person.

Some call it the "new deal" in education. I prefer to call it the "old deal" of Plato, Socrates, Aristotle, and the lowly Nazarene revived and made new again.

Good afternoon. I thank you.

BETTER BUSINESS BUREAUS—ARTICLE BY FREDERICK BERLIN

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Mr. Frederick Berlin in regard to the methods of certain business interests.

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

THE BETTER BUSINESS BUREAUS FINANCED BY NEW YORK STOCK EXCHANGE, THE INVESTMENT BANKERS ASSOCIATION, THE POWER TRUST, THE DAIRY TRUST, THE CHAIN STORE OCTOPUS, THE GRANITE COMBINE

By Frederick Berlin

(Much of the following data is taken from Government publications including Code of Fair Competition for Investment Bankers, National Recovery Act hearings held in Washington, D. C.)

There are about 90 better business bureaus in the United States, 52 of these being hooked up with a central organization in New York, where Wall Street dominates the general policies. The remaining 40 independent better business bureaus, two of which are located in Washington and one in Kansas City, endeavor to live up to their names, and are not affiliated with destructive interests in the business world. The chain of 52 better business bureaus mentioned above were financed largely by Samuel Insull, the Power Trust, the Money Trust, the Baking and Dairy Trust, and the New York Stock Exchange, and one of the newer sources of revenue is the granite combine who make up a slush fund by assessing 10 cents per cubic foot on granite quarried. This huge fund is distributed through the memorial extension commission and better business bureaus who are very free in throwing accusations, and otherwise discrediting memorial parks, of which there are 600 throughout the United States. Memorial parks are the modern burial ground, using flush bronze markers for the graves, and excluding tombstones or monuments of any type. Therefore, the granite and monument interests are using the better business bureaus in their illegal efforts to stop the progress of the modern burial parks.

It is hardly necessary to comment on the New York Stock Exchange, but suffice to say that as soon as that great gambling institution subsidized the better business bureaus, the bureaus at once and thereafter told the public to buy listed securities. There is one thing sure about listed securities—they do list. A ship always lists before it goes down, and the New York Stock Exchange crash of 1929 cost the investing public around $100,000,000,000.

The dairy combine is now under investigation by the Federal Trade Commission, and I will not comment on the Power Trust. Federal Trade Commission Document No. 153 shows that over 50 percent of chain-store sales are short weight.

The receivers for the Samuel Insull debauchery report that millions of dollars was paid by the Insull enterprises to the better business bureaus, but we admit that this was a good investment because, with the aid of the bureaus, he was able to take the public to the cleaners to the tune of $2,000,000,000. We all know the story of Halsey, Stuart & Co., F. H. Smith Co., S. W. Strauss, and many other nationally defunct companies, bureau contributors.

In the last period losses sustained by depositors and stockholders of banks in the United States will reach the staggering sum of $30,000,000,000, and on top of this banks unloaded on the public $12,000,000,000 of worthless foreign securities. That there were more thieves, pickpockets, confidence men, swindlers, embezzlers, high financiers musquerading as bankers is evidenced by the testimony of former Comptroller of Currency John W. Pole, before Senate committee in Washington (S. Doc. 55, pt. 1, p. 94, May 10, 1933), in which Mr. Pole under oath declared that thefts by bankers of depositors' money was so common that it was merely a matter of routine in the Comptroller's office. United States Savings Bank and the Harriman National Bank of New York and the Park Savings Bank of Washington, D. C., are among the thousands of shining examples.

The banks that flopped in the United States were ardent supporters and financial contributors to the bureaus, particularly when they desired to put over a shady stock or bond deal. There can be no question but what the money paid by these insolvent banks to the better business bureaus was depositors' money and should be recovered for the benefit of depositors. However, Secretary of the Treasury Morgenthau refused to compel refunds.

The St. Louis Better Business Bureau obtained a second-class mailing permit through the use of questionable affidavits, and had been using this permit in mailing out third-class matter. When this was called to the attention of the Post Office Department, the permit was canceled. It is evident from this that better business bureaus will stop at nothing, even to defrauding the United States Government, when their financial pickings are slim. While this was a bold fraud against the Government, no prosecutions were made, and not a word of publicity appeared.

HOOK-UP WITH THE INVESTMENT BANKERS ASSOCIATION, NEW YORK STOCK EXCHANGE AND AFFILIATES

The 52 better business bureaus are associated together and related through an organization known as the Affiliated Better Business Bureaus, Inc.; the whole system operates, in point of fact and law, as one combination or organization. The interlocking methods of cooperation between said bureaus are used by members of the association in pursuance of a general conspiracy to eliminate competition and also as a clearing house to disseminate favorable propaganda concerning members of the association and the securities traded by them, and boycott propaganda concerning competitors.

The bureau system is organized into 52 allied nonprofit membership corporations. The preference for this type of organization as expressed in a secret bulletin issued by the bureaus, is obviously an attempt to avoid liability for damages resulting from boycotts carried on with full knowledge by the bureaus' membership, in violation of the Sherman antitrust laws and the Clayton Act, under these acts the membership is liable for triple damages and subject to injunctive proceedings by the Attorney General of the United States according to opinions of eminent counsel.

The divers methods, scope, and subtlety of the bureaus, activities in boycotting competitors are so cleverly concealed and involved that it is impossible for me to touch upon them fully in this communication.

Proceedings under the same guise of reform and public protection to affect fraudulent purposes as practiced by charlatans down through history, the members of the association, as a screen to cover boycott and other destructive purposes, have adopted the constructive title, Better Business Bureaus, concealing the bureaus' membership and the fact that its boycotts are perpetrated against competitors of those who secretly finance its activities. Thus, the bureaus, through extensive advertising by way of bulletins, booklets, press releases, over the radio, and otherwise, publicize themselves as "maintained for public protection" and "to protect the public's investments", as "quasi-public institutions", as "disinterested and impartial arbiters and advisers on trade practices, products, securities, and dealers therein", and other statements implying an altruistic and benevolent purpose.

In pursuance of the general scheme to boycott competitors, the bureaus, through bulletins, letters, press releases, and otherwise publicize, concerning the persons, firms, and corporations to be boycotted charges of fraudulent practices, of trading in fraudulent products or securities, promotional schemes, and other unfair trade practices as well as scandalous information unrelated to the business of said competitors, all of which is framed in such manner as to destroy their business.

In order to instill confidence and trust in their boycott activities, the bureaus publicize themselves as disinterested investigators and prosecutors of individuals, firms, and corporations engaged in fraudulent practices; that the bureaus have established affiliations and working arrangements with the Post Office Department, public-service commissions, prosecuting officers, securities commissioners of the various States, attorney general's office of New York, Internal Revenue Department, the Federal Trade Commission, and various other governmental departments, as well as the press, banks, telephone, and telegraph companies. By such publicity and by the use on letterheads and boycott propaganda of an insignia designed to appear as that of the United States Government, the bureaus attempt to convey, and do convey, to the public generally that they are quasi-governmental agencies endowed with governmental functions and that the boycott propaganda disseminated by them emanates from a quasi-judicial authority and is entitled to credence.

Through the aforementioned unlawful liaisons and contacts with governmental departments and public institutions and by employment of former postal inspectors and relatives of employees of the Post Office Department the bureaus have secured the names of customers and correspondents taken from the return addresses on

communications addressed to competitors, confidential information, and trade secrets from income-tax reports, from tapping telephone wires and telegraph messages to and from the offices of said competitors, and from other governmental and private agencies; thereafter the bureaus disseminate boycott propaganda among clients and correspondents of competitors whose identity has thus been established. Many of the above agencies are induced to permit the bureaus to obtain said information in the belief that it will be used solely to prosecute or prevent fraud.

The direct injury caused to legitimate business through boycotts of the bureaus in furthering monopolies of various branches of finance and industry runs into billions of dollars annually and a careful study of the entire situation will show that the bureaus' activities have played an important part in bringing about present economic conditions. The policies of the Better Business Bureau is to throw a smoke screen by keeping the public's mind on some trivial fraud while their own members get away with billions.

The legal strategy used in effecting the boycotts herein mentioned is supplied by White & Case and Breed, Abott & Morgan, New York attorneys, the former to the national bureau and the latter to the better business bureau of New York City. These services are furnished gratis and in return for new legal business recommended by the various bureaus throughout the country and the facilities of the bureau are utilized by these attorneys in the interest of their clients. In other words, when a public official or officer of a business enterprise comes to New York to secure capital for his local government or enterprise and has with him a letter of introduction from the bureau in his home city to the national or New York bureau, the said bureaus invariably suggest that negotiations for capital requirements should only be made in the presence of competent counsel and that the aforementioned attorneys are recommended. Breed, Abott & Morgan are attorneys for the Investment Bankers' Association, "New York group", and approve the boycott propaganda of the New York Better Business Bureau. Charles H. Tuttle, former United States attorney is a member of this law firm and utilizes the facilities of the bureaus to promote his political ambitions.

WASHINGTON BETTER BUSINESS BUREAU

The Washington Better Business Bureau, which holds rather a key position at the National Capital, has changed its name three times and evidently adopted its present corporate status to confuse the public with such well-known names as Veterans' Bureau, Bureau of Entomology, Bureau of Standards, and other Government agencies. Under the leadership of the late Henry Lansburgh and directed by Mr. Church, the bureau made a good reputation in the advertising field and won public confidence. With the death of Henry Lansburgh real-estate sharks and financial pirates sought to obtain support of the bureau, but Mr. Church gave them a deaf ear. By heavy contributions and other maneuvering, Swartzell, Rheem & Hensey and many of the burglars who called themselves bankers gained control of the bureau and promptly ousted Mr. Church, placing Mr. Louis Rothschild in charge. From then on things began to happen.

Banker Michels, president of the North Capitol Savings Bank, associated with some other bank officials, promoted the Washington-Baltimore race track, which cost the investing public, principally Government workers, $1,500,000, when that enterprise blew up shortly after the promotion period.

Swartzell, Rheem & Hensey-Harry Wardman combination were one of the heavy contributors to the local bureau, and the public is now holding the bag to the tune of $100,000,000 in worthless, or thereabout, securities, and Edmund Rheem was just recently paroled from the Federal penitentiary.

It is interesting to note that Frank R. Jelleff, who is on the board of the Washington bureau, signed the parole of Edmund Rheem, thereby releasing this master crook to again prey upon the public. The board of the Washington bureau, in addition to having several of our so-called bankers and real-estate operators, have chain-store officials, Dairy Trust magnates, Power Trust officials; also the A., T. & T. and the insurance combine. When the smoke is cleared away from the last bank crash, the loss to the investing public and depositors caused through the questionable operations of Better Business Bureau contributors may reach the staggering sum of $500,000,000 in Washington.

From the best information available the F. H. Smith Co., notorious real-estate operators, did not make their contributions direct to the local bureau, but it would appear from the books of this defunct company that $250,000 charged off as attorneys' fees was paid in to the National Better Business Bureau at New York, to be distributed to bureaus in the Central West, as the Smith Co. were selling their worthless bonds principally to farmers in the Central States. G. Bryan Pitts, head of the defunct Smith Co., still resides in Uncle Sam's boarding house, otherwise known as the Federal penitentiary. Kann's Department Store, who contribute about $1,000 a year to the Washington bureau and are represented on their board, was recently hauled up before the Federal Trade Commission and Cease and Desist Order No. 1269 was issued against them for false advertising.

THE REMEDY

President Roosevelt, while Governor of New York, said, "No honestly intentioned membership corporation should hide its roster; no group of men should be permitted to operate in the dark."

Yet the ironclad policy of the bureaus is to keep a secret membership by preventing their members to identify themselves with the bureaus. All legitimate organizations and trade bodies encourage the use of their insignia or trade-mark, to be used on members' stationery.

The remedy would be to bring the bureaus, their membership, and their sources of revenue out in the open, a matter of public record.

If the business of the country is to come back to normal, the conditions described in this article must be remedied, and a congressional investigation of the activities of the better-business bureaus and their sponsors is most certainly needed and requested.

FREDERICK BERLIN.

DEBTS DUE UNITED STATES BY FOREIGN NATIONS

Mr. LEWIS. Mr. President, I presume this honorable body will conclude that in discussing the matter I am about to bring to the attention of the Senate I am seeking to emulate the character which Carlyle introduces in his Sartor Resartus, claiming that persistency with obstinacy may finally reach some final result, even if not a favorable one.

I invite the honorable Senate this morning to indulge me a moment while I bring to their attention information which I regard as very important and exceedingly weighty, in view of the relation this country bears to its foreign-nation debtors. I call attention to the fact that the Government, by its proper and appropriate department, today will disclose that the Government of France has closed negotiations looking to the advancement of $67,000,000 as a loan to the Government of Rumania, which Government itself, Rumania, has been as unable to pay us anything of the debt she owes us as other debtors have been unwilling to do so. I invite attention to the fact that the loan to Rumania is upon the terms of enabling Rumania to strengthen her Army so that she may enable France, in the language of the report, "to forge a chain along such lines around Germany as will be required in the event of some future action"—whatever those words may mean, fertile as they are with much suggestion—that France may be called on to take.

I invite this honorable body to notice, sir, that the loan is to be advanced also for the aid of anything that will be necessary to carry out the negotiations between Austria and Germany which now rejoin Rumania in this commercial pact. At the same time it was reported that Britain is to lend a portion of the money to France out of which France is to lend a portion of such sum obtained to Rumania.

Sir, when that information was first imparted, it seemed hardly credible in view of the fact that Great Britain, an honorable debtor owing vast sums to America, amounting to billions of dollars, still declines to pay to our Nation a penny of interest, and has even grown so bold in audacity of defiance as to decline even to enter the sum in her budget as indebtedness. Yes, sirs, the debtor poses before the world as having balanced her budget and paid off her debts. This she is enabled to do by striking off the list of considerations all the amount of debts due to the United States.

We pause in something of wonder—for myself, let me add, with considerable doubt as to whether it be true—that England was really going to advance these sums of money to France in addition to that which France was lending to Rumania in order that the loan should be complete to the full sum we have described.

Now, sir, comes the news, important for us, that England today is to lend to France two hundred millions of money, one-fourth of which is to be used by France to execute and consummate her loan to Rumania. In the meantime we hear not one word of paying one penny to the United States of the vast billions which these countries owe us, nor any attempt to excuse their default. Nor, sirs, is anyone suggesting anywhere a point of justification for the conduct toward this Nation, their friend in the hour of their great peril.

It will be interesting to Senators, and under certain circumstances will be somewhat startling, to hear what I now have to say. France, in the face of this record, proposes to a branch of the Government of the United States that the United States shall now execute a treaty with France giving certain advantages of trade in behalf of France as against the United States, and we read something of the report:

Commerce Minister Georges Bonnet today announced that he had obtained from Washington—

Which report I question the past tense. It proceeds:

the prolongation of the most-favored-nation treatment, and stressed that he was anxious to conclude this trade agreement. He asked the power to do this by decree in order that he may avoid submitting the matter to parliament. Here the subject would be debated and something of its details disclosed.

Then, says he,

The French manufacturers are opposing the removal of quotas on United States machines, tools, and manufactured articles, because, as charged, the devaluation of the dollar is already permitting these products to compete in the market here to the detriment of French producers.

It is assumed that this new treaty now suggested is to place France in a position where she may overcome the disadvantage that is being created by our monetary policy, and offset it by advantages under what she calls a favored trade treaty with the United States, granting privileges to her.

Mr. President, I rise to take advantage of the patience, and, may I say, the generosity of my colleagues; to present this proposition: If these nations are scattering their millions and billions in every quarter wherever the suggestion is made of an opportunity offered to increase their military armaments in the anticipation of conflict with some nation, or against us all; or if, apart from that purpose, they are still willing, for pure monetary profit, to lend their money out of their treasury for the purpose of speculation by nations around them, in the meantime, with the opportunity fully at their hands, declining to pay a dollar to the United States of the eleven billions due us, of which just now we have such great need and should have great concern, instead of my country making this treaty intimated by the eminent officer of commerce of France this morning, or as brought to us this morning, I propose that this Nation announce now, as a policy, that we decline to make any treaty of any kind, or commerce, or granting any kind of advantage, in trade or otherwise, with a land which deliberately, with power to pay us, continues to cheat us out of the dollars it owes us. Sirs, let us decline to go further, even though the proceedings are pending, to conclude treaties with nations that will still rifle our Treasury, hold the money to their keeping, lend out its results to foreign nations, for profit or for war, and, while such is being done, decline to admit their obligation to the Government of the United States, or even to pay any portion of the interest now due us.

Mr. President, I conclude with this observation to my honorable colleagues:

The hour has come upon the United States, if it is to be worthy the respect of its people, when we should turn to the debtor nations of the world and remind them that, while the Holy Scripture imposes the duty, as it is related, that when one is struck upon one cheek he shall turn the other, in dealing with these who have taken our money from the Treasury and enjoy the benefits in every conceivable way it may be applied, and in the final hour decline to recognize the obligation, there is no law of Christianity, no law of nations or of decency that compels us, after having been struck on one cheek, to turn the other cheek, as would a fool.

I suggest, therefore, that my Government consider that the time has come when, instead of reciprocity of more favors, we announce that the hour of just retaliation is at hand.

I thank the Senate.

TAXATION OF BANK SECURITIES OWNED BY THE R. F. C.

Mr. ADAMS. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

Mr. COUZENS. Mr. President, may I ask the Senator from Colorado whether the hearings on the bill have been printed?

Mr. ADAMS. They have been printed.

Mr. COUZENS. Are copies of the hearings available?

Mr. ADAMS. Yes.

Mr. COUZENS. Mr. President, I desire to discuss the motion.

The VICE PRESIDENT. The motion is not debatable before 2 o'clock, except by unanimous consent.

Mr. KING. Mr. President, I ask unanimous consent that the privilege of discussing the pending motion be extended to the Senator from Michigan, because the bill is of very great importance, and most of us have had no opportunity to read the hearings, or even to read the bill.

Mr. McNARY. Why does this require unanimous consent?

The VICE PRESIDENT. The Senator from Colorado has made a motion that the Senate proceed to the consideration of Senate bill 3978. The Senator from Michigan desires to discuss the motion.

Mr. McNARY. Why can he not do that under the present order?

The VICE PRESIDENT. The Chair just announced that the motion was not debatable before 2 o'clock, but the Senator from Utah has asked unanimous consent that the Senator from Michigan be permitted to discuss the motion of the Senator from Colorado. Is there objection? The Chair hears none, and the Senator from Michigan is recognized.

Mr. COUZENS. Mr. President, I thank the Senate for affording me opportunity of discussing the pending motion.

While it may be said in some quarters that what I am about to discuss is not particularly relevant to the bill, I propose to disclose, before I conclude, the relevancy to the proposed legislation, of what I shall say.

On February 11 Mr. Jones, Chairman of the Reconstruction Finance Corporation, appeared before the Committee on Banking and Currency in support of the proposed legislation. The hearings have been printed, but I doubt whether an opportunity to read them has been had by Senators. However, the committee reported the bill, some three or four objections being made, I think. I do not believe a roll call was had; there was no minority record and no minority report.

Subsequent to that time, however, there was handed to me a memorandum from reliable sources showing how the banks which have been helped by the issuance of preferred stock are able to pay very substantial salaries to their officers and yet are unable to pay to the Federal Government or to the Reconstruction Finance Corporation the taxes on the preferred stock.

Mr. Jones, being perfectly fair, said that the agreement which was entered into between the Reconstruction Finance Corporation and the banks provided a low rate of interest as a return or dividend and did not contemplate that the preferred shares would be taxed. The stock was originally issued, as I understand, to pay a return of some 6 percent. By later resolutions of the board of directors of the Reconstruction Finance Corporation the rate was reduced, as I understand, to 3½ percent until 1940 and 4 percent thereafter.

The point I am making, Mr. President, is that with the assistance the Federal Government has given to these banks, and with the statement of their greatly increased earnings, the States should not be deprived of the ability or the right or the authority to tax these preferred shares.

Under the existing law with respect to national banks, States which so desire may tax the common stock of these banks. My information is that all but some 17 States do tax the shares of national banks under the authority given by the Congress.

It is claimed, although I do not recall any discussion about it, that it was the intention of the Banking and Currency Committee and of Congress to exempt these preferred shares from taxation. However, in a Maryland case before the United States Supreme Court it was decided that Congress did not exempt the preferred shares from taxation, and therefore the State of Maryland was sustained in its undertaking to tax them.

About the time this bill was before the Banking and Currency Committee, as I have previously stated, a memorandum from reliable sources was handed to me with respect to Mr. Walter J. Cummings, who since March 15, 1934, has

been treasurer of the Democratic National Committee. He also was previously associated with Mr. Woodin, the late Secretary of the Treasury. At that time Mr. Woodin's name was before the Senate for confirmation, I raised a protest against his confirmation from the viewpoint that he had not only been on the "preferred list" of J. Pierpoint Morgan & Co., but that he also was and had been active as the head of the American Car & Foundry Co. However, the Senate disregarded my objections and confirmed Mr. Woodin; and later he died. Mr. Cummings served as his assistant or helper in the Treasury Department during Mr. Woodin's life, and held the same office for sometime thereafter.

Later, when the Reconstruction Finance Corporation advanced $50,000,000 to the Continental Bank of Chicago, Mr. Cummings was made chairman of the board, although he had had no previous banking experience. He was given a salary of $50,000 per year, and later it was raised to $75,000 a year. Now, Mr. Jones, informs me, by letter and orally, that the condition of the Continental Bank of Chicago has greatly improved. I am not particularly finding fault with the salary that is paid. I do not object to men who have important and responsible positions getting good salaries; but I submit that when a bank is so prosperous that it can pay salaries of this size, it ought to be able to pay to the State a tax on its preferred stock.

I am not even asking that the dividends on the preferred stock come out of the Reconstruction Finance Corporation; but I do contend that this bill should not be enacted in its present form, especially since the bill itself provides that it shall be in force retroactively. Generally speaking, I am against retroactive legislation in any event; but in this particular case it seems inexcusable that the tax exemption of this stock should be made retroactive.

There is another matter which interests me, and that is the fact that Mr. Cummings—against whom I make no personal charge—has also been made a trustee of the Chicago, Milwaukee & St. Paul Railroad. His name was proposed by Mr. Jones, of the Reconstruction Finance Corporation, to the court in Chicago, and the court approved the appointment of Mr. Cummings; and later it was confirmed by the Interstate Commerce Commission. Again, I mention the salary, not as a criticism, but to indicate how these positions may be parceled out by the powers that be, and the consequent influence that they may exert later on. I am, and always have been, vigorously opposed to using political influence or interlocking directorates in any manner which seemed to me to be adverse to public policy.

Mr. Cummings was paid $15,000 a year as a trustee of the Chicago, Milwaukee & St. Paul Railroad. It is true that the Continental Bank is a large creditor of the railroad; but I point out that Mr. Scandrett, who is president of the Chicago, Milwaukee & St. Paul Railroad, is also one of the trustees; so the bank has two members of its administration on the board of trustees for the consideration of a plan of reorganizing the financial structure of the Chicago, Milwaukee & St. Paul Railroad.

When this memorandum was drawn to my attention I first took it up with the Interstate Commerce Commission, for the reason that the law requires that they approve the appointment of trustees for railroads under the Bankruptcy Act. After the appointment of Mr. Cummings by the court in Chicago, the Interstate Commerce Commission confirmed the appointment; so that, as far as the legal phase of the matter is concerned, it is in order. But in the order which was issued by the Interstate Commerce Commission approving the appointment, certain comments are made which I desire to read.

I do not intend to take up the time of the Senate to read the whole order, but it is known as Financial Docket No. 10882, and was decided on December 28, 1935. It goes into considerable detail with respect to the law, and with regard to the protests that were made before the court in Chicago by an independent bondholders' committee. I submit that had the independent bondholders' committee not made any protest against these appointments, the matter might not have been drawn to the public's attention.

Protest was made about Mr. Scandrett on the ground that he was president of the Chicago, Milwaukee & St. Paul Railroad, and that, under the law, these trustees, of whom Mr. Scandrett was to be one, were to investigate and report on Mr. Scandrett's own activities as the chief executive officer of the railroad.

In the order issued by the Interstate Commerce Commission there appears, on page 3, the fact that Mr. Scandrett is a member of the Western Regional Coordinating Committee, a director of the Association of American Railroads, president of the Western Railroad Association, a director of the Railroad Credit Corporation, a director of the Continental Illinois National Bank & Trust Co. of Chicago, and a director of several other corporations. The order continues:

> The Continental is one of the debtor's depositories. Scandrett's financial interests include holdings of the securities of various industries, railroads, utilities, and banks. In his petition he states that these interests will in no way interfere with or affect his duties as trustee. He and the members of his immediate family own 120 shares of the Milwaukee's preferred stock, one share of common stock, and $9,500 of the adjustment-mortgage bonds.

Farther on in the order it is pointed out that the bankers and the reorganization committee that handled an earlier and not very long ago reorganization of the same railroad collected enormous fees in spite of an agreement they had entered into with the Interstate Commerce Commission not to distribute these fees, or not to spend them out of the moneys of the railroad or the bondholders, until the Interstate Commerce Commission had approved thereof. When the Interstate Commerce Commission attempted to interfere in the distribution of some $9,000,000, as I remember, the committee took the Interstate Commerce Commission into court, notwithstanding they had previously agreed not to take this action regarding fees; and the court took the position that the money did not belong to the railroads, but belonged to the bondholders, and therefore the Interstate Commerce Commission had no jurisdiction. It is the same crew that is carrying on this procedure.

Mr. LEWIS. Mr. President——

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

Mr. COUZENS. I do.

Mr. LEWIS. May I ask my able friend whether the court, though suggesting—or wherever the suggestion came from; I do not profess to know—that it was bondholders' money instead of railroad money, approved the transaction without regard to whose money it was claimed to be?

Mr. COUZENS. I am only relying upon my memory, I may say to the Senator from Illinois; but my recollection is that it was a collection made by the committee from the individual bondholders to carry on the reorganization plan, and therefore did not come out of the earnings of the railroad but rather came out of the pockets of the bondholders.

Mr. LEWIS. May I ask the Senator if he knows whether the court approved the amount allowed those people?

Mr. COUZENS. I do not recall. I was dealing with the principle; not with the amounts involved.

Mr. LEWIS. I myself am anxious to know whether it was approved.

Mr. COUZENS. From page 6 of the order issued by the Interstate Commerce Commission on December 28, 1935, I quote the following:

> Cummings was suggested for appointment by the Reconstruction Finance Corporation, which, in January 1934, caused him to be made chairman of the board of directors of the Continental Illinois Bank. His appointment meets with the approval of the group of institutional investors hereinbefore mentioned. He is co-receiver of the Chicago City Railways and a director of four other companies, including the American Car & Foundry Co.

Mr. President, that is the significance of my particular protest with respect to dealing out jobs for interlocking activities, entirely outside the fact that Mr. Cummings is treasurer of the Democratic National Committee. It does not require any great stretch of the imagination, it seems to me, to have the treasurer of the Democratic National Committee acting in all these capacities.

Entirely outside the question of politics, I desire to point out that Mr. Cummings, being not only chairman of the great Continental Illinois Bank, but also a coreceiver of the Chicago City Railways and a trustee of the Chicago, Milwaukee & St. Paul Railroad and carrying on numerous other activities, is in a position to parcel out the purchase of railroad equipment. I submit that it does not require much imagination to point out the position in which a competitor would be who made an offer to sell railroad equipment to the Chicago, Milwaukee & St. Paul Railroad or to the Chicago City Railways.

It is alleged, and I have been unable either to confirm or deny the statement, that Mr. Cummings is interested in the Brill Manufacturing Co., which makes equipment for cities to use in the transportation of urban passengers.

We all know, I think—those of us who have been connected with the Interstate Commerce Committee and the activities of the railroads for some 12 or 14 years—the vice of placing on the boards of directors of railroad companies bankers and owners of equipment companies who, in turn, can favor their own corporations. It seems to me that that feature of my discussion may not be particularly related to this particular bill, but I emphasize the fact that if these banks can pay the high salaries which they pay, they certainly can pay the tax on the preferred stock.

I shall read a portion of the letter Mr. Jones wrote me today. I ask, in an effort to be entirely fair to him, to have the whole letter printed in the RECORD as a part of my remarks.

Mr. McNARY. Mr. President, no publicity has been given to the letter. If it is very pertinent to the statement being made by the Senator from Michigan, why is it not proper to have the clerk read it at this time?

Mr. COUZENS. It is rather long and involved, and I just wanted to bring out the pertinent points as I see them and then let the whole letter be placed in the RECORD.

Mr. McNARY. If the Senator will pick out the vital portions of the letter, it will be very helpful.

Mr. COUZENS. Remember that Mr. Cummings was made chairman of the board of this bank under the domination and dictation of the Reconstruction Finance Corporation prior to his appointment as treasurer of the Democratic National Committee, which I understand took place on March 15, 1934. However, Mr. Cummings was already treasurer of the national Democratic convention when he got his support before the court and before the Interstate Commerce Commission to be appointed a trustee of the Chicago, Milwaukee & St. Paul Railroad, which, in my judgment, is much more vicious than his appointment as chairman of the board of the Continental Bank.

It is alleged that because of the R. F. C. having holdings of securities of the Chicago, Milwaukee & St. Paul Railroad Co. and also an interest in the Continental Bank, the R. F. C. is justified in having Mr. Cummings represent it in both places. Not only that, but he represents it in the American Casualty Co., although the salary is not a question at issue there, nor do I raise any particular issue about the salaries anywhere. I never have objected to the payment of reasonable salaries to men who perform service in the interest of their investors and the public; but when such actions have been taken as were taken in this case, and such methods used, I do resent them, and I have resented them not only during the Democratic administration but in any administration which has been in office since I have been in the Senate.

Mr. McNARY. Mr. President, will the Senator advise me and others as to the total combined salaries of Mr. Cummings?

Mr. COUZENS. I have only a record of $75,000 from the Illinois Continental Bank and $15,000 as a trustee of the Chicago, Milwaukee & St. Paul Railroad. I understand he gets some small fees elsewhere. I do not know to what extent he gets fees from the Chicago City Railways. He is a coreceiver of that railroad. I should not be surprised if he got a substantial return from holding that position, although I cannot verify it.

I quote one paragraph from Mr. Jones' letter:

> The success of the bank under Mr. Cummings' direction has been very satisfactory, and I am informed that the directors voluntarily raised his salary after the first year to $75,000.

Well, Mr. President, even some of the dumb bankers who have run the banks during the depression and prior thereto were able to show great improvement in the year 1935. I do not admit that it does any great credit to Mr. Cummings or any other banker that he was able to show a great improvement in 1935 with the general upturn in business and in all activities.

Then Mr. Jones in his letter rather lays stress on the fact that they recovered a very substantial amount of debts which they had considered bad. That is another matter which is to no one's particular credit—namely, anyone who conscientiously attends to business—because that has happened throughout the Nation with the recovery in values of industry and realty.

Here is rather an interesting statement. Mr. Jones says in his letter:

> Dividends on the preferred stock have been regularly paid, and in January of this year $2 a share was declared on the common stock, par value of $33.33 per share, $1 payable February 1 and $1 August 1; $3,000,000 of the preferred stock will be retired as of August 1 this year.
>
> At the time Mr. Cummings became president of the bank, which was shortly after we bought preferred stock in it, the common stock was selling at approximately $24 per share. The market now is $174 per share, an increase of $150 a share on total capitalization of 753,000 shares, or an increase of $112,500,000 in a little over 2 years.

Mr. President, this undoubtedly came about by the Federal Government's injection of its money in the support of an obviously weak and almost insolvent, if not quite insolvent, bank. Yet, in spite of all that aid given for the protection of the savings of the depositors and the holdings of the stockholders, they now resist paying taxes on the preferred stock, or the money that was put into the State of Illinois, the city of Chicago, for the protection of the depositors and stockholders.

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

Mr. COUZENS. I yield.

Mr. BARKLEY. The Senator said the bank objected to paying taxes. Of course, the bill does not involve the right of any State to tax any stockholder of a bank except the Reconstruction Finance Corporation, which, of course, if the bill shall not pass, will have to pay out of its treasury—that is, out of the Treasury of the United States—the tax levied by a State on the preferred stock.

This stock was purchased by the Reconstruction Finance Corporation, I think, not only theoretically but in fact in order to enable the banks to reopen and continue open. Without the purchase of this preferred stock by the Reconstruction Finance Corporation, which is an agency of the Government, many of these banks could not have reopened. The question now is whether, having put the money of the United States Government at the disposal of the community in which the banks were located through the purchase of preferred stock, the United States Government should be required to pay taxes on that preferred stock.

Mr. COUZENS. Mr. President, I intend to discuss that subject later on, because that is not the exact issue I am now trying to raise. I am contending that so long as the highest court in the land has sustained the position of the State of Maryland that this stock is taxable, I do not wish to have enacted any law which makes retroactive the tax exemption of these shares.

Mr. BARKLEY. The Court held that the Congress had not exempted these shares from taxation. It did not hold we could not do it. It was assumed, inasmuch as the Reconstruction Finance Corporation was a Federal agency, like all the other agencies, including the Home Owners' Loan Corporation, the farm loan banks, and all the rest of them, that the preferred stock was not taxable, and therefore we did not specifically exempt it in any statute. The Court held that the statutes exempting other Federal agencies from taxation locally was not broad enough to cover these shares.

Mr. COUZENS. I do not disagree with that statement of the Senator from Kentucky, but I point out that, in my opinion, that does not affect the equities of the issue.

Mr. ASHURST. Mr. President, I do not wish to interfere with the Senator's able argument, but I desire to propound a parliamentary inquiry. Is the bill now open to general debate, or what is the situation?

The PRESIDENT pro tempore. The Senate gave unanimous consent to the Senator from Michigan to speak.

Mr. ASHURST. Then I do not feel that I should be complying with the spirit of the unanimous-consent agreement if I were to interrupt the Senator at this time. I wish to say that I am very much opposed to this bill, and I see no reason why we could not waive the rule and discuss the bill upon a motion to consider it. Senators would like to hear the arguments for and against the bill—if the Senator from Michigan will pardon me for further interrupting him—before voting to consider it. Forsooth, what is the use of taking it up and then making the arguments for or against the bill? So may we not raise the ban, or waive the rule, and permit the argument to be made, and then vote to take up the bill?

Mr. ADAMS. If we should vote to take up the bill the matter would be open to debate.

Mr. BARKLEY. Of course, the whole procedure is extraordinary; and the Senator from Michigan desired to take up another matter, as he said at the start, not entirely relevant to the bill he has discussed. But it is a little unusual to discuss the merits of a bill simply on a motion to consider it. It would not be unusual after the morning hour, because after the morning hour a motion to take up a bill is debatable; but the exception was made, by unanimous consent, for the present discussion during the morning hour.

Mr. ASHURST. I do not wish to interfere with the discussion of the Senator from Michigan or be a party to taking him off the floor. I simply rose to find out the situation.

Mr. McNARY. Mr. President, I think the matter was covered. It is not unusual to debate a motion to take up a bill, but, of course, it cannot be done during the morning hour, as has just been stated.

I share the view of the Senator from Arizona [Mr. ASHURST]. There should be a complete discussion of this matter; and I shall agree, if other Senators wish to speak, that it is the sense of the Senate that we may discuss it now as formally as we could after 2 o'clock.

Mr. COUZENS. Of course, the Senator realizes that if I should discuss this matter until 2 o'clock it would be perfectly in order to debate the question.

Mr. ASHURST. I do not think the Senate would lose any time by listening to the Senator from Michigan discuss this bill or any other bill on which he might speak.

Mr. BARKLEY. Mr. President, I do not desire to delay the argument, but before the Senator from Michigan was interrupted by the Senator from Arizona he said he was dealing with the equities of the question. As a matter of fact, dealing with it on the basis of equities, the purchase of this stock by the Reconstruction Finance Corporation created no new property in the community.

Mr. COUZENS. Oh, yes; it did!

Mr. BARKLEY. Oh, no. This money could not have been put into the bank had it not been for the Reconstruction Finance Corporation. It was money that could not be obtained locally; otherwise, it would not have been necessary for the Reconstruction Finance Corporation to put this money into the bank.

Mr. COUZENS. I shall be glad if the Senator will let me answer one question at a time.

Mr. BARKLEY. It is all one question.

Mr. COUZENS. If the Senator takes the position, as a good many of our economic friends do, that money is not property, then of course putting $50,000,000 into the Chicago bank was not putting any property into Chicago.

Mr. BARKLEY. No; I am speaking about the preferred stock. Of course, the money is property, and it went into the community for the benefit either of the depositors or of the stockholders of the bank; but it did not create any new local property in the sense that the stock was held locally, and therefore was taxable locally.

Mr. COUZENS. I am not taking that position. I am taking the position that when Congress authorized the issuance of the preferred stock and notes, there was no provision that they should be tax-exempt. I understand from some of my colleagues that they thought they were tax-exempt; but I submit that there was no debate, either in the committee or on the floor of the Senate, so far as I know, showing that it was the intention of Congress to make these preferred stocks and notes tax-exempt.

With respect to the equities of the situation, I submit that if the Federal Government offers a bank $50,000,000 to save its depositors and its stockholders, that is in effect a property interest in behalf of the depositors and the stockholders. I submit that if the $50,000,000 which was put into the Chicago bank has raised the price of the stock from $24 per share to $174 per share, somebody has put some property value in it. If somebody has put property value there, it is my contention that he should pay taxes on it. I am not particularly urgent about who pays the taxes. It is contended that the Reconstruction Finance Corporation cannot afford to pay them because the returns on the stock and the notes are inadequate to enable it to pay the taxes. I do not concur in that view; but, of course, substantial arguments may be made with respect to some other banks.

Mr. Jones submitted to me this morning a memorandum showing that the Reconstruction Finance Corporation has invested in national banks and trust companies alone $229,209,420, on which, if this bill should not pass, there would be a property tax of $5,512,736.

According to the figures of Mr. Jones himself this morning on that particular stock, this corporation would get a return of over $8,000,000. So that, in effect, if the R. F. C. paid this tax it would still have a margin over the $5,512,000 representing the tax which would be assessed in the various States based on the now existing rate.

Then there is another $232,000,000 of such preferred stock of banks located in States which do not tax the stock of national banks. So, as a whole, completely, the R. F. C. would have 3½ percent on that investment. So, taking the whole investment, the sum of $460,000,000, the R. F. C. would make a very substantial return even though they themselves paid the property tax in the States and communities.

I wish to emphasize that if this undertaking by the Federal Government can increase the property value of the stockholders within a year by $112,000,000 somebody ought to pay the communities their tax.

With regard to the Chicago, Milwaukee & St. Paul Railway, Mr. Jones points out in his letter as follows:

> This road now owes the R. F. C. $11,499,460 plus, and I enclose a copy of my letter of June 5, 1935, relating to an additional commitment to this road of $24,000,000. You will note this authorization was conditioned upon approval of the Interstate Commerce Commission and the court and reorganization of the road being completed by December 31, 1935; and this did not eventuate and the authorization lapsed.

I continue to quote:

> There is another letter, dated January 15, 1936, in which we have agreed to assist the road in the acquisition of equipment to the aggregate cost of $4,800,000, the R. F. C. loaning 80 percent of the amount if and when the appropriation was authorized by the Interstate Commerce Commission and the court.

That is just one step in the direction of favoritism to interlocking directors and management which I have complained of, and of which I shall continue to complain. Not only is Mr. Cummings a director and stockholder in the American Car & Foundry Co., coreceiver of the Chicago City Railways, and trustee of the Chicago, Milwaukee & St. Paul Railway Co., but he is the head of the Continental Illinois Bank, and is able in those positions to control from whom the Chicago, Milwaukee & St. Paul Railway would purchase the $4,800,000 worth of equipment. I wonder what a competitor would say about submitting his figures and his

information to a receiver or a trustee who was a director and interested in another competing corporation?

Not only that, Mr. President—I refrain as much as possible from bringing politics into this question—but as treasurer of the Democratic National Committee there is no telling to what extent he might exact contributions for the campaign.

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

Mr. COUZENS. I yield.

Mr. MURPHY. Has the Senator figures showing how much of this preferred stock is held by the R. F. C. and how much by other owners?

Mr. COUZENS. I have not the figures in that connection, but during the hearings before the Banking and Currency Committee I think it was shown that that question was asked of Mr. Jones, and he replied in the affirmative, but stated that the return on the privately owned preferred stock was some 5 or 6 percent, while only 3½ percent was the rate on the preferred stock held by the R. F. C. I understand that there is some stock, the extent of which I do not know, owned by private individuals, but not under the same conditions as that owned by the R. F. C.

Mr. LEWIS. Mr. President, will the Senator from Michigan allow me to ask a question for information? In the investigation of the matter under his now supervision, his remarks just a moment past excite my attention, saying that the situation Mr. Cummings is in would indicate what might be done by him respecting contributions as treasurer of the Democratic National Committee. I take it the able Senator meant contributions to the campaign?

Mr. COUZENS. I said that.

Mr. LEWIS. And if he did mean that, I ask him, Is there anything in these investigations or in the records he now has that would indicate whether Mr. Cummings has ever made a demand of any of these concerns for contributions?

Mr. COUZENS. Oh, no. I would have no access to that. The Senator from Illinois, I hope, does not consider the Senator from Michigan so gullible as that he would think he could get information about what demands Mr. Cummings might make upon his associates engaged in the same activities.

Mr. LEWIS. I would not assume the Senator to be gullible, but, knowing his activity and his astuteness, I thought he would be able to ascertain the facts for himself. I only meant to ask him if he had the information from any source that would indicate to him that Mr. Cummings has, up to the present time, made any demand upon any of these institutions for campaign contributions or any form of contribution. If so, I should like to know it.

Mr. COUZENS. No; I hope the Senator will understand that I do not make that statement; but I am taking this question up now before the demands of the campaign have been fully developed and the need for money has been fully developed, so, if possible, to create a public opinion against contributions from such sources.

Mr. LEWIS. If they should be demanded.

Mr. COUZENS. If they should be demanded; but I happen to know, Mr. President, as a result of my long membership on the committee appointed by the Senate to investigate the Bureau of Internal Revenue, that during the Republican administration literally millions of dollars were collected from persons who had income-tax claims pending before the Bureau of Internal Revenue.

So, Mr. President, my complaint is in no sense political or partisan. It involves an abuse which I have vigorously fought ever since I have been here for some 13 or 14 years, and I intend to continue to find fault, regardless of what administration may be in power.

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

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Nebraska?

Mr. COUZENS. I yield.

Mr. NORRIS. I share equally in the views the Senator has expressed about membership on different boards and with various corporations, but I do not agree with the Senator when he passes over lightly the salaries that have been given. I think the payment of such salaries is wrong; there ought to be no such thing. However, I wish to ask the Senator whether that question has anything to do with the bill which is now before us, and does the bill go into anything pertaining to these different appointments and these different salaries?

Mr. COUZENS. Oh, no.

Mr. NORRIS. All the bill proposes to do, as I understand—and I have not examined it—is to relieve the stock owned by the Government or by the Reconstruction Finance Corporation from taxation. Is there anything else in the bill?

Mr. COUZENS. No; I prefaced my comments when I started with the statement that only a portion of the discussion I intended to make related to this bill.

My position is that this bill should not pass, but that the R. F. C. should be required before asking the enactment of the bill to take up the question with the banks and get them to pay their own taxes, because there are large properties within the States and within various communities that would become tax exempt as the result of the passage of the bill.

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

Mr. COUZENS. Yes.

Mr. NORRIS. I am wondering if that would be possible. Could the R. F. C. compel somebody else—the banks, for instance—to pay taxes? If that could be done legally, I would agree with the Senator that it would be a very fine thing to do. The particular bank the Senator is speaking of certainly would be able to do it without any hardship, but I doubt whether there is any way by which we can legally compel somebody else, a bank or any stockholders, to pay this tax.

Mr. COUZENS. I am not concerned about the legality of it, because I am not asking for mandatory legislation to compel anybody to pay the tax. I am perfectly willing to leave the law as it is. I am not asking for any law that may be illegal or designed to compel anybody to pay the tax, but I am perfectly willing to leave it to the States and municipalities and the counties to devise their own ways and means of collecting the tax. What I am objecting to is Congress' taking cognizance of the matter when no effort has been made by the R. F. C. or anybody else to get the banks to pay the tax.

Mr. OVERTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Louisiana?

Mr. COUZENS. I yield.

Mr. OVERTON. I hope the Senator appreciates the unjust discrimination in favor of those banks in which the Reconstruction Finance Corporation owns preferred stock and against those banks which are not favored by ownership of preferred stock by the Reconstruction Finance Corporation.

Mr. COUZENS. In that connection there is discrimination now at all times, because there are some 17 States which do not collect taxes on national-bank stock, so to that extent there is already discrimination. Whether or not that situation would be accentuated by the bill would depend upon the laws of the individual States.

Mr. OVERTON. In Louisiana there is, so far as I know, no exemption. Bank stocks are assessed against the stockholders and are assessed on a valuation which reflects the capital stock, surplus, and undivided profits. If this bill should become a law, a bank in which the Reconstruction Finance Corporation does not own any preferred stock would have to bear a tax burden which would reflect the total capital stock, surplus, and undivided profits. If the bill should become a law, the banks in which the Reconstruction Finance Corporation owns preferred stock would be exempt from the tax burden to the extent of the ownership of that preferred stock.

Mr. COUZENS. May I point out something that perhaps the Senator from Louisiana does not know and which I was shocked to learn, and that is the fact that the State of Louisiana does not tax national-bank stock? There has been issued in the State of Louisiana $4,340,000 of this preferred stock to the Reconstruction Finance Corporation, on which the State of Louisiana does not attempt to collect a tax. It has not in the past attempted to collect taxes on national-

bank stock. I am surprised that the Senator from Louisiana and his late colleague overlooked that fact.

There are other States in which a tax is levied, not on the stock itself, but on the income only from the bank. In that connection, and as part of my remarks, I ask to place in the RECORD the memorandum submitted to me by Mr. Jones relating to this matter and showing how the issuance of the present stock is divided among the States as it applies to each State, the amount or rate of tax that might be assessed against it in each State if the bill should not pass, and a list of the States which do not tax national-bank stock shares and those which only tax the income from such shares.

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

States in which national-bank shares are taxed

State	Investment of Reconstruction Finance Corporation in national banks and trust companies	Percent of actual value at which property is assessed for taxation	Approximate annual tax rate, besed on information available (per $1,000)	Approximate amount of tax per year, based on information available
Arizona	$1,340,000.00	100	$51.20	$68,608.00
Arkansas	1,275,000.00	50	52.34	33,366.75
Colorado	4,101,000.00	100	49.15	201,564.15
Delaware	137,300.00	100	2.00	274.64
Florida	1,177,500.00	50	2.00	1,177.50
Georgia	1,507,500.00	100	31.00	46,732.50
Idaho	565,000.00	67	62.23	23,557.17
Illinois	72,797,614.17	50	68.55	2,495,138.23
Indiana	6,857,980.00	100	2.50	17,144.95
Iowa	6,323,400.00	60	5.00	18,970.20
Kansas	2,190,500.00	100	41.96	91,913.38
Kentucky	3,182,350.00	100	13.00	41,370.55
Maryland	2,607,540.00	100	12.20	31,811.98
Michigan	17,680,610.00	100	31.97	565,249.10
Minnesota	11,211,000.00	33⅓	108.00	403,596.00
Missouri	4,217,125.00	60	32.05	81,095.31
Montana	1,061,000.00	30	70.00	22,281.00
Nebraska	4,842,450.00	100	10.00	48,424.50
Nevada	175,000.00	100	41.14	7,199.50
New Mexico	401,000.00	100	43.40	17,283.40
North Carolina	1,317,500.00	100	18.49	24,360.57
North Dakota	1,897,000.00	50	65.23	61,870.65
Ohio	22,828,073.00	100	2.00	45,656.15
Pennsylvania	19,394,886.50	100	4.00	77,579.54
Rhode Island	648,500.00	100	4.00	2,594.00
South Carolina	1,505,000.00	100	90.08	135,570.40
South Dakota	2,748,000.00	100	4.00	10,992.00
Tennessee	7,790,000.00	100	22.98	179,014.20
Texas	21,969,625.00	75	43.01	714,685.18
Virginia	3,043,900.00	100	10.00	30,439.00
West Virginia	2,416,066.66	100	5.47	13,215.88
Total	229,209,420.33			5,512,736.38

States in which national bank shares are not taxed

Louisiana	$4,340,000.00
Maine	2,455,600.00
Mississippi	2,629,000.00
New Hampshire	501,635.00
New Jersey	28,648,575.82
Utah	1,250,000.00
Vermont	497,500.00
Washington	2,062,500.00
Wisconsin	14,573,850.00
Wyoming	565,000.00
Total	57,523,660.82

Territories (no tax information available)

Alaska	$37,500.00
Virgin Islands	125,000.00
Total	162,500.00

Summary

	R. F. C. inv.	Amt. of tax
Taxable	$229,209,420.83	$5,512,736.38
Not taxable	57,523,660.82	
Tax paid by bank (income)	173,173,266.83	
No information available (Territories)	166,500.00	
Total	460,068,847.98	5,512,736.38

States in which tax is levied on income of national banks

Alabama	$6,612,400.00
California	16,716,925.00
Connecticut	3,698,426.00
District of Columbia	1,100,000.00
Massachusetts	9,190,800.00
New York	126,249,715.83
Oklahoma	8,902,500.00
Oregon	702,500.00
Total	173,173,266.83

Mr. WHEELER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Montana?

Mr. COUZENS. Certainly.

Mr. WHEELER. May I ask the Senator from Michigan whether or not the question of the right of the Government to enact a law exempting these securities from taxation by a State has been looked into by the committee? It seems to me offhand, without careful investigation, that the Congress would have no right to say to a State, "You may not tax securities held by some branch of the Government of the United States."

Mr. COUZENS. May I point out to the Senator from Montana that it is only by the grace of the Congress that the States themselves are permitted to tax the common stock of national banks at any time, they being construed as governmental agencies and therefore not subject to taxation by the States except with our consent?

Mr. WHEELER. But this is quite different, it seems to me, because these are not national banks, as I understand, to which this money has been loaned.

Mr. COUZENS. That is true, but it is only national banks which are affected in this particular controversy, which arose through a suit brought by the State of Maryland for the collection of taxes against some preferred stock issued in Maryland.

Mr. WHEELER. But if I understand the provisions of the bill correctly, they seek to tax—

Notwithstanding any other provision of law or any privilege or consent to tax expressly or impliedly granted thereby, the shares of preferred stock of national banking associations—

And so forth.

Mr. CONNALLY. Mr. President, will the Senator from Michigan yield?

Mr. COUZENS. Certainly.

Mr. CONNALLY. May I ask the Senator from Michigan as to the provision on page 2, relating to shares of preferred stock, capital notes, and debentures of State banks and trust companies. Does the bill undertake to prevent a State from taxing the capital stock of State banks?

Mr. COUZENS. That is on the theory that such stock when held by the R. F. C. is Federal Government property.

Mr. CONNALLY. Where is there any authority for doing a thing like that?

Mr. COUZENS. I think it is quite conceded that where the Federal Government owns property such as public lands, forests, national parks, or what not, it is tax-exempt.

Mr. CONNALLY. Where it is purely a governmental activity, that is true, but here is a bank chartered in a State, owned and operated by people subject to the laws of the State, a private institution for gain and profit. To say that the State cannot tax its capital stock is totally wrong, it seems to me.

Mr. COUZENS. My position is that the whole proposal is absurd, and the bill should not be enacted into law. I contend that the question of exempting these securities was never discussed by the Banking and Currency Committee, nor on the floor of Congress at all.

Mr. BARKLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Kentucky?

Mr. COUZENS. I yield.

Mr. BARKLEY. The Senator from Texas [Mr. CONNALLY] will, of course, understand that this bill does not attempt to exempt banks from taxation. It simply exempts the preferred stock held by the Reconstruction Finance Corporation.

Mr. CONNALLY. I so understand, but it is the stock of a State bank chartered under the State laws. Frankly I do not agree with the measure at all.

Mr. BARKLEY. Of course, only that is the Senator's privilege.

Mr. CONNALLY. If we should enact the bill into law I would not regard it as settling the question at all, because the State would still have its right to go to court.

Mr. COUZENS. Certainly; and I hope it does not settle the question because here we have the situation of the stockholders, for example, of a State bank organized in a State which is empowered to assess the stock holdings of its citizens, but is unable to assess the stockholdings of the Federal Government.

Mr. ADAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Colorado?

Mr. COUZENS. Certainly.

Mr. ADAMS. I desire to submit an observation to the Senator from Texas [Mr. CONNALLY] to the effect the question he is raising has been definitely settled by the Supreme Court of the United States.

Mr. CONNALLY. I am aware of that decision.

Mr. ADAMS. I have been hoping the Senator would withhold his final opinion until there had been an opportunity to present the bill to the Senate.

Mr. CONNALLY. I certainly will withhold my vote.

Mr. ADAMS. I am asking the Senator to withhold his opinion.

Mr. CONNALLY. That is another question.

Mr. COUZENS. May I ask the Senator from Colorado if it makes much difference, so far as the clock or time may be concerned, when these observations are made?

Mr. ADAMS. No. The only thing that disturbs me is the persuasiveness of the Senator from Michigan. He sometimes takes the minds of Senators and carries them away and prevents their holding their minds open and their judgment in abeyance until they might hear the other side of the question. I recognize the great danger of one who is supporting the bill when the Senator from Michigan has the opening argument against the bill.

Mr. CONNALLY. In my own case, in view of what the Senator from Colorado has said, I am very happy to be listed among those who are easily influenced by the Senator from Michigan.

Mr. COUZENS. The Senator from Michigan does not allege he has any influence upon his colleagues, as intimated by the Senator from Colorado. At times I wish I had, but that is not the fact. The bill is a peculiar bill. I believe the fear that might be engendered, as suggested by the Senator from Colorado, is not to be taken seriously because anyone during the period of the discussion could read the bill in probably 30 seconds. It is not so difficult to understand unless one goes into the implications of the bill.

I do not desire to take the time of the Senate unduly. I am not trying to kill time and I am not filibustering against the bill or trying to prevent the Senate's having a chance to vote on it. What I am trying to do is to point out that as it relates to these specific regulations, the banks which have been helped by investments of the Federal Government could well afford to pay this tax rather than to have the Reconstruction Finance Corporation pay it. No effort has been made by the R. F. C., as I understand, in any way to arrange for the interested parties, the parties who have been made rich through these investments, to keep from paying their own tax.

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

Mr. COUZENS. Certainly.

Mr. ASHURST. At the appropriate time I desire to ask for the yeas and nays on the question of taking up the bill. I make the announcement now so I may not be foreclosed from submitting the request at a later time.

The PRESIDENT pro tempore. The Senator may submit his request now, as the bill is not yet before the Senate.

Mr. ASHURST. The motion before the Senate is to proceed to the consideration of the bill, and it is upon that motion that I ask for the yeas and nays.

The PRESIDENT pro tempore. Does the Senator from Michigan desire to yield at this time for the purpose of having the yeas and nays ordered on the pending motion?

Mr. COUZENS. I prefer not to do so, because I wish to complete my argument before that is done.

Mr. LEWIS. Mr. President, while the Senator is looking at a feature of his record, I should like to have his attention in connection with the very illuminating statement he has made to us of the sums of money advanced by the Reconstruction Finance Corporation in purchasing stock in the banks with a view, as the Senator has well stated, of aiding those banks and assisting them in bringing up the values of their property; and, as the Senator said, in his judgment these very great aids—from which we gather that the list extends to many banks—should encourage the banks themselves to feel a sense of appreciation. I ask the Senator if he has lately read or had his attention drawn to the fact that Mr. Aldrich, the president of a bank known as the Chase National Bank in the city of New York, in a public speech lately rose and denounced what is called the New Deal and the administration for advancing the public money—let me use his exact words—"in private enterprise", when at the time he and his bank, as the honorable Senator will see from his list, had $50,000,000 of the funds of the Government subscribed to his welfare and the interest of his institution; and yet he damns and denounces the Government for aiding him.

Mr. COUZENS. Does not that remind the Senator of the old statement that "The devil a monk would be"?

Mr. LEWIS. But, when well, "The devil a monk was he."

Mr. COUZENS. Yes; and that applies to many of our great bankers and industrialists who were pleading on the steps of Congress for the enactment of the Reconstruction Finance Corporation law and all other laws which came to their particular help and worked to their benefit.

Mr. GLASS. Mr. President——

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

Mr. GLASS. I am not a spokesman for the Chase National Bank, but I think we ought to be fair about it. The Chase National Bank did not desire to sell any of its preferred stock to the Reconstruction Finance Corporation. My understanding is that the Reconstruction Finance Corporation urged the Chase National Bank to do it in order to set an example to other banks.

Mr. COUZENS. I may say to the Senator from Virginia that I made no statement with respect to the Chase National Bank, because I do not know the circumstances in connection with all these individual cases.

Mr. LEWIS. Mr. President, as the RECORD discloses, I made the statement. I say to the able Senator from Virginia that whether the Reconstruction Finance Corporation sought to have the bank sell the stock or whether the bank sought to have the Reconstruction Finance Corporation purchase the stock, the Senator will be shocked to learn that after obtaining $50,000,000 from the administration the head of the bank rose and damned the administration and Congress at a bankers' meeting, before a business house and a gathering of the delegates, for advancing the public money in private enterprise. I felt that it was an ungenerous act.

Mr. GLASS. Mr. President, I did not discuss that phase of the matter. I think that part of it puts the officials of the Chase National Bank in a very unhappy situation—denouncing a thing in which they were participants, whether they needed to be or did not need to be. My information is that they did not need to be.

Mr. BARKLEY. Mr. President, will the Senator yield in that connection?

Mr. COUZENS. I yield.

Mr. BARKLEY. If it be true that the Reconstruction Finance Corporation purchased $50,000,000 of the preferred stock of the Chase National Bank in order that that bank might operate as an example to the other banks of the country, having operated as an example apparently so successfully that more than 4,000 of the banks have had their preferred stock purchased by the Reconstruction Finance Corporation, the Chase National Bank now might at least pay back the money to the Reconstruction Finance Corporation, or repurchase its stock from the Reconstruction Finance Corporation, or cease its criticism.

Mr. GLASS. If the Senator desires my opinion about that, I think the bank ought to be compelled to take back the stock; it ought to have been compelled to take it back

long ago; and many other banks ought to be compelled to take back the stock that the Reconstruction Finance Corporation has bought from them.

I do not mean by that, however, any reflection upon the management of the Reconstruction Finance Corporation. I think it has been the best-managed governmental agency we have had, and I think Mr. Jones has saved the country hundreds of millions of dollars. Even the wisest man, however, is sometimes susceptible to advice; and, if my advice were asked, I should tell him to sell all the preferred stock back to the banks, if he could.

Mr. COUZENS. I do not desire to go into a discussion with respect to policies, but may I ask my colleague from Indiana [Mr. MINTON] whether or not he was interested in this case in behalf of the independent bondholders? It has been reported to me that his name appeared, but that he did not personally appear in the case.

Mr. MINTON. Mr. President, I will say to the Senator that I was approached and offered employment as attorney for the bondholders' committee.

Mr. COUZENS. That is, the independent bondholders.

Mr. MINTON. We agreed to accept employment, but I have never had any time to give to the case.

Mr. COUZENS. I desired to ask the Senator's assistance with respect to the position of the independent bondholders if he was in position to give it.

Mr. President, I also send to the desk a letter from Chairman Mahaffie, of the Interstate Commerce Commission, addressed to me, dated February 21, 1936, and a copy of the orders that were issued in this case, and ask that they may be printed in the RECORD as part of my remarks.

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, February 21, 1936.

Hon. JAMES COUZENS,
United States Senator from Michigan,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: In response to your letter of February 18, 1936, transmitting a memorandum on Walter J. Cummings, I forward herewith copies of reports and orders issued by division 4 of the Commission ratifying the appointments of Henry A. Scandrett, Walter J. Cummings, and George I. Haight as trustees of the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., and fixing their maximum compensation and the maximum to be paid to their counsel. You also will find enclosed copies of orders issued by division 4 of the Commission permitting intervention in the proceedings before it for reorganization of the Milwaukee by the Independent Committee for the Protection of Bondholders, and setting the matter of the ratification of the trustees for hearing at the office of the Commission in Washington.

At the hearing held by the Commission Julius Weiss appeared as counsel for the Independent Committee, and was afforded an opportunity to examine all of the witnesses to the fullest extent which he desired and to develop all relative facts with respect to the matter involved. The report and order ratifying the appointment of these trustees are based on the record of this hearing.

I shall be pleased to furnish you with any further information which you may desire in connection with this matter.

Very truly yours,

CHARLES D. MAHAFFIE, *Chairman.*

Interstate Commerce Commission. Finance Docket No. 10882.
Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Reorganization. Submitted December 13, 1935. Decided December 28, 1935

Upon their petitions for ratification of their appointments as trustees of the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, appointments of Henry A. Scandrett, Walter J. Cummings, and George I. Haight, ratified, in part, conditionally.

O. W. Dynes and M. L. Bluhm for Henry A. Scandrett.

Robert T. Swaine for the debtor.

James B. Alley for Reconstruction Finance Corporation.

Kenneth L. Burgess and Douglass F. Smith for group of institutional investors.

Julius Weiss for independent committee for protection of bondholders.

REPORT OF THE COMMISSION

Division 4, Commissioners Meyer, Porter, and Mahaffie

By Division 4:

The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. on June 29, 1935, filed with the United States District Court for the Northern District of Illinois, Eastern Division, a petition for the purpose of effecting a plan of reorganization under the provisions of section 77 of the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States", as amended. On the same date the court entered an order approving the petition as properly filed, and authorizing the debtor to continue in the possession and management of the property, pending further order of the court. A hearing has been held by us on a plan of reorganization filed by the debtor.

Pursuant to section 77 (c) (1), as amended August 27, 1935, and after hearing, the court, on October 17, 1935, entered an order appointing Henry A. Scandrett, Walter J. Cummings, and George I. Haight trustees of the property of the debtor, effective on and after December 1, 1935, when such appointees shall have filed the required bonds and have been duly qualified. Subsection (c) provides that the appointment of trustees shall become effective only upon ratification by us. On November 29, 1935, the court amended its order of October 17, 1935, to provide that the aforesaid appointments would become effective on the first day of the month succeeding the date of our ratification. Copies of the above-mentioned petitions and orders, filed with the court, have been duly filed with us.

In their petitions for ratification, and supplements thereto, the appointees have furnished the information regarding their education, experience, financial interests, etc., required by the order of the Commission, dated November 5, 1935. Subsection (c) provides that where a trustee is appointed, who, within 1 year prior to such appointment, has been an officer, director, or employee of the debtor corporation, or any subsidiary corporation, or holding company connected therewith, there shall be appointed another trustee or trustees who shall not have had any such affiliations. This provision is applicable only in cases where the debtor's annual operating revenues exceed $1,000,000 in the previous calendar year. The Milwaukee's revenues exceeded that amount in 1934.

At the court hearing, counsel for the independent committee for protection of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. bondholders offered the objections of the committee to the appointment of Scandrett and Cummings. Later this committee was permitted to intervene in the proceeding before us, and on November 15, 1935, it filed a petition requesting us to hold a hearing in the matter of the ratification of appointment of these trustees. After due notice to interested parties, such hearing was held on December 2–3, 1935. Testimony in favor of the appointees was introduced and no opposition to the appointments was offered except in behalf of the independent committee.

Previous to his installation as president of the debtor, on January 13, 1928, Scandrett held positions with several western railroads, involving legal, valuation, traffic, and administrative duties, the last of which positions was that of vice president, Union Pacific System, in charge of valuation, commerce matters, land, and public relations. Scandrett is a member of the Western Regional Coordinating Committee, a director of the Association of American Railroads, president of the Western Railroad Association, director of the Railroad Credit Corporation, director of the Continental Illinois National Bank & Trust Co. of Chicago, Ill., and of several other corporations. (The Continental is one of the debtor's depositories. Scandrett's financial interests include holdings of the securities of various industries, railroads, utilities, and banks. In his petition he states that these interests will in no way interfere with or affect his duties as trustee. He and the members of his immediate family own 120 shares of the Milwaukee's preferred stock, one share of common stock, and $9,500 of the adjustment-mortgage bonds.) At the hearing upon the debtor's plan, held in August 1935, he testified at length respecting the steps taken by the management to promote efficiency of operation, and showed that substantial economies had been effected in numerous branches of operation. His testimony also embraced the financial record of the road since its acquisition by the present company, successor to the Chicago, Milwaukee & St. Paul Railway Co. The history of the predecessor company and the events leading to its receivership and reorganization are described in *Chicago, Milwaukee & St. Paul Investigation* (131 I. C. C. 615), and *Chicago, Milwaukee & St. Paul Reorganization* (131 I. C. C. 673).

The appointment of the president of the debtor as a trustee was urged before Judge Wilkerson, of the district court, by a group of institutions having large investments in Milwaukee securities. It is approved by the Reconstruction Finance Corporation, a creditor to the extent of $11,499,462 in loans to the debtor. In a memorandum accompanying his order the judge emphasized the value of Scandrett's training and experience in the group of the three trustees whom he desired to appoint. Strong commendation of Scandrett's qualifications and personal character was given at the hearing by the presidents of the Union Pacific and Northern Pacific Systems.

The committee's objection to the appointment of Scandrett as trustee goes not so much to his ability as a manager of railroad operation as to his alleged connection with its banking interests in New York City, which acted as reorganization managers after the 1925 receivership; to his failure to institute suits for the recovery of funds improperly spent by the predecessor company; and to his participation in the bringing of a suit to enjoin the enforcement of a condition prescribed by the Commission in its certificate and order of January 4, 1928 (131 I. C. C., supra). Scandrett testified at the court hearing and at the hearing before us regarding all the foregoing matters. Determination as to the propriety of his failure to institute suits in the matters referred to by the committee involves many considerations. We fail to find in the protestant's inferences that lawsuits should have

been instituted, or in the record made at the hearing a sufficient basis for denying ratification of Scandrett's appointment.

The condition in our certificate and order of January 4, 1928, which the carrier sought to enjoin related to the impounding of the so-called $4 fund contributed by the stockholders under the plan, and provided that such fund should not be paid out unless and until authorized by the court and by this Commission. As the matter was adjudicated by the courts, the $1.50 portion of the fund, being that portion which had been allocated to the compensation of reorganization managers, protective committees, etc., was held not to be the property of the railroad corporation, and, therefore, not subject to the jurisdiction of the Commission (*United States* v. *Chicago, M., St. P. & P. R. Co.*, 282 U. S. 311). Without attempting to excuse or condone a disregard of our intent in this matter, the fact remains that the courts upheld the legal right of the debtor to maintain the suit. Furthermore, without doubt, Scandrett acted in this connection by direction of the debtor's board of directors.

While the record before us indicates that Scandrett was placed by certain banking interests in the office of president of the debtor, proof is wanting of his subsequent close affiliation with those interests or of their influence upon his conduct as president, except, of course, such interests as were represented on the debtor's board. Regardless of this circumstance, however, under section 77 of the Bankruptcy Act, the plan of reorganization is subject to our approval, and the expenses of the debtor and the protective committees in connection with the proceeding and plan must be within a maximum found by us to be reasonable.

The independent committee points to the short period which has elapsed since the debtor was last reorganized, as evidence of want of ability on the part of Scandrett to operate the property successfully. In view of the marked business depression which has existed during a large part of the period of his service as president, and the unprecedented drop of railroad traffic in this period, we are unable to find from the record before us proof of ineptitude on his part. On the contrary the preponderance of evidence shows him to be held in high regard as a railroad executive and supports the conclusion that his service as trustee would aid materially in reconstructing the earning power of the debtor.

After consideration of these matters we are of the opinion that on none of the grounds urged by the independent committee can Scandrett be considered as disqualified to act as a cotrustee of the debtor's property.

Cummings was suggested for appointment by the Reconstruction Finance Corporation, which, in January 1934, caused him to be made chairman of the board of directors of the Continental Illinois Bank. His appointment meets with the approval of the group of institutional investors hereinbefore mentioned. He is coreceiver of the Chicago City Railways and a director of four other companies, including the American Car & Foundry Co. During 1933 and 1934 he held the positions of executive secretary to the Secretary of the Treasury and Chairman of the Federal Deposit Insurance Corporation. He states in his petition that neither he nor any member of his immediate family has any direct or indirect interest in any securities of the debtor or its subsidiaries. The objection of the independent committee to this appointment is based on the contention that Cummings' present activities will leave insufficient time for performing the duties of a cotrustee, and it is further suggested that his alleged friendliness with Scandrett, through their banking association, will tend to prevent his investigating Scandrett's management of the road. The latter consideration is, in our opinion, without merit. As to the other, it is reasonable to assume that a man of Cummings' standing and experience would not undertake the important office in question unless he was prepared to give it proper attention.

In appointing Haight the judge expressed his conviction that the third trustee should be someone who was not mentioned or suggested by any of the interested parties. Haight is a practicing lawyer of prominence in Chicago, a director of the Enterprise Equipment Co. and the J. W. Butler Paper Co., and a stockholder in various concerns. Together with members of his immediate family he owns the beneficial interest in the Haight Co., Inc., a corporation for investment purposes. He reports that neither he nor any member of his family has any direct or indirect interest in the Milwaukee securities.

Neither Cummings nor Haight, within 1 year of his appointment, has been an officer, director, or employee of the debtor corporation, any subsidiary thereof, or any holding company connected therewith.

It is clear that Scandrett, from his intimate knowledge of the property, is the logical choice as a trustee experienced in railroad management and operation. The judge suggested that it is immaterial whether Scandrett receives compensation as a trustee or as an employee of the trustee. In this and similar situations we interpret the provisions of section 77 (c) to mean that the compensation from the estate of the debtor of any person serving as trustee is subject to the approval both of the court and the Commission, whether such compensation is termed that of a trustee or that of an officer of the debtor corporation. Assuming that Scandrett is to continue as president of the debtor's railroad, our ratification of his appointment will be qualified by the requirement that his only compensation from the debtor's estate during his service as trustee shall be that allowed by the judge within the maximum limits to be hereafter approved by us as reasonable.

We conclude:

That the appointments of Henry A. Scandrett, Walter J. Cummings, and George I. Haight as trustees of the debtor's property should be ratified by us, the ratification of Henry A. Scandrett to be subject to the condition that during the period of his service as trustee he shall receive no salary or compensation from the debtor's estate for service rendered for the debtor or otherwise in this proceeding, except such compensation as may be allowed hereafter by the judge for his services as trustee, within such maximum limits as we may hereafter approve as reasonable.

An appropriate order will be entered.

ORDER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of December, A. D. 1935.

Finance Docket No. 10882: Chicago, Milwaukee, St. Paul & Pacific Railroad Co. reorganization.

A hearing and investigation of the matters and things involved in the petitions in this proceeding filed October 25, 1935, and supplements filed November 15, 1935, having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered that the appointments of Henry A. Scandrett, Walter J. Cummings, and George I. Haight, as trustees of the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, be, and they are hereby, ratified: *Provided, however,* That the said Henry A. Scandrett, while he serves as a trustee, shall receive no salary or compensation as an officer or employee of the debtor, and that his only compensation from the estate of the debtor shall be that allowed to him as trustee by the judge, within maximum limits to be approved by the Commission as reasonable.

By the Commission, division 4.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

Interstate Commerce Commission. Finance Docket No. 10882. Chicago, Milwaukee, St. Paul & Pacific Railroad Co. reorganization. Submitted January 22, 1936. Decided January 31, 1936

Upon petition, a maximum compensation at the rate of $36,000 per annum to be paid to Henry A. Scandrett and of $15,000 per annum to be paid each to Walter J. Cummings and George I. Haight, as trustees of the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, and, conditionally, a maximum compensation of $18,000 per annum to be paid to O. W. Dynes as counsel for said trustees, approved as reasonable.

O. W. Dynes and C. S. Jefferson for petitioners.

REPORT OF THE COMMISSION

Division 4, Commissioners Meyer, Porter, and Mahaffie

By division 4:

Henry A. Scandrett, Walter J. Cummings, and George I. Haight, trustees of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, on January 17, 1936, filed with the United States District Court for the Northern District of Illinois, Eastern Division, their petitions for an order fixing their compensation as trustees within such maximum limits as may be approved by us as reasonable, in accordance with the provisions of section 77 of the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States", as amended. By order of the court, copies of these petitions have been transmitted to us by the clerk of the court.

Scandrett, Cummings, and Haight were appointed trustees of the debtor's property by order of the court on October 17, 1935, and on November 29, 1935, such order was amended to provide that the appointments would become effective on the first day of the month succeeding our ratification. On December 28, 1935, after notice and hearing, we issued our report and order herein ratifying these appointments, subject to the condition, with respect to Scandrett, president of the debtor company, that while he serves as trustee he shall receive no compensation as an officer or employee of the debtor, and that his only compensation from the estate of the debtor shall be that allowed him as trustee by the judge, within the maximum limits to be approved by us as reasonable.

The aforesaid trustees, on January 17, 1936, filed with the court a petition for an order confirming their appointment of O. W. Dynes as legal counsel and fixing his compensation in accordance with the provisions of section 77 (c) (2) of the Bankruptcy Act, as amended. On the same day the court entered an order confirming the appointment of Dynes as counsel, subject to the right thereafter to modify or revoke such order, and directing that a copy of the petition and order be transmitted to us, to the end that we may determine the maximum limit of reasonable compensation to be allowed. In their petition the trustees state that counsel's duties shall include, with other duties assigned him, services as head of the law department of the trust estate and shall not include the performance of any services for the debtor corporation that would be in conflict with the interests of the trust estate or its proper conduct and its impartial management.

Testimony introduced at the hearings held by us in these proceedings indicates that Scandrett's salary as president of the railroad company, in 1928–29, was at the rate of $75,000 per annum, that it was reduced, and that the compensation now paid him is $48,600 per annum. It was testified that Cummings receives a salary of $75,000 per annum as chairman of the board of directors of the Continental Illinois National Bank & Trust Co. of Chicago, Ill. As shown by his petition for ratification as trustee, he is

also engaged in various other corporate activities. Haight is a director in certain companies and is engaged in the practice of law in Chicago. According to the annual report for 1934, filed with us by the debtor, Dynes receives a salary of $18,000 per annum as general counsel of the debtor.

The mileage of line operated by the debtor at the close of 1934 was 11,161 miles, the total number of employees was in excess of 28,000, and their total compensation was approximately $42,373,000 per annum. During 1934, the railway operating revenues of the system amounted to $87,859,792. The investment in road and equipment was reported at $681,984,319, total investments at $712,502,057, and funded debt outstanding at $476,443,182. Considering the extent of the property, the magnitude of its operations, and the importance of the duties of the trustees and their counsel, we conclude that we should approve as reasonable a maximum compensation at the rate of $36,000 per annum to be paid to Henry A. Scandrett, $15,000 per annum to be paid each to Walter J. Cummings and George I. Haight, as trustees, and $18,000 per annum to be paid to O. W. Dynes as counsel for the trustees, subject, however, to the condition that Dynes, while he serves in this capacity, shall receive no compensation as an employee of the debtor and that his only compensation from the estate of the debtor shall be that allowed by the court within the maximum herein approved.

An appropriate order will be entered.

ORDER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 31st day of January, A. D. 1936.

Finance Docket No. 10882: Chicago, Milwaukee, St. Paul & Pacific Railroad Co. reorganization.

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof made and filed a report containing its findings of fact, and conclusions thereon, which report is hereby referred to and made a part hereof: It is

Ordered, That a maximum compensation at the rate of $36,000 per annum to be paid to Henry A. Scandrett, and a maximum compensation at the rate of $15,000 to be paid each to Walter J. Cummings and George I. Haight, as trustees of the estate of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, be, and they are hereby, approved as reasonable; and it is further

Ordered, That a maximum compensation at the rate of $18,000 per annum to be paid to O. W. Dynes as legal counsel for said trustees be, and it is hereby, approved as reasonable: *Provided, however,* That the said O. W. Dynes, while he serves as counsel for the trustees shall receive no salary or compensation as attorney or counsel for the debtor and that his only compensation from the estate of the debtor shall be that allowed to him by the judge of the court of jurisdiction within the maximum herein approved.

By the Commission, Division 4.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

ORDER

At a session of the Interstate Commerce Commission, division 4, held at its office in Washington, D. C., on the 21st day of November, A. D. 1935.

Finance Docket No. 10882: Chicago, Milwaukee, St. Paul & Pacific Railroad Co. reorganization.

Upon consideration of the record in the above-entitled proceeding and petition filed on behalf of James D. Colyer, Louis I. Kane, and Henry Schenk as an independent committee for protection of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. bondholders;

It is ordered, That the said James D. Colyer, Louis I. Kane, and Henry Schenk as an independent committee for protection of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. bondholders be, and they are hereby, permitted to intervene and be treated as parties hereto;

It is further ordred, That a copy of the intervening petition and of this order be served upon each of the parties to this proceeding, and that a copy of this order be served upon all other interested parties.

By the Commission, division 4.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

ORDER

At a session of the Interstate Commerce Commission, division 4, held at its office in Washington, D. C., on the 21st day of November, A. D. 1935.

Finance docket no. 10882: Chicago, Milwaukee, St. Paul & Pacific Railroad Co. reorganization.

Upon consideration of the petition of James D. Colyer, Louis I. Kane, and Henry Schenk, constituting and acting as the Independent Committee for Protection of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Bondholders, filed November 15, 1935, praying that a public hearing be held by this Commission in the matter of the ratification of the appointment of trustees of the estate of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor; the court of jurisdiction having, by order entered October 17, 1935, appointed Henry A. Scandrett, Walter J. Cummings, and George I. Haight trustees, subject to ratification by this Commission.

It is ordered that the said matter be set down for hearing before Director Sweet at the office of the Commission in the city of Washington, D. C., at 10 o'clock in the forenoon on December 2, 1935, and that the secretary issue notice thereof and serve the same in the manner provided in the rules of practice upon the said appointees, the petitioner, and the debtor.

By the Commission, division 4.

[SEAL] GEORGE B. MCGINTY, *Secretary.*

RECONSTRUCTION FINANCE CORPORATION,
Washington, February 23, 1936.

Hon. JAMES COUZENS,
United States Senate, Washington, D. C.

DEAR SENATOR COUZENS: Your letter of the 18th with enclosure received and noted.

In reply beg to advise that the directors of the R. F. C. have felt they should not endeavor to assume responsibility for bank management or make suggestions with respect to it unless it appeared that a change would be in the interest of the bank and its depositors.

When we invested $50,000,000 in the preferred stock of the Chicago bank it appeared to us that a new head not previously connected with the bank was desirable. Mr. Walter J. Cummings, whose home is Chicago, accepted chairmanship of the board at a salary of $50,000 a year with the distinct understanding that he could resign at any time should the work not prove to his liking. The position of chairman had previously paid $125,000 per year.

The success of the bank under Mr. Cummings' direction has been very satisfactory and I am informed that the directors voluntarily raised his salary after the first year to $75,000.

In 1934 the bank's net operating earnings were $14,939,849 in addition to recoveries of $1,963,000. In 1935 its net operating earnings were $19,927,058 in addition to recoveries of $4,541,000.

These earnings compare favorably with banks even larger and that pay much higher salaries to their chief executives than Mr. Cummings is now drawing. The bank's deposits have gone up since he became president from $630,000,000 to $1,039,000,000, an increase of approximately 75 percent.

Dividends on the preferred stock have been regularly paid, and in January of this year $2 a share was declared on the common stock, par value of which is $33⅓ per share, $1 payable February 1 and $1 August 1. Three million dollars of the preferred stock will be retired August 1 of this year.

At the time Mr. Cummings became president of the bank, which was shortly after we bought preferred stock in it, the common stock was selling at approximately $24 per share. The market now is $174 per share, an increase of $150 a share on a total capitalization of 750,000 shares, or $112,500,000 in a little over 2 years.

The assets of the bank are something over $1,100,000,000, and its reserves, in the opinion of the Comptroller of the Currency, and of this Corporation, sufficient to take care of all remaining doubtful items. The trust department has something over $2,000,000,000 in its portfolio.

The bank has 99 officers, ranging from chairman of the board and president to assistant cashiers and assistant secretaries.

In suggesting Mr. Cummings for appointment as trustee of the Milwaukee road, we believed that by reason of his broad experience in matters affecting railroads, his counsel would be helpful in its reorganization. Also the fact that he had served creditably as assistant to the Secretary of Treasury Woodin, chairman of the Federal Deposit Insurance Corporation, and chairman of the Continental Bank, we thought his appointment would inspire public confidence. His compensation as trustee was fixed by the court and the Interstate Commerce Commission, without consulting the R. F. C.

This road now owes the R. F. C. $11,499,462.59, and I enclose copy of my letter of June 3, 1935, relating to an additional commitment to this road of $24,000,000. You will note this authorization was conditioned upon approval of the Interstate Commerce Commission and the court, and reorganization of the road being completed by December 31, 1935. This did not eventuate and the authorization lapsed.

There is another letter, dated January 15, 1936, in which we have agreed to assist the road in the acquisition of equipment to the aggregate cost of $4,800,000, the R. F. C. lending 80 percent of the amount if and when properly authorized by the Intertsate Commerce Commission and the court.

When the R. F. C. became heavily interested in the stock of the Maryland Casualty Co., we thought it advisable to have a new directing head as well as some new members on the board of directors.

These new directors include Mr. James G. Blaine, president of the Marine Midland Trust Co., of New York City; Mr. John B. Ford, Jr., vice president of the Michigan Alkali Co., of Detroit; Mr. James M. Kemper, president of the Commerce Trust Co., of Kansas City; Mr. Francis M. Law, president of the First National Bank of Houston, and at that time president of the American Bankers' Association; Mr. Albert C. Ritchie, former Governor of Maryland; Mr. James D. Robinson, executive vice president of the First National Bank of Atlanta, Ga.; Mr. Frank O. Watts, chairman of the board of the First National Bank of St. Louis; Mr. Walter J. Cummings, and Mr. Silliman Evans, the new president.

The Maryland Casualty Co. is doing well under the new management, and I find upon inquiry that the director's fees paid Mr. Cummings for the year 1935 amounted to $40.

The Reconstruction Finance Corporation had no part in the Milwaukee Road matter, except to suggest Mr. Cummings' name

as trustee. Mr. Cummings was well known to Judge Wilkeson; and, incidentally, was not treasurer of the Democratic National Committee, nor to my knowledge in any way connected with it when elected to the chairmanship of the Continental Bank.

While the Reconstruction Finance Corporation has $50,000,000 invested in the stock of this bank, the bank on December 31, 1935, held $565,000,000 United States Government obligations. The bank pays substantially more dividends on the preferred stock than it receives interest on its Government securities.

Should you wish further information that is available to us it will be readily furnished.

Very truly yours,

JESSE H. JONES, *Chairman.*

Mr. BARKLEY. Mr. President, in view of the fact that the remarks of the Senator from Michigan have been heard by Senators and by the press, if the letter of Mr. Jones is *not too* lengthy, does he not think it ought to be read at this time instead of simply being tucked away in the RECORD?

Mr. COUZENS. I have no objection. I am through now; and if the Senator wishes to have the letter read, I have no objection.

Mr. BARKLEY. In connection with the remarks of the Senator from Michigan, I ask unanimous consent that the letter referred to by him from Mr. Jones, Chairman of the Reconstruction Finance Corporation, be read at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. McNARY. Mr. President, in order that we may have the logical situation truly presented, I suggest that the letter written to Mr. Jones by the Senator from Michigan should precede the answer.

Mr. BARKLEY. I did not understand that the Senator from Michigan had written a letter to Mr. Jones. If he has written such a letter about the matter concerning which the letter was received by him from Mr. Jones, I shall be glad to have it read.

Mr. COUZENS. I have no objection to my letter being read, but it is not particularly important, because it merely asked for information; and I have raised no issue with Mr. Jones.

Mr. ASHURST. Mr. President, I am not going to agree to any more requests for unanimous consent until an order is entered that there shall be a roll-call vote on taking up this bill.

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

Mr. ASHURST. Certainly.

Mr. ADAMS. The Senator from Arizona, of course, wishes to be fair about this matter.

Mr. ASHURST. Certainly.

Mr. ADAMS. The Senator does not desire a roll call upon taking up a bill when there has been no opportunity to discuss it. That is the situation. The bill has been discussed adversely, and now I desire an opportunity to present the bill. A roll call upon the question of taking it up for consideration, which is not debatable, would exclude and shut off an opportunity to do the fair thing.

Mr. ASHURST. I am trying to demonstrate the fallacy of granting unanimous consent to a Member to discuss a bill without granting unanimous consent to all. Last of all should I make any objection to the speech of the able Senator from Michigan; but it is unfair, it is illogical, it is inconsistent to allow one Member of the Senate an hour or half an hour to discuss a bill and not allow others a similar opportunity to discuss it and then ask us to vote to take up the bill.

Mr. McNARY. Mr. President, I think I can allay the fear of the able Senator from Arizona. The situation is not a unique one. The morning hour was not fully occupied by the routine business of the calendar. Hence, there was a hiatus, of which the Senator from Michigan had a right to avail himself by unanimous consent. It was perfectly proper for the Senator from Michigan to address himself to the Senate. I now ask unanimous consent that the Senator from Colorado [Mr. ADAMS], in charge of the bill, may be permitted to speak upon the bill, as that right was given to the Senator from Michigan.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. ASHURST. And, of course, in view of that, I have no objection to the request of the Senator from Kentucky [Mr. BARKLEY]. It is proper.

Mr. BARKLEY. In view of the fact that the Senator from Michigan discussed the letter in the hearing of everyone here, I thought it was fair to Mr. Jones that the letter be read.

Mr. ASHURST. Certainly.

Mr. BARKLEY. Otherwise it would go into the RECORD; nobody would have heard it, and Senators might not have a chance even to read it.

Mr. COUZENS. If the Senator from Colorado will yield, I desire to make the comment that I have in no sense attempted to be unfair to Mr. Jones. In fact, in my comments I have read all the salient parts of his letter; but I certainly have no objection to the letter being read.

Mr. BARKLEY. I am not suggesting that the Senator has been unfair or has attempted to be, but let us be consistent.

Mr. ADAMS. Mr. President, I am presenting this matter at the instance and by reason of the absence of the chairman of the Committee on Banking and Currency, the senior Senator from Florida [Mr. FLETCHER], whose bill this is, and who introduced it.

The bill is not brought before the Senate at the instance of the banks or the bankers. The bill is brought before the Senate at the instance of the Reconstruction Finance Corporation in order to do a just thing by that Corporation.

This body, together with the other body of Congress, on the 9th of March 1933 passed the Emergency Banking Act. In that act was a provision for the issuance of preferred stock by national banks, and the purchase of that stock by the Reconstruction Finance Corporation. That position has been demonstrated to be one of the most beneficial provisions of the banking acts passed by either of the past two sessions of Congress; and I think nothing has been done under the present administration of greater benefit to the country than putting the banks of the country upon a sound basis, so that the depositor who goes in his bank door today knows he can get his money out tomorrow, or any day he pleases.

One of the things that have aided in that has been the provision for the issuance of preferred stock. The Government aided not the banks but the depositors in the banks; it aided not the banks but the people of the United States by putting its banks upon a sound basis, by laying a foundation for the restoration of business and of credit.

When the Congress passed this act it thought it had exempted from taxation the stock of these institutions. It put in the act this provision:

The Corporation—

Meaning the Reconstruction Finance Corporation—

including its franchise, its capital, reserves and surplus, and its income, shall be exempt from all taxation—

Except on its real property.

So we exempted its franchise, its capital, its reserves, and its surplus. I happen to be one of those who cannot see that everything was not exempted within that definition.

The legal situation is, frankly, this: The Supreme Court of the United States many years ago held that a national bank was not taxable; that it was to that extent an agency of the Federal Government; and that a State could not tax it, because if it was taxable the State could, if it saw fit, destroy it through the exercise of the tremendous power of taxation.

In 1868 Congress passed an act to remedy what seemed an unfair discrimination at that time as against State banks, and provided that the stock in the hands of the stockholders of national banks should be subject to taxation. It so worded the statute so that all stock of national banks should be subject to taxation. The tax is not upon the national bank but upon the stock, upon the personal property of private owners.

When this matter came before the Supreme Court, they said that when they held that all stock of national banks should be taxable that included the preferred stock.

This is the situation which has resulted from that decision: The preferred stock of State banks held by the Reconstruction Finance Corporation is not taxable by the States, but the preferred stock of a national bank is taxable. This is an effort to correct a discrimination.

It is not possible for Congress to make the preferred stock of the State banks taxable. Congress cannot do that. Congress can equalize and remedy the discrimination. While State banks are mentioned, the preferred stock held by the Reconstruction Finance Corporation today is not taxable.

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

Mr. ADAMS. I yield.

Mr. MINTON. Will the Senator discuss where the situs of stock is for the purpose of taxation?

Mr. ADAMS. It has been accepted generally that the situs of the stock of a bank is in the community where the bank is located. That is the rule, so far as I am acquainted with the law.

As a matter of practice, the banks have been paying the taxes to the States, the cities, and the counties, and, if they saw fit, charging it against their stockholders. In this case the tax which will be levied upon the preferred stock will be paid, not by the banks, but by the Reconstruction Finance Corporation.

The Reconstruction Finance Corporation is paying 2¾ percent for the money which it has advanced to the banks. The banks are paying dividends of 3½ percent to the Reconstruction Finance Corporation. There is a margin of three-quarters of 1 percent.

To illustrate, I live in a city where the tax rate is 5 percent. Some other cities in my State have tax rates higher, some lower, but I venture to say that in my State the average tax rate, on a hundred cents on the dollar valuation, is better than 3 percent. The result is that the Reconstruction Finance Corporation would have its three-quarters of 1 percent wiped out and would be penalized from 2 to 3 percent for its effort to help the banks and their depositors, and to promote the public welfare.

Mr. McKELLAR. Mr. President, what amount of stock is involved, and what is the estimate of the taxes the Government would lose, or the several governments would lose?

Mr. ADAMS. I understand that the Reconstruction Finance Corporation has loaned, altogether, to State and National banks, some $800,000,000. I gathered from the statement of the Senator from Michigan this morning that the tax involved was perhaps some $5,000,000.

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

Mr. ADAMS. I yield.

Mr. BARKLEY. I happen to have a tabulation of that information.

Mr. McKELLAR. I hope the Senator will put it in the RECORD.

Mr. BARKLEY. The preferred stock of national banks held by the Reconstruction Finance Corporation amounts to $229,000,000. The tax on that would be $5,512,000 a year. That is simply the tax on the preferred stock of the national banks, and does not include any taxes on debentures, notes, or other securities held by the Reconstruction Finance Corporation for money which these banks and other banks received.

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

Mr. ADAMS. I yield.

Mr. MURPHY. While the Reconstruction Finance Corporation gets a return of 3½ percent on the preferred stock it holds, other holders of that preferred stock get a return of 5 percent.

Mr. ADAMS. Other holders get whatever rate of return the stock itself calls for.

Mr. MURPHY. I understand that to be the fact.

Mr. GLASS. Are there any other holders?

Mr. MURPHY. Yes.

Mr. ADAMS. A very limited number. In some instances the stockholders of the bank have exercised an apparent option of buying from the Reconstruction Finance Corporation rather than redeeming, but it is an insignificant amount.

Mr. GLASS. An inappreciable amount.

Mr. ADAMS. Yes.

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

Mr. ADAMS. I yield.

Mr. NORRIS. I desire to ask the Senator whether or not I am correct in the assumption I shall state. In the first place, this tax would have to be paid by the Reconstruction Finance Corporation?

Mr. ADAMS. Yes.

Mr. NORRIS. Which would really mean the Government of the United States?

Mr. ADAMS. That is correct.

Mr. NORRIS. The Reconstruction Finance Corporation goes into a locality and takes preferred stock in a bank for the purpose of saving the bank from destruction. They do not go in under any other circumstances, do they?

Mr. ADAMS. They do not.

Mr. NORRIS. They save a bank, and the courts have now decided that for performing that operation they must pay a tax. Is that correct?

Mr. ADAMS. That is correct.

Mr. NORRIS. And this bill would remedy that situation?

Mr. ADAMS. The sequence is this. Property of the United States is not subject to taxation by any State or any subdivision of a State. That is the fundamental premise. That applies to all Federal instrumentalities. The Reconstruction Finance Corporation is an instrumentality of the Federal Government to the extent that the Federal Government owns every share of its stock, and has provided its entire capital. That is a much stronger situation than the situation of the national banks. We might go back and argue, perhaps, the soundness of a decision to the effect that a national bank, the stock of which was owned by private individuals, the money of which was contributed by private individuals, but was merely chartered by the Federal Government, was not a national instrumentality; but that has been settled, and the Supreme Court, in the decision in the case involving this stock, definitely says that the Reconstruction Finance Corporation is an instrumentality of the United States Government.

The United States Government may waive, if it chooses, the tax-exempt qualifications of its property. We pass laws here providing that real property purchased under certain conditions shall continue to be taxable. It was provided, in reference to the national banks, that the stock of those banks might be taxed; in other words, the National Government waived its immunity. The question before us is whether or not the National Government will waive its immunity from taxation upon property which belongs to it.

The thing which is being taxed in this instance is, in substance, money raised from the taxpayers of this country by the taxing power of the United States turned into a bank to aid the depositors of that bank, and evidenced by this preferred stock; in other words, it is a tax upon the actual property of the United States, and the bill merely seeks to reestablish as to this stock the fundamental that the property of the United States cannot be taxed for the benefit of any locality.

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

Mr. ADAMS. I yield.

Mr. HASTINGS. My recollection is that the Reconstruction Finance Corporation Act specifically exempts real estate.

Mr. ADAMS. It does.

Mr. HASTINGS. Why does the Senator suppose that was done? The Senator just stated that the practice has been to exempt from taxation all the property of the Federal Government, but in this particular case it did exempt real estate. Does the Senator know why that was done?

Mr. ADAMS. I think I can give the Senator the basis for it. The same exemption applies to national banks. In other words, the real property of national banks is subject to

taxation, and they merely put the preferred stock in the same category.

Mr. HASTINGS. Did the Senator say a moment ago that the Reconstruction Finance Corporation did not advance any money to any bank in the purchase of the preferred stock unless the bank was in difficulty?

Mr. ADAMS. I did not.

Mr. HASTINGS. I understood the Senator to say that in answer to the Senator from Nebraska.

Mr. ADAMS. If I may state my view, it is that the Reconstruction Finance Corporation actually solicited the issuance of preferred stock by gilt-edged banks.

Mr. HASTINGS. That was my understanding also.

Mr. ADAMS. There is no question about that, and there has been a particular instance given here. The Reconstruction Finance Corporation, moreover, did not buy preferred stock in any bank which was not solvent. Every bank was examined before its preferred stock was taken over by the Reconstruction Finance Corporation. It was merely an effort to provide a certain amount of liquid capital in places where there was need not for solvency but for liquidity.

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

Mr. ADAMS. Gladly.

Mr. HASTINGS. My recollection is that the Chairman of the Board of the Reconstruction Finance Corporation has announced that, either from the beginning up to now or within a certain period, the Reconstruction Finance Corporation has earned $100,000,000. I have forgotten the exact period covered by the statement. It may have been from the beginning of the Reconstruction Finance Corporation up to the present.

I should like to inquire whether or not it would be fair to permit a corporation like the R. F. C., which, in my judgment, has done a good job and made a hundred million dollars, to go into the State of Maryland and buy the preferred stock of a national bank, which preferred stock, if it had been sold to the citizens of the State of Maryland, would be subject to the tax? Why is it a practical thing or a necessary thing under those circumstances to say that the State of Maryland or any other State which has the same kind of a tax law should not be permitted to tax that property belonging to a private corporation, when it is admitted that that corporation is not purely a charitable corporation, but when it is and has been said that it has made, within a certain period of time, $100,000,000? Of course, there is no particular point in putting an income tax on it, because it all belongs to the Government anyway. I suppose that is the reason why we would not have an income tax attachable to such a corporation; but it does seem to me that we must have some regard for States which look to this kind of a tax for the necessary revenue to keep them going. Personally, I very much prefer to see it done in that way rather than to have such States come crawling on their knees to the city of Washington, begging some help to take care of the people who need help in their States.

Mr. ADAMS. Mr. President, of course the Senator knows that the $100,000,000 profit he talks about was not earned from this preferred stock. The earnings on the preferred stock were three-fourths of 1 percent, less the cost of administration. I imagine if the cost of administration were taken out there would be practically no profit so far as the preferred stock is concerned. I think the Senator's argument, followed clear through to the end, would require us to remove the immunity from the post-office buildings and the customhouses in the State of Delaware and elsewhere, so that all Government property should be subject to taxation; in other words, to submit the sovereignty of the United States, so far as its property is concerned, to the unrestrained discretion of local taxing authorities.

Mr. BARKLEY. Mr. President——

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

Mr. ADAMS. I yield.

Mr. BARKLEY. I simply desire to make a remark with respect to the statement of the Senator from Delaware about the $100,000,000 profit which he saw in some newspaper that Mr. Jones had said the R. F. C. had made.

I do not think anybody can say how much the R. F. C. has made or lost, or how much it will lose or gain, until it is finally liquidated. One may take any period of 12 months or 6 months and say that the amount of interest received by the R. F. C. on the loans it has made, compared to its expenses, produced a certain profit; but until the R. F. C. is finally liquidated, and we find out how much of the money which has been loaned can be collected, nobody can tell whether it has made a dollar or whether it has lost $100,000,000.

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

Mr. ADAMS. I yield.

Mr. HASTINGS. I may say to the Senator from Kentucky that I thought the same thing at the time Mr. Jones made the statement; but he was only talking about the present condition of the R. F. C., and I think he was justified in telling the country what its books show in the way of present profit.

I may say to the Senator that so far as I recollect, the establishment of the R. F. C. was the first time this Government had ever tried to do business through a private corporation. I think it was necessary. I think the R. F. C. has done a great job. But we must bear in mind that since that was done, and without any act of Congress at all, this administration has organized many corporations of various kinds. They have gone into various kinds of business. It seems to me when we put the Government into a business of that kind we ought to be very careful not to deprive the States of their rights to tax the corporations just as they do any other corporations located within their borders.

Mr. ADAMS. Mr. President, I wish to repeat a statement of the situation for the benefit of the Senator from Delaware.

The Reconstruction Finance Corporation holds preferred stock in State banks to a large amount—a larger amount than its holdings of preferred stock of national banks. Under the fundamental law such stock of the State banks held by the Reconstruction Finance Corporation is not subject to taxation, because, as to that stock, the Federal Government has not waived its immunity. What the bill under discussion seeks to do is simply to take away this discrimination as between the two classes of stock. That is assuming that there is some basis for part of the argument of the Senator from Michigan that the banks in some way profited. As a matter of fact, in my judgment, the banks have not profited, except as every bank profits from the maintenance of sound banks everywhere. A bank profits even from the soundness of a competitor bank.

It seems to me the thing we are concerned with is to maintain equality. The Federal Government entered into this situation in order to benefit the depositors of the country, and they have been benefited. The banks have not been benefited other than through the benefit which comes from the general welfare, to which the Government, through R. F. C. loans, has contributed.

I will give an illustration to the Senator. We hear every day about the accumulation of vast excess reserves. That simply means money on deposit in the banks in excess of the demands by those seeking loans and offering good paper. Here are the banks with money piling up in them. They are buying short-time Government securities, as the Senator knows, at as low a rate as one-fifth of 1 percent. A bank cannot get Government securities at a rate which will enable it to pay a dividend. In other words, the money which the banks have from the Reconstruction Finance Corporation is costing them money.

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

Mr. ADAMS. I yield.

Mr. HASTINGS. In response to the suggestion which was made that what is proposed by the bill is to equalize the tax upon the State banks and the national banks, I will say that at lunch time today the junior Senator from Minnesota [Mr.

BENSON], if I understood him correctly, called my attention to the fact that in his State there was a tax upon State banks, and there could be no tax upon national banks. However, most of the national banks in that State have agreed to pay three-fourths of the amount of the tax anyway, without being compelled to do it; but there are some six or eight of the national banks in his State which would not do so, and there has been pending before the Congress for some time a bill to permit the States to tax the national banks. So far as that State is concerned, there is a very great inequality in the matter of taxation, because the State banks have to pay the tax which the national banks do not have to pay, but which, let it be said to their credit, many of them are voluntarily paying.

Mr. ADAMS. Mr. President, I do not know anything as to the facts in that particular State, but I can readily understand how the situation described may come about. The Federal statute authorizing the taxation of national-bank stock contains the provision that it may be taxed only if other competing capital used for similar loans is taxed; and it may be that the State of Minnesota was allowing certain competing financial institutions to have a lower tax rate, or was not taxing them. However, so far as the State of Minnesota or any other State is concerned, national-bank stock is taxable if other competing capital is treated upon the same basis.

Mr. President, that, in substance, is this bill. It is a bill designed to provide that the United States will not tax itself for the benefit of local communities. Let me give another illustration.

If the R. F. C. were to buy stock in a bank—I know of a city in my State, with a 5-percent tax rate—it would mean that the R. F. C. would have to pay 5-percent tax upon its stock and 2¾-percent interest upon the bonds it issues to get its money. It would be paying out 7¾ percent and receiving 3½ percent as a dividend. In other words, if the Congress wishes to make donations of Government money to high-taxing communities, there is no State which will profit more thereby than my own, because I live in a State in which, unfortunately, many of our cities have high tax rates.

Mr. BARKLEY. Mr. President, will the Senator further yield?

Mr. ADAMS. I yield.

Mr. BARKLEY. In the State of Colorado, where the R. F. C. on the stock it owns draws only 3½-percent dividend, it will have to pay out 5 percent in taxes, which means that it pays in taxes 1½ percent more than it gets in dividends, and that difference is paid out of the National Treasury. In many other States the rates are as high as 5.1 percent, 5.2 percent, 6.2 percent, and 6.8 percent. There is one State in which the tax rate is as high as 10 percent. It is certainly manifestly unfair to the Federal Government, which has taxed its people in order to raise the money to pour into various communities to enable their banks to exist, that it should with a few exceptions already referred to, be compelled to pay in taxes more money than it gets in dividends. The Federal Government by reason of coming to the rescue of the banks is compelled to pay more in taxes than it receives in dividends. That is what it amounts to.

That condition does not exist simply in one State; it exists in more than half the States in which such taxes are levied by local authorities.

Mr. ADAMS. I wish to make one final statement. I may say to the Senator from Michigan, who was absent during part of the time I spoke, that I know nothing whatever as to a considerable part of his discussion. I know nothing as to the facts in reference to the treasurer of the Democratic National Committee. I have yet to make upon the floor of the Senate a speech of a partisan character, and I shall not now begin. I do not believe that it is quite as relevant as the Senator thinks. I am merely saying that because, while I heard what he said, I have not attempted to discuss it, and it is not my intention to answer it at this time; but the fact that it is unanswered and my failure to mention it I do not wish to be construed as a confession of accuracy.

What I am trying to do as the representative of the senior Senator from Florida [Mr. FLETCHER] and of the majority of the Banking and Currency Committee is to see that Congress carries out its original intention when it declared in the passage of the act authorizing this stock that the corporation including its franchise, its capital, surplus, and reserves and its income shall be exempt from all taxation.

I will add that the States, if they see fit, have an avenue of taxation, for they already, under the income-tax amendment, tax the income of all banks; that is, their income is taxable, and taxes are paid on it. In other words, the banks are not exempt from taxation upon their income.

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

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

Mr. ADAMS. I yield.

Mr. OVERTON. In the event this bill shall become a law, will those banks in which the R. F. C. owns preferred stock enjoy an advantage over those banks in which the R. F. C. does not own such stock?

Mr. ADAMS. It all depends, I will say to the Senator from Louisiana, upon whether or not having money upon which they pay 3½ percent is an advantage. In my judgment, in ninety-nine cases out of a hundred it will be a disadvantage rather than an advantage. Today banks cannot make money upon money on which they pay 3½-percent interest, and that is what they are doing in this case.

Mr. OVERTON. There will, however, be this difference, that one stockholder will be exempt from taxation while all the stockholders will have to pay taxes on their stock.

Mr. ADAMS. Only one stockholder is exempt. This applies only to stock held by the Reconstruction Finance Corporation, which is the United States of America. The bill proposes to continue an exemption which applies to every other asset of the R. F. C. at this time.

Mr. KING and Mr. TRAMMELL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Colorado yield; and if so, to whom?

Mr. ADAMS. I yield first to the Senator from Utah.

Mr. KING. As I understand the position taken by the Senator from Colorado, this bill has implications which have not been foreshadowed in the statements which have been made. The Senator, who is a good lawyer, knows that the courts have recognized that municipalities, States, and their political subdivisions, have acted in dual capacities; that they have been organized and exist to perform what might be termed governmental duties, and they have engaged in some activities which are recognized as within the legitimate and proper sphere of private endeavor. When they act in the latter capacity, when permitted by their constitutions or charters, they are subject to the laws and regulations appertaining to private corporations and individuals engaged in the same class of activities. The Federal Government does not have the authority to roam throughout the States and engage in all sorts of activities that come within the sphere of private endeavor. Municipalities may not be taxed for the property owned and used by them, and which are necessary in the discharge of the public or governmental functions which they are organized to perform; but a different rule applies when they act in a proprietary capacity.

It occurs to me that if the Federal Government enters the fields occupied by individuals and competes with them in work and enterprises which, by common consent, are to be undertaken and carried on by individuals and private corporations, it must be subject to the laws, including revenue laws, to which individuals and private corporations are subject. The adoption of a policy which would relieve the Federal Government from the payment of taxes when it is engaged in activities or undertakings within the States—activities and undertakings which are habitually carried on in the States by individuals and the owners of which are compelled to pay taxes—would be an unwarranted discrimination and might be used as a precedent justifying the Federal Government's enlarging its sphere of activity and its entrance into the fields of private and individual endeavor.

In the consideration of this bill it seems to me we should take into account the possibility, if not the probability, of the future expansion of the Federal Government beyond its legitimate governmental field, into spheres of activity and business enterprises which should be occupied exclusively by individuals and private corporations. I would not approve of a policy that encouraged the Federal Government to engage in all sorts of business enterprises and activities which are outside of its governmental sphere.

If State governments and the Federal Government perform the duties devolving upon them as governmental agencies or organizations, they will have sufficient work to perform.

If they remove the boundaries by which they are circumscribed and become small or gigantic business organizations, they will be prostituting the power conferred upon them and work injury not only to the business life of the country but to individuals and communities.

The Federal Government has limited authority. Its authority is restricted to purely governmental activities and within the limits set by the Constitution it should operate. When it seeks to break through the barriers interposed, it should be restrained. I believe in preserving the rights of the States and not invading the fields in which they may legitimately exercise their authority to tax. It is unfortunate that we have not been able to draw a line of demarcation between the sources from which States derive their revenue and those from which the Federal Government obtains its revenue; but if I understand the bill before us, it seeks to deprive the States of one of the sources of revenue. The States may tax the preferred stock of banks operating within their borders, but under this bill they may not tax the preferred stock issued by banks and purchased by an agency of the Federal Government.

Mr. ADAMS. If I may interrupt the Senator right there, I will say here is a line we are trying to wipe out. There is a line between the taxation of State preferred stock and of national preferred stock. They should be treated alike, as I think the Senator will concede.

Mr. KING. I am not combating that view. I am merely challenging attention to the fact that if we pass this bill in its present form, I fear that it may be used as a pretext to relieve the Federal Government from legitimate taxation by States and their political subdivisions when it engages, as it will engage, I foresee, in large private activities, or, at least, activities which now are regarded as solely within the field of private endeavor.

Mr. ADAMS. I know the Senator is not advocating such an expansion of Federal activities.

Mr. KING. Indeed, I am not.

Mr. ADAMS. But there is no basis, is there, I ask the Senator from Utah, to make the declaration that any property belonging to the United States is taxable without its consent, regardless of the use to which it is put? That is a question of law.

Mr. KING. I shall not argue that question other than to say that a declaration by Congress that property owned by it and employed in States in competition for instance with manufacturing plants which are required to pay Federal as well as State taxes, would not, in my opinion, be conclusive and give complete immunity to the Federal Government from taxation under State laws. Suppose that the Federal Government should engage in the manufacture of automobiles—not for its own use alone but to sell in the market in competition with the manufacturing plants of the United States. I cannot believe that a declaration by Congress, that the Government plant and its earnings and profits would be beyond the control of the States in which the Government plants were operated, would be effective to relieve the Government from paying taxes to the States.

Mr. ADAMS. I think I would agree with the Senator's theory, but I do not agree with its application as he makes it here that this was a private money-making enterprise. Here was a great public-spirited activity entered upon in order to save the financial welfare of the country. Money was put up by the R. F. C. not with the idea of making money, but in order to keep the banks open and protect the depositors in our banks and to restore business. The R. F. C. did not buy preferred stock of banks in order to make money. The R. F. C. has lowered its dividend from 6 to 5 and now to 3½ percent; it has put it down just to the cost of its money. Moreover, it is exacting from the banks whose stock it buys an agreement to repurchase and retire so much stock every year.

Mr. KING. The Senator will understand that at the outset I indicated that this might be used as a pretext or as an excuse to extend the immunity, to use the Senator's word, to activities of a purely proprietary character in which the Federal Government might engage.

Mr. MINTON. Mr. President, may I ask the Senator from Utah, Does that rule apply to the Federal Government as it does to State agencies and municipalities? Does not the Federal Government when it exercises this power exercise only a specific grant of sovereign power from the people themselves, and whenever it acts it acts only in its governmental and sovereign capacity, whereas a State has a residuum of power? It has in its own hands all the power which it has not granted by the Federal Constitution or limited by its own constitution, and, therefore, it may engage in proprietary ventures; and, if it does, it takes the consequences as anybody else engaged in private business. But does that apply to the Federal Government that cannot act except under a specific grant of sovereign power?

Mr. KING. Mr. President, to analyze the proposition submitted would require me to unduly trespass upon the time of the Senator from Colorado, who has the floor; but I may say that I do not concede that the Federal Government has all the sovereign power and authority which, if I understand the Senator from Indiana, he ascribes to it. The Federal Government has only limited authority; its grant of power is narrow and it may not transcend its prescribed limits. I find no grant of power in the Constitution for the Federal Government to engage in all forms of business—in fields which concededly should be occupied by private endeavor.

The Federal Government is not a big business corporation organized to carry on private business and make profits. It is an organization having limited authority, and is required to confine its activities to what are concededly purely governmental functions.

If the Government becomes a merchant, or a trader, or engages in activities that are not purely governmental in character, then it is to be treated as an individual or private corporation would be treated, so far as the question of taxation is concerned. And, indeed, its authority might be successfully challenged as being a trespass upon the rights of States or individuals, and as ultra vires.

Mr. ADAMS. I am anxious to get the Senator's mind directed to this particular measure.

Mr. KING. I may differentiate this measure from some of the illustrations I have given.

Mr. ADAMS. That is all I am asking the Senator to do.

Mr. KING. But it seems to me that this might be used as an excuse or as a precedent.

Mr. ADAMS. The Senator knows we do not need a pretext in order to do these things.

Mr. BARKLEY. Mr. President, if the Senator will yield, I wish to say that it was thought by the R. F. C. and by the Government that the language of the Reconstruction Finance Corporation Act, which exempted or attempted to exempt its stock, its capital, and all its activities from taxation was broad enough to cover this situation. If that had not been thought, the Government would not have fought the question out in the courts, but the court simply held that, whatever the intention of Congress was in the language which it used, the language was not broad enough to cover this preferred stock.

Along the line of the Senator's fear about this being an entering wedge, I will say to the Senator that under the law under which this preferred stock was issued, the agreements which were entered into between the R. F. C. and the banks required the repurchase of the stock at a rate of not less than 5 percent each year; so that all this stock must be repurchased by the banks within a period of 20 years.

Not only that, but whatever they earn over and above the 3½-percent dividend, which has been reduced as already stated from 6 to 5 and 4 and now to 3½, the excess is to be set aside in a retirement fund, so that the stock may be retired at a more rapid rate.

I think that disposes of the fear the Senator may have that this is an entering wedge at all. It is not. It is simply the correction of either an oversight, or lack of foresight, or lack of sufficiently broad language to cover what was sought to be covered. The Supreme Court said it was not covered, and we are simply trying to correct that mistake.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. The Senator from Idaho.

Mr. BORAH. I do not wish to stand in the way of a vote if we are to have a vote now on the motion to proceed to the consideration of the bill. Otherwise I wish to occupy the floor a few minutes.

Mr. ADAMS. Will the Senator let us have a vote on my motion first?

Mr. BORAH. Very well.

Mr. OVERTON. Mr. President, before that is done may I make a correction in regard to the Louisiana law. In the course of the debate I had with the Senator from Michigan [Mr. COUZENS], when he was discussing the question relative to what I considered would be an unjust discrimination in the event the bill should become a law, I referred to the Louisiana statute by way of illustration. I understand him to state that under the Louisiana law the stock of national banks is exempt from taxation. I think the Senator from Michigan was misinformed in that regard.

I have before me a letter written by the assistant attorney general of the State of Louisiana with reference to another bill which was pending at the time the letter was written. The letter is dated March 24, 1934, and in it the assistant attorney general makes this statement.

> Act 14 of 1917, section 1, as amended by Act 116 of 1922, provides that the shares of stock and the real estate of all banks, banking companies, firms, associations, or corporations doing a banking business in this State, chartered by the laws of this State or of the United States, be and they are hereby declared subject to taxation for all purposes in the State of Louisiana. The method of the taxation of the shares of such banks, including national banks, is set forth in Act 14 of 1917, as amended by Act 221 of 1928. We follow the method authorized by section 5219, R. S. U. S., and tax the shares of stock in national banks the same as the shares of stock in State banks are taxed.

Mr. President, it is not clear to me, even after the explanation made by the able Senator from Colorado, that there would not be an unjust discrimination against those banks in which the Reconstruction Finance Corporation did not own stock and in favor of those banks in which the Reconstruction Finance Corporation does own stock, under the laws of Louisiana or under the laws of other States. For that reason I propose to vote against the motion to proceed to the consideration of the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado to proceed to the consideration of Senate bill 3978.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Coolidge	Johnson	Pope
Ashurst	Copeland	Keyes	Radcliffe
Austin	Costigan	King	Robinson
Bachman	Couzens	Lewis	Russell
Barbour	Davis	Logan	Schwellenbach
Barkley	Dieterich	Lonergan	Sheppard
Benson	Donahey	Long	Smith
Bilbo	Duffy	McAdoo	Steiwer
Black	Frazier	McKellar	Thomas, Okla.
Borah	George	McNary	Thomas, Utah
Brown	Gerry	Metcalf	Townsend
Bulkley	Gibson	Minton	Trammell
Bulow	Glass	Murphy	Truman
Burke	Gore	Murray	Tydings
Byrd	Guffey	Neely	Vandenberg
Byrnes	Hale	Norbeck	Van Nuys
Capper	Harrison	Norris	Wagner
Caraway	Hastings	Nye	Wheeler
Chavez	Hatch	O'Mahoney	White
Clark	Hayden	Overton	
Connally	Holt	Pittman	

The PRESIDENT pro tempore. Eighty-two Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Colorado, that the Senate proceed to the consideration of the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

APPLICATION OF DISTRICT OF COLUMBIA TRAFFIC LAWS TO MEMBERS OF CONGRESS

Mr. BORAH. Mr. President, I desire to take a few moments to refer to a matter somewhat apart from the measure before the Senate, but, nevertheless, a matter which seems to me worthy of a few minutes' consideration.

There have been appearing in one of the leading newspapers of this city during the past few days several articles on the subject of traffic regulation in the city and the violation of traffic rules and laws, and they present a feature of the question which may be of some interest to the Congress. The purport of these articles is that Members of Congress, assuming to have privileges which the ordinary citizen does not have, take advantage of these privileges, disregard traffic laws, endanger travel, and greatly inconvenience persons who have property by reason of parking across alleys and across paths and streets leading to the property of private citizens.

Mr. President, I do not know anything about the facts except as they appear in these articles; but I am interested in the fact that all these articles close with the sentence, "You can't arrest me", assuming that to have been said by a Member or Members of Congress; and that the presumption or supposition prevails that Members of Congress are privileged to violate these laws by reason of some provision of the Constitution.

Mr. President, as I understand, a Member of Congress, under the Constitution, has no other right or privilege than that of the ordinary citizen when using the streets of the city. There is no immunity from punishment. There is no immunity from arrest. There is no privilege which he can claim which entitles him to enjoy the streets in a way different from that of the ordinary citizen.

I do not know whether the claim has been made, but I do know that privilege is supposed to protect him, and that the country believes that Members of Congress take advantage of some constitutional provision to the detriment, if not to the menace, of travelers upon the streets of the city.

I thought it worth while to call attention to the fact that if any such supposition prevails, either among the officials in the District of Columbia or elsewhere, it is a supposition based upon an erroneous view of the Constitution. The Constitution does not give any such privilege. I am going to take a moment or two to read some extracts from the latest opinion of the Supreme Court upon that subject.

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

Mr. BORAH. I yield.

Mr. KING. I assent entirely to the view of the Senator; and I may say that I have prepared a resolution which I intend to submit today which will make it very clear that no Federal official has any greater privilege on the streets in respect to traffic regulations than any other citizen.

Mr. BORAH. I was coming to the Capitol this morning, and I met one of the policemen whom I happen to know, and asked him about this matter, and inquired why he did not arrest Members of Congress if they violated the law. He reply was, "We cannot arrest them; they are protected."

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

Mr. BORAH. I yield.

Mr. BARKLEY. I know they can be arrested, because I have been arrested. [Laughter.]

Mr. BORAH. Well, I am sorry they got the wrong man.

In the case of Williamson against the United States, in two hundred and seven United States Reports, the Court had this specific question to consider; and in the opinion it is said:

> We come, then, to consider the clause of the Constitution relied upon in order to determine whether the accused, because he was a Member of Congress, was privileged from arrest and trial for the crime in question, or, upon conviction, was in any event privileged from sentence, which would prevent his attendance at an existing or approaching session of Congress.
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> The full text of the first clause of section 6, article I, of the Constitution is this:
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> "SEC. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same."

The clause in point is that they shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses.

Those terms—"treason, felony, and breach of the peace"—cover all infractions of criminal law. The only exception known to parliamentary history in England, and the only exception contemplated by the framers of the Constitution, was freedom from arrest for debt, or civil arrest. It was believed in England, and perhaps believed in this country, that if Members of Congress could be arrested for debt, it would greatly interfere with the affairs of the Government. [Laughter.] At any rate, the only exception as it is now construed by the court is in reference to arrest in civil cases, for debt, and so forth; and since we have no arrest for debt in this country at this time, it may be regarded that this provision of the Constitution is obsolete. In the eye of the criminal law or laws for the protection of life or the safety of the citizens the Member of Congress is in no wise favored—he is simply a citizen.

The Member of Congress walks the streets and uses the streets of the Capital just the same as the humblest citizen who visits the Capital from another part of the country, just the same as the citizen who resides here in the city, and has no other privilege and no other immunity than that of the ordinary citizen. He is not above the law. The Constitution establishes no classes.

The Supreme Court says:

> But the question is not what would be the scope of the words "all cases" if those words embraced all crimes, but is, what is the scope of the qualifying clause—that is, the exception from the privilege of "treason, felony, and breach of the peace." The conflicting contentions are substantially these—

The Court states the view of the Government and also the view of the defendant. Continuing:

> On the other hand, the Government insists that the words "breach of the peace" should not be narrowly construed, but should be held to embrace substantially all crimes, and therefore, as in effect, confining the parliamentary privilege exclusively to arrest in civil cases. And this is based not merely upon the ordinary acceptation of the meaning of the words, but upon the contention that the words "treason, felony, and breach of the peace", as applied to parliamentary privilege, were commonly used in England prior to the Revolution, and were there well understood as excluding from the parliamentary privilege all arrests and prosecutions for criminal offenses; in other words, as confining the privilege alone to arrests in civil cases, the deductions being that when the framers of the Constitution adopted the phrase in question, they necessarily must be held to have intended that it should receive its well-understood and accepted meaning.

Quoting from Story on the Constitution, it is said:

> The exception to the privilege is that it shall not extend to "treason, felony, or breach of the peace." These words are the same as those in which the exception to the privilege of Parliament is usually expressed at the common law, and were doubtless borrowed from that source. Now, as all crimes are offenses against the peace, the phrase "breach of the peace" would seem to extend to all indictable offenses, as well as those which are in fact attended with force and violence, as those which are only constructive breaches of the peace of the Government, inasmuch as they violate its good order. * * * The inaccuracy of the language has already been pointed out, and it has been shown that, in England, the exception embraces all criminal matters whatsoever, and, of course, includes many cases which do not fall within the denomination either of treason, felony, or breach of the peace.

The Court concludes by saying:

> Since from the foregoing it follows that the term "treason, felony, and breach of the peace", as used in the constitutional provision relied upon, excepts from the operation of the privilege all criminal offenses, the conclusion results that the claim of privilege of exemption from arrest and sentence was without merit, and we are thus brought to consider the other assignments of error relied upon.

There has been no modification of that view that I know of—in fact, I assume there could not be—by the Supreme Court.

Mr. President, the citizen of the District of Columbia is in some respects rather unfortunate. He has practically no voice in the affairs of the Government. He is surrounded by immunity of foreign diplomats and supposed immunities of Members of Congress of the United States. It ought to be understood that there are no immunities upon the streets either for foreign diplomats or for Members of Congress. The immunities of foreign diplomats relate to their property while they are in possession of or enjoying their Embassies, and so forth, not while they are traveling upon the streets of the city.

That, however, is not important, because there is no complaint in that direction. I refer to it only in passing. But if it be true that the rules and regulations of the District of Columbia or the laws of the District of Columbia are being violated by Members of Congress they are amenable to the law precisely as is the private citizen and should be arrested and punished.

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

Mr. BORAH. I yield.

Mr. BARKLEY. I agree to all the Senator has said with reference to the matter. I think this, however, ought to be said also:

I do not know to what extent any Member of Congress is violating the traffic laws by parking his automobile in front of a water plug or a stop sign or any other prohibited space on the streets, nor to what extent any Member of Congress deliberately goes through a red light when he ought to stop. I doubt very seriously whether violation of traffic regulations in the city of Washington by Members of Congress, either of the House or of the Senate, is, in proportion to membership, any greater than it is among other people. We all realize how delightful it is to find something against Members of Congress in order to make public some alleged scandal with respect to their conduct—for instance, regarding the drinking of water here in the Senate. It may be that Senators do not drink enough water; but every now and then some newspaper complains because we drink too much water. So it is easy to find fault about what goes on here; but it ought to be said that some years ago, when in front of all the public buildings in Washington there were signs prohibiting anybody from parking except on official business, there was no way to tell whether or not a Congressman's car was officially parked; and finally the District Commissioners provided a tag which each Congressman might put on his car to identify it so that he might stop in front of a public building, go in that public building, transact his public business, and come out without molestation. I think that is a good rule.

Mr. BORAH. Mr. President, I do not know anything about the facts to which the Senator has alluded. I only arose to discuss this question of supposed principle.

Mr. BARKLEY. I desire to bring this out because it certainly is worthy of consideration not only by us, but by the people of the District of Columbia, and by the newspapers which comment on this matter.

It was very difficult, as shown by the experience of Members of Congress, for them to get within three or four blocks of the State Department, or the Treasury Department, or other departments, in order that they might enter them and transact business. There may have been some leniency on the part of the District Commissioners and the police department where a car was identified as belonging to a Member of Congress in order that he might park in front of a public building, a privilege which could not be enjoyed by others, on the assumption that he was in that building transacting public business no less than the head of the department which happened to occupy the building itself.

It may be that some Members have taken advantage of this congressional tag to park in front of fireplugs, and

in other prohibited places. I myself do not know whether that is true or not, but certainly it ought not to be allowed to go without refutation that deliberately and indiscriminately Members of both Houses of Congress are violating all the traffic regulations in the District of Columbia. I do not believe that is true. There may be some who are taking advantage of the situation, and if so, I do not in any way approve of that, and to that extent I agree with the Senator.

Mr. BORAH. Mr. President, I do not know anything about the actual fact of the violation of the rules or laws. I only know what I have read in the newspapers.

Mr. BARKLEY. The Constitution does not, in my judgment, exempt a Member of Congress from arrest if he runs through a red light, or if he drives beyond the speed limit, or violates any of the traffic regulations. I think perhaps it limits its own provisions to the coming and going of Members of Congress from their own homes in the States. That it can be interpreted to include a Member on his way from the Capitol to his residence in Washington, I doubt very seriously.

Mr. BORAH. Even coming from his home in a State to Washington he is not exempt from arrest for violating the law.

Mr. BARKLEY. Oh, no; I agree with the Senator.

Mr. BORAH. There is no exemption, there is no privilege, there is no immunity, in regard to those things, and I think the sooner that is understood by the public the better it will be for all concerned, because the impression prevails that such immunity does exist, and that we take advantage of it to the disadvantage of the private citizens. I do not know of any instances in which Members of Congress have actually taken or assumed to take advantage, but it ought to be understood that they cannot do so if the officers desire to enforce the law.

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

Mr. BORAH. I yield.

Mr. DUFFY. I did not have the benefit of all the Senator's discussion, but does the Senator contend that a violation of a city ordinance which is not a crime or a felony is to be considered a breach of the peace under the three terms that are used in the Constitution?

Mr. BORAH. I think the violation of any rule or regulation which would be considered as a crime or an offense if violated by a private citizen would be a crime or an offense if violated by a Member of Congress.

Mr. DUFFY. That is true, but the constitutional terms being "treason, felony, and breach of the peace", except in those three cases, I did not understand that violation of a statute passed by a municipality would come within the constitutional provision.

Mr. BORAH. I think so. I have no doubt about it.

Mr. NORRIS. Mr. President, will the Senator from Idaho yield to me?

Mr. BORAH. I yield.

Mr. NORRIS. I should like to have the Senator discuss also, in connection with his remarks, the violation of a traffic rule or any other breach of the peace by others than Members of Congress, high officials of the Government, for instance, or those in the Diplomatic Service, representatives of foreign governments, and so forth, as to whether they are entitled to any preference over Members of Congress or anyone else in this respect.

Mr. BORAH. I do not think they are. Upon the streets of the city or with reference to the laws and regulations of the city I think they are on a level with private citizens.

Mr. NORRIS. I entirely agree with the Senator, but one of the causes of complaint, as I get it from reading the newspapers, is that these regulations are more frequently violated by people who are not Members of Congress, especially by persons who hold minor positions under a foreign legation or embassy. I think they sometimes violate the traffic regulations on the theory that they are exempt from arrest.

Mr. BORAH. I have heard that complaint, but if they do violate the regulations they are subject to the law of the land, if they are not upon territory owned by the foreign governments, such as an embassy. Upon the streets they are no different from citizens of the United States.

Mr. BARKLEY. Mr. President, will the Senator yield to me to read into his remarks, or into my own, the law with respect to these tags of which I spoke a moment ago? It is very brief.

Mr. BORAH. I yield.

Mr. BARKLEY. This is an act approved December 19, 1932, Public Document No. 308, Seventy-second Congress:

[S. 4123]

An act to amend the District of Columbia Traffic Acts, as amended

Be it enacted, etc., That the proviso of paragraph (c), section 6, of the District of Columbia Traffic Acts, as amended by the act approved February 27, 1931, be, and the same is hereby, amended to read as follows: "*Provided*, That hereafter congressional tags shall be issued by the commissioners under consecutive numbers, one to each Senator and Representative in Congress, to the elective officers and disbursing clerks of the Senate and the House of Representatives, the Parliamentarian of the House of Representatives, the attending physician of the Capitol, and the assistant secretaries (one for the majority and one for the minority of the Senate), for their official use, which, when used by them individually while on official business, shall authorize them to park their automobiles in any available curb space in the District of Columbia, except within fire plug, fire house, loading station, and loading platform limitations, and such congressional tags shall not be assigned to or used by others."

Approved, December 19, 1932.

Mr. BORAH. Mr. President, I do not understand that the newspaper articles to which I have referred complain of that law. They complain of a violation of it.

Mr. BARKLEY. Probably so. It may be that chauffeurs are more guilty than owners of cars, taking advantage of these congressional tags to park their automobiles in prohibited places, for which, of course, there can be no justification.

Mr. BORAH. In view of the many, many accidents which are constantly happening on the streets of Washington, I think Members of Congress, above all people, should be exceedingly careful in observing the laws which prevail in the District of Columbia. I am not assuming that they have been violating the laws, but I do say that if they have been, there is no reason in the world why the violators should not be punished. There is every reason why they should be punished. That is what makes this a Government of law and not a Government of men.

Mr. KING subsequently said: Mr. President, I was unfortunately compelled to leave the Chamber by reason of a call from one of the departments before the Senator from Idaho [Mr. BORAH] had concluded his address relative to the traffic situation in Washington. I stated at that time that I had prepared a resolution which would call for some action concerning the matter discussed by him. There is only one law in the District relating to this subject, which might be the subject of criticism. That law provides that congressional tags shall be issued, in consecutive numbers, to each Senator and Representative for their official use while used by them individually on official business; and the tags authorize them to park their cars in any available space in the District of Columbia except, under the regulations, within a certain distance of fireplugs, fire hose, loading stations, and landing platforms.

So, Mr. President, there is no law, so far as I can find, that grants immunity to Representatives in Congress or Senators for violations of the traffic regulations of the District. The only privilege Representatives and Senators have, so far as I am advised, is that congressional tags are issued to them under consecutive numbers to be used by them only while engaged in official business. But if they violate the traffic ordinances, if they come within the restrictions respecting fireplugs, loading stations, if they violate any of the traffic regulations, they may be punished as any other citizen might be punished.

TAXATION OF BANK SECURITIES OWNED BY THE R. F. C.

The Senate resumed the consideration of the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

WORKS PROGRESS ADMINISTRATION IN WEST VIRGINIA

Mr. HOLT. Mr. President, last week on the floor of the Senate I discussed for a short time the Works Progress Administration in West Virginia. A number of things have happened since that time. I am glad to say that Mr. Williams, of the W. P. A., has cooperated in trying to remedy a very rotten situation in our State, involving the carrying out of the relief program.

Senators will remember that in my remarks I spoke about the administrator in the State of West Virginia, Mr. McCullough, and referred to his name appearing on the pay rolls from 1913 to the present time. He has been on the pay roll all that time except the years between 1921 and 1926.

Mr. McCullough was a member of the board of control of the State of West Virginia from 1926 to 1932, when he was fired from the office by the Governor of the State for mismanagement of funds, and was fired for misadministration of duty at that particular time. He got into the race for the Democratic nomination for Governor. He came to Washington on the 3d day of March 1932, and, in a conference with John Corrin, Judge Ritz, Ed Robinson, and another Republican, they put up the money to put him in the Democratic primary so that a certain candidate would have an advantage in the election that particular year. Nevertheless, he polled but 25,000 of the 250,000 votes cast in that election.

Since 1933 this has been his record. He first was in the P. W. A. Then, after he got out of the P. W. A., they put him in the Better Housing of N. E. C., then after he got out of that, he was put in N. R. A., and after he got out of the N. R. A. he was put in the F. H. A. Today he is an official of the W. P. A., and the people of West Virginia want the letters "O-U-T" put after his name. In other words, he has had all the letters of the alphabet assigned to him, jumping from one thing to another.

I spoke about him being a loan shark of the State of West Virginia, and exhibited a picture showing that he has a bank in the city of Charleston, which shows him to be the president and chief director of the 42-percent loan-shark business. He has one in Huntington.

On the 19th day of February, after I made my speech on the floor of the Senate, Mr. McCullough had his name erased and taken off the window, as is shown in the picture I now exhibit to the Senate, and his name will not be found there any more. That happened last week, after the speech.

I referred to his particular political aggrandizement at that time, and I showed the first bulletin of the Works Progress Administration of the State of West Virginia, where his picture was put. Since that time I made a check of this particular bulletin, and I find that his name is mentioned 35 times and President Roosevelt's is mentioned once. I find that in the next bulletin, which was issued just a few days ago, Mr. McCullough's name is mentioned 20 times, for his great work, and President Roosevelt is mentioned 5 times.

I hold in my hand a copy of a bulletin they are putting out in the State of West Virginia. Senators will notice that it is hand-colored, and if we turn to page 17 we find that the man who did this job is paid $3,400 a year. What for? Coloring the bulletins sent out to the people of West Virginia. I do not believe the taxpayers need a $3,400 bulletin-coloring administrator within the State of West Virginia.

I bring that up for this reason: My mail contains hundreds of letters a day from people begging for the right to get a job, for the right to make enough to live, and for employment. They cannot get it. We receive reports back in reply to our request that they cannot put these people on because there are no funds within the State of West Virginia to do it. Yet there are funds to provide for a raise of salaries in the office of the State administrator. The increases in the salaries of 27 men in the office of the administrator of West Virginia would put 828 people to work, meaning that 4,000 people would have clothes and food. That represents simply the increases in the salaries between October of last year and February of this year in the office of the administrator of the State of West Virginia.

Let me quote from their own records. Here is a letter from the supervisor of labor of the third district:

> The unemployment situation is becoming serious and evidence of trouble among this group is noticeable.
>
> A decided change in the attitude of the general public is noticed. This is due to the fact that we are not permitted to make further assignments, and several hundred people eligible to work are now hungry and cold, with no prospect of work or relief. * * *
>
> The above situation must be remedied in some manner in the near future. The explanation to these eligible workers that we have filled our quota of workers does not fill their empty stomachs. A hungry mob would not be pleasant to deal with.

Let me quote from a letter from the State labor supervisor himself:

> Thousands of people have exerted every effort in order to avoid this sacrifice of pride and self-respect.

Talking about going on the relief rolls:

> Why should they be forced to take this ignominious step? They naturally bitterly resent the suggestion that they should appeal to the Relief Administration. Those now unemployed do not want charity; they want work.

They cannot get work in the State of West Virginia because the salaries of the W. P. A. set-up are taking away from the people who need work in West Virginia an amount of money which would give them an opportunity to work.

Let me show, Senators, an instance of that: To run the State administrator's office in the State of West Virginia requires, approximately, $225,000 a year—just to run the State administrator's office, not counting any of the subdistricts—and I find in the Huntington district there were 813 supervisors, subsupervisors, foremen, timekeepers, and straw bosses. Get that figure! Eight hundred and thirteen—not in the offices, but out in the field alone. And there are only 9,531 people on the quota in that district, and 813 of them are foremen, earning, say, an average of $75 a month! That means that that pay roll of supervision, not within the office but out in the field, would amount to about $760,000 a year. Then you add the $150,000 that it takes to run that office and you have over $900,000, or approximately $1,000,000 of the two and three-fourth million dollars, going to a few political henchmen instead of going to the people who need relief in that district. I think it is high time that the people should become aware of where the W. P. A. money is going in the State of West Virginia. I could put into the RECORD a number of letters showing the situation. Let me show, Senators, the State administrative pay-roll list of those who are receiving over $200 a month. I find 38 people receiving over $200 a month; and of that group it totals $8,993.64 per month. Those people had their salaries raised.

We find that the monthly pay roll in the Fairmont district totals $213,480 a year, if the present set-up continues, just within the office, not counting the 420-odd subsupervisors, foremen, timekeepers, and the like.

I made a list the other day of 36 people in the W. P. A. receiving over $3,100 a year in our State, and I find that the average of those men was $3,411 a year, and yet they say that the men at work in the State of West Virginia must get about $38.50 if they get anything at all. In other words, they are throwing these people out of work. They are throwing them out when there is no relief at all in order that these high salaries may continue to be paid.

Mr. McCullough himself receives $6,000 a year and expenses in order to build up this machine that he talks about. You know I call Mr. McCullough a show horse. He has been a show horse that has dodged every race, but he comes prancing down the homestretch when the blue ribbons are passed out. He always dodges every race so far as possible; but when it comes down to any patronage matter, you will find Mr. McCullough there waiting to get the blue ribbon at that particular time.

I say that the Works Progress Administration was set up to feed the people of West Virginia, not to put into office this group of henchmen who are political office seekers or to build up this machine through that particular group.

I have here a list showing the people employed and their salaries on the Works Progress Administration, and showing

where the money is going and why it is going to a few people. May I be pardoned to read something from a Charleston paper showing that situation. It says:

At W. P. A. headquarters in Charleston at least 128 persons are more or less employed in the business of human relief and the maintenance of a political organization set up for partisan purposes. We say "at least" 128, for we do not think the list before us is complete. This list purports to be as of the last week in January.

I now desire to skip part of it. It says further:

But there are several other facts which are clearly stated in our list, or can readily be ascertained. * * * The monthly pay roll of headquarters staff (not including the chief administrator and perhaps others not named in our list) appears to have been, prior to the last of January, about $14,533.64. But, although Washington advices say that W. P. A. funds are running low, a sharp increase in the Charleston pay roll has somewhat recently taken place.

Using their article, I continue:

Of the 21 increases we find there are 19 raises in salaries from $208.33 up to $250. But I can give that better by another record of the increases in salaries in the W. P. A. Here is a man who used to get $45 a week working, and today he gets $2,340.

We find another person who was working for the F. E. R. A. at $150 a month. How much do you suppose Mr. McCullough put him on the pay roll for? Three thousand dollars a year, or $100 more a month than he used to get in the F. E. R. A.

Here is another fellow who colored this beautiful picture that you saw here. He used to get around $40 a week as a newspaper writer. He used to earn $40, but now he is on the pay roll at $3,400 a year. I admit that he might be very good.

Then we find another person with a salary of $1,000 who was put on the pay roll at $3,200 a year.

Another, who used to get $255 a month, is drawing from the relief office $3,600 a year.

We find another who used to get $5 a day whenever he worked, and do you know what his salary is today? It is $3,400 a year and expenses.

I will give a few more. An employee of the county court earned $175. He quit that job and went on the W. P. A. at $250 a month.

We find an F. E. R. A. employee who earned $30 a week put on the W. P. A. pay roll at $2,400 a year.

We find a bus company employee, earning $1,800 a year, given a job at $3,000 a year in the W. P. A. set-up.

We find another F. E. R. A. man earning $35 a week who now is getting $2,400 a year.

Another one who used to work for the State road commission at $120 a month we find now on the W. P. A. getting $2,700 a year.

We find another one in the same office who previously got $2,100 a year, but now has been raised to $3,600 a year.

Then another who earned about $125 a month we find him put on the pay roll at $3,100 a year.

We find a former housewife who used to stay at home; she is put on the pay roll at $2,400 a year.

We find another person who used to get $45 a week put on the pay roll at $4,500 a year."

I say that such practices have to meet the condemnation of any man with any honest feeling of desire for relief of the people of the State of West Virginia. And with the cutting down of these people, throwing them off the pay roll, let us see what happened? We find that the October pay roll of the W. P. A. in the State office increased at an average of nearly $13 for every person employed, and in the administrator's personal set-up there were five salary increases and one reduction. While they were telling these people that there was no money to feed them, no place to get them any work, we find that the administrator himself increased the salaries in his office.

I could list this if any Senator would care to have me do so, but I do not want to take up further time of the Senate.

We find that the figures cited alone have brought up the total amount to $225,243.68. And not only is that true in the State office but let me show Senators what they have done in the district office. In the Fairmont district we find that in October the pay roll in administering the W. P. A. was $127,360. Do Senators know what it was during the month of January? Two hundred and thirteen thousand four hundred and eighty dollars, or an increase of 70 percent. They are increasing the pay roll in the Fairmont district at the rate of 70 percent a year, but telling the people in the Fairmont district, hundreds of them, that there is no money to give them work.

Let me show you something else concerning the continuation of that set-up.

I charged in my former speech that these men got their positions through a county boss, and that unless they received the O. K. of the county boss they could not get on the favored roll, no matter whether they needed relief or not. That statement has never been denied and cannot be denied. I bring forward here their own record. When I was in the good graces of the W. P. A. in the State of West Virginia they submitted to me a list of people employed, and who had recommended them; and it can be seen from the list that right down the line the same group, the same outfit recommended them. In a pay roll of 155 people, how many distress cases do you suppose, Mr. President, there were? Out of 155 there were but 4 distress cases in the whole list.

One of these henchmen has been put on in charge of my home district. When he went to his office a group of men were outside wanting work and asking for work. His first act was to call the janitor and say to him, "Put some paper over this window; I do not want to have all these damned bums looking at me." If it had not been for the so-called "damned bums" he would not be drawing $3,600 a year. The W. P. A. was set up for those so-called, as he referred to them, "bums" rather than for the group which was sitting there drawing salaries.

He says in his letter of July 10 to me—and I did not know it was in my files; it was received at the time when I was sick and it was answered by my secretary—that he had applied to the State administration, but he could not get a job. Now listen:

I got back into my business and also got into the sale of some road material (Kentucky sandstone rock asphalt) which I am promoting as a seal coat for bituminous roads, and then I told the State administration that I was not an applicant for a position—

Let me quote further—

We decided that with their help and yours and—

Another man, whose name I will not mention—

that by letting me make a decent living in business that I could do the party considerably more good than by taking a job.

Get that? Here is a director in my home district, selling tar, selling brick, selling cement-tile, and bidding on contracts, and he says if they would let him make a decent living in business he would not take a job and could do the party a good bit more good. Nevertheless, he did take a job at $3,600 a year under the administrator, Mr. McCullough, and his business still goes on. It is peculiar that the connection was not made at that particular time.

With such things continuing, the morale of the relief is going to be destroyed. I stated in my previous speech that I was for President Roosevelt before the Chicago convention; I have been his supporter ever since that time and as a Member of the United States Senate; but such men as McCullough, with his loan-shark activities, and other men who are on the pay roll at increased salaries, and the men who are selling goods to the W. P. A. will destroy President Roosevelt in the State of West Virginia, because we must answer for the administration of the W. P. A. in the State. It is our duty to clean out our own house if conditions are destructive to the common good.

These perpetual officeholders who are drawing down these salaries out of the $15,000,000 that we asked for are saying that we want to keep quiet; let us go ahead. But why should we continue to allow people to beg for the right to work, and beg for the right to eat, and yet allow some of these men to be on the pay rolls drawing three and four thousand dollars a year when they do not earn $5 a day?

It is for the good of my party that we should strike down those political parasites, those political leeches, those political bloodsuckers, whose only interest in the Democratic Party is that it shall be continued in power so that they may continue to hold their jobs within that party.

I will in a few days submit for the RECORD a number of things to show the continuation of these practices that are very destructive to the national administration and destructive to all its objectives. We cannot expect more when at the head of the W. P. A. administration is a 42-percent loan shark, a man who himself was driven out of office by the Republican Party because of the mismanagement of funds in connection with the Huntington State Hospital in 1932. One cannot apologize for those things, and one cannot overlook them; it is our duty to correct them; and I am very hopeful they will be corrected at once by the dismissal of those who should be dismissed and by a reorganization of the entire department.

TAXATION OF BANK SECURITIES OWNED BY THE R. F. C.

The Senate resumed the consideration of the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

Mr. COUZENS. Mr. President, I desire to offer an amendment. On page 2, line 10, I move to strike out the words "whether now, heretofore, or", and on the same page, line 11, to strike out the words "and whether for a past, present, or future taxing period."

The adoption of the amendment will eliminate the present retroactive features of the bill.

The amendment, if adopted, will result in the section reading as follows:

Notwithstanding any other provision of law or any privilege or consent to tax expressly or impliedly granted thereby, the shares of preferred stock of national banking associations, and the shares of preferred stock, capital notes, and debentures of State banks and trust companies, heretofore or hereafter acquired by Reconstruction Finance Corporation, and the dividends or interest derived therefrom by the Reconstruction Finance Corporation, shall not, so long as Reconstruction Finance Corporation shall continue to own the same, be subject to any taxation by the United States, by any Territory, dependency, or possession thereof, or the District of Columbia, or by any State, county, municipality, or local taxing authority hereafter imposed, levied, or assessed.

The amendment is for the purpose of taking into consideration the fact that counties, municipalities, and States have in many cases fixed their budgets and assessed these stocks and allowed for them in the collection of revenue in arranging their budgets. In any event, I see no good purpose to be served by making this bill retroactive.

The PRESIDENT pro tempore. The Senator from Michigan offers an amendment, which will be stated.

The LEGISLATIVE CLERK. On page 2, line 10, after the word "authority", it is proposed to strike out "whether now, heretofore, or", and on the same page, line 11, after the word "assessed", to strike out "and whether for a past, present, or future taxing period."

Mr. COUZENS. Mr. President, I notice that another amendment should be suggested. On page 2, line 2, I also move to strike out the words "heretofore or", so that it will read "shares of preferred stock, capital notes * * * hereafter acquired by Reconstruction Finance Corporation."

That is to accomplish the same purpose, so that the proposed legislation will not be retroactive.

The PRESIDENT pro tempore. Does the Senator desire the last amendment suggested by him to be considered in lieu of the other amendment?

Mr. COUZENS. No; I wish them both considered. I overlooked the words "heretofore or" in line 2 in proposing my amendment.

The PRESIDENT pro tempore. The Senator desires them to be considered as one amendment?

Mr. COUZENS. Yes.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Michigan.

Mr. ADAMS. Mr. President, with reference to the amendment offered by the Senator from Michigan [Mr. COUZENS] to the pending bill, it seems to me to be a mistake to adopt the amendment if the Senate favors the policy underlying the bill. There are, I believe, 18 different States the attorney generals of which have held that the stock was not taxable and consequently taxes have not been levied. The result of the amendment would be the levying of retroactive taxes probably for 3 years, so we would be putting a cumulative tax upon the Reconstruction Finance Corporation, a new tax for 3 years past, and thus we would abandon the theory of the bill.

The theory of the bill is to carry out the intent of Congress when the original banking act was enacted, that the stock held by the Reconstruction Finance Corporation should not be taxed. In no place, so far as I know, has there been a payment of the tax, and this merely means a drive to collect back taxes under a statute we enacted which provided the stocks were not to be taxed.

Mr. BARKLEY. Mr. President, a further objection to the amendment of the Senator from Michigan is that practically all this kind of preferred stock has been issued. There may be a bank or two which will still come in and have some preferred stock taken by the Reconstruction Finance Corporation, but to strike out what the Senator from Michigan calls the retroactive provisions of the bill would mean to make taxable the stocks now outstanding and held by the Reconstruction Finance Corporation. There will not be any more large amounts of it issued to be taxable.

Mr. COUZENS. Then I do not understand language. I am not an expert in drafting such provisions, but it seems to me if there is no objection——

Mr. BARKLEY. Pardon me for interrupting the Senator; but in the second line, on page 2, the Senator proposes to strike out the words "or heretofore", so the provision would be limited to stock hereafter acquired. There is not going to be any more stock hereafter acquired in all probability.

Mr. COUZENS. I am not sure of that; but I am willing to delete that part of the amendment and retain the other parts which refer to the question of taxation.

Mr. ROBINSON. Mr. President, will the Senator yield for a question?

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Arkansas?

Mr. BARKLEY. Certainly.

Mr. ROBINSON. Would the amendment of the Senator from Michigan, if adopted, leave the preferred stock of the banks held by the Reconstruction Finance Corporation subject to tax in the future or would it merely provide for the collection of taxes until the time of the passage of the pending bill?

Mr. BARKLEY. The amendment to which I directed my attention, and which the Senator from Michigan now says he would be willing to withdraw, would make nontaxable all this stock issued in the future, but would make taxable all that which has been issued heretofore, which includes all that will be issued in all probability.

Mr. ROBINSON. It would have the effect of giving preference to stock that has already been issued?

Mr. BARKLEY. Yes, it would. If there should be any more of it issued, the amendment would set up a distinction between that which has heretofore been issued and that which is to be hereafter issued.

Mr. ROBINSON. I have not been able to be present during all the debate on the bill. May I inquire whether the theory of the proposed legislation is that the law now contemplates an exemption from taxation?

Mr. BARKLEY. It was thought that the Reconstruction Finance Corporation Act, which attempted to exempt from taxation this stock and the securities held by it, was broad enough to cover all sorts of securities it might hold including preferred stock in these banks. The Government made that contention in the lawsuit originating in Maryland and decided by the Supreme Court. The Court held the lan-

guage of the act was not broad enough to include this particular kind of security and therefore that it was taxable. This bill is for the purpose of putting such securities on the same basis with any other securities held by the Reconstruction Finance Corporation and all other governmental agencies like the land banks, the Housing Corporation, and others.

Mr. ROBINSON. The other States have not collected or sought to collect the tax?

Mr. BARKLEY. They have not. None of it really has been collected. This case came up from Maryland, and, of course, if the bill is not passed, not only all the States which now tax the stock of these banks, but all that do not tax it, can come in and collect on if if they desire to do so. However, I understand the Senator from Michigan has withdrawn that part of his amendment.

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

Mr. BARKLEY. Certainly.

Mr. COUZENS. So far as the issuance of new stock is concerned I am willing to withdraw the amendment. What I am attempting to do is not to upset the decision of the Supreme Court with respect to this stock being taxable retroactively and so as not to cause a State, which has gone to the cost and trouble of conducting a test case through the courts, to lose out in the end, I am trying to make it retroactive. I am not trying to make the stock taxable in the future, but I am trying not to disturb the retroactive feature.

Mr. BARKLEY. Of course the Senator's amendment would make the stock taxable.

Mr. COUZENS. Yes; hereafter.

Mr. BARKLEY. Regardless of the date of its issue?

Mr. COUZENS. Yes.

Mr. BARKLEY. It would make stock heretofore issued taxable hereafter.

Mr. COUZENS. No; it is nontaxable hereafter, but if the amendment is adopted it will prohibit any State from taxing it hereafter, but where they have already taxed it, it will not be affected.

Mr. BARKLEY. Of course it seems to me that still vitiates the Senator's amendment. I do not think we can draw any distinction between taxes heretofore levied and not collected, and taxes levied in the future and attempted to be collected. I do not know how many States have already made any effort to collect these taxes. I doubt seriously whether any other State than Maryland, or indeed even Maryland, has prepared its budget on the theory of taxing these securities. Certainly no State has manifested any interest in it or attempted to levy any such tax.

Mr. COUZENS. Where does the Senator get his information that no State has undertaken to levy such a tax upon such stock?

Mr. BARKLEY. I have no information that they have. I have not investigated all the States.

Mr. COUZENS. I have seen statements in the press to the effect that the States are assessing these stocks and placing them on the tax roll under the decision of the Supreme Court.

Mr. BARKLEY. Probably all of them will do it in looking for revenue under the decision of the Supreme Court, but they have not made their calculations on it up to this time.

Regardless of that fact, I am opposed to the amendment and hope it will not be adopted, because I think the bill itself is a just bill. It puts these securities on the same basis as all other securities held by governmental agencies in this country.

The Senator from Colorado [Mr. ADAMS] covered the case very briefly and at the same time very fully when he said this is not a money-making scheme on the part of the United States Government. The original act was a relief measure, not relief to people who were hungry, who were on the relief rolls under the Relief Administration, but it certainly was coming to the rescue of the banks which were in need of relief. In order that the relief might be guaranteed to them, in order that they might function in their communities, in order that they might pay back their depositors, in order that banks might be reorganized under circumstances without which they could not have been reorganized, the Reconstruction Finance Corporation made itself available, because it was possessed of credit and was able to borrow money from the Treasury, and the Treasury was able to borrow money from the people. This was done by the R. F. C. in order to perform a duty that could not be performed by any other public or private agency of the United States. I think we all agree to that.

The question is whether we are going to require the Reconstruction Finance Corporation, out of whatever earnings it makes or out of whatever it may be able to borrow from the Treasury, to pay in taxes to the States more than it gets as income from the preferred stock. That is what may happen.

Mr. COUZENS. Mr. President, will the Senator yield at that point?

Mr. BARKLEY. Certainly.

Mr. COUZENS. That might be true in individual cases, but in the aggregate the R. F. C. will make millions of dollars by all its investment in preferred stock.

Mr. BARKLEY. I do not know about that.

Mr. COUZENS. Mr. Jones so informed me this morning, and figured it out in his own handwriting on his letter, showing how the R. F. C. would make millions of dollars.

Mr. BARKLEY. It might make a profit in some States, but in other States the tax would amount to more than the profit.

Mr. COUZENS. That is true.

Mr. BARKLEY. It is impossible to tell whether the Reconstruction Finance Corporation, when it is finally liquidated, is going to be in the red or in the black. It will depend on how much of the money which has been expended will be collected and recovered. We cannot pick out a particular item and say that the R. F. C. will make money on that, for it may be losing money on something else. That point is involved in a lawsuit in Chicago to determine whether or not the R. F. C. can recover back all the money it loaned to one of the great banks there. That suit is in process of being tried before a Federal judge. The R. F. C. may lose $12,000,000 or $15,000,000 in that case. That goes into the entire balance sheet of the Reconstruction Finance Corporation as to its losses, its gains, its income, and its outgo. It is not fair to pick out this particular kind of security and say the R. F. C. will make money on it and therefore it ought to be required to pay taxes.

The bill really involves an act of justice. It puts all securities on the same basis. It puts all the banks on the same basis, except in States where they are not taxed at all, and that is a matter for local State action, and not for the Federal Government. Therefore, I hope the amendment will be rejected.

Mr. ASHURST. Mr. President, I have been accustomed to rely upon the sagacity and judgment of the junior Senator from Colorado [Mr. ADAMS], because, after years of comradeship, I have learned to respect him as a man of superb intellect, and I presume that I should be expected to follow him in matters relating to banks, because that happens to be a subject upon which I am not an expert. I am unable to follow him on this bill.

This bill, in effect, really is a bill to penalize honest, successful banking. Bear in mind that when the Reconstruction Finance Corporation made its investments in stocks, in many, if not most, instances, it thereby galvanized and transmuted liabilities into assets. Those who were the beneficiaries are now here asking exemption from taxation. It may be that I am obsessed as to taxation; and in our parliamentary work we do grow more or less obsessed and cling to ideas or ideals. I am so much opposed to any property escaping taxation that this may account for my attitude toward this bill.

It will be remembered that I have put forth efforts to secure a constitutional amendment permitting the Federal Government to tax incomes from State securities and permitting the State governments to tax incomes from Federal securities. I do not now believe in exemptions from taxation. Taxes will be almost ruinously high during the lifetime of every person now in existence; and there is no

amelioration of the taxpayer to be found by granting to some property exemptions from taxation.

In my judgment, if this bill shall be passed, its ultimate result will be that those prudent banks which were well managed, and which did not ask the Government for patronage and help, will be required to make up the deficiency in taxation.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. ASHURST. Certainly.

Mr. BARKLEY. This is not a bill which provides for the taxation of the bank.

Mr. ASHURST. I know it.

Mr. BARKLEY. If there is any bank in any community fortunate enough to have its preferred stock taken by private persons in that neighborhood, of course it is taxable under the State law, if the State taxes it. The bill merely relieves from taxation this stock which was bought by the Reconstruction Finance Corporation under such circumstances that without it, in most cases the bank could not have existed.

Mr. ASHURST. The Senator has stated that matter fairly. The hand of the Government gave certain banks timely aid. The banks now say, "Having given us life, give us freedom from taxation as well as life."

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. ASHURST. Certainly.

Mr. BARKLEY. Personally, I do not see any particular virtue in Federal taxation as against State taxation; and if it turns out, as the Reconstruction Finance Corporation contends, that the levying of this tax on its preferred stock held in these banks results in a loss to the Reconstruction Finance Corporation, so that it has to be made up out of the Treasury, and in turn has to be raised by taxes on the whole people, where is the virtue in taxing all the people of the United States to make up a loss of that sort, and depriving some State of a little amount that may be exacted under the present situation if the State is to be allowed to levy the tax?

Taxation is taxation, whether it is by the Federal Government or not; and I do not see why the whole people of the United States ought to be taxed in order to make up a loss suffered by a Government agency that was put into operation in order to enable the people of that community to enjoy these banking facilities.

Mr. ASHURST. When the Government puts its hand to an enterprise, it should not be permitted special privileges. If the Government desires to go into business, it must go into business upon the same ground that others occupy.

Mr. BARKLEY. I do not like to take up the Senator's time; but will he yield there?

Mr. ASHURST. Certainly.

Mr. BARKLEY. The Senator knows—we all know—that when we guaranteed the deposits in banks and created the Federal Deposit Insurance Corporation, many of the banks all over the country could not qualify for that insurance and therefore were suffering some disadvantage as compared to others that could, because people who had money would put it in a guaranteed bank and not in one that was not guaranteed; and the refusal of the Federal Deposit Insurance Corporation to guarantee the deposits of a bank raised a suspicion in the minds of the public as to whether they ought to entrust their money to it.

The Federal Deposit Insurance Corporation and the banks that were seeking to reorganize and continue went to the Reconstruction Finance Corporation in droves, and from my State I went with them, in order to induce and persuade, if possible, the Reconstruction Finance Corporation to invest money in those preferred stocks in order that the banks might serve the communities in which they existed. I doubt very seriously whether any of us ever had any influence in getting the Reconstruction Finance Corporation to do it, because they based their action upon an examination as to the solvency of the banks; and I do not know of a single instance where they went beyond the bounds of soundness in banking in buying this stock. But certainly it was not a voluntary adventure on the part of the Reconstruction Finance Corporation to go into the banking business.

Mr. ASHURST. The Senator is a member of the Committee on Banking and Currency. He has been such a close student that he has won for himself a place on that great committee, and I should be inclined to give weight to the arguments made by the esteemed Senator from Kentucky.

It appears to me, however, that when the Government, through the Reconstruction Finance Corporation, made the investment in the preferred stock it in a sense changed the liabilities into assets for the stockholders; undoubtedly, in the absence of this investment in preferred stock, the stockholders would have had to pay an assessment to restore the impairment of the capital. It would appear that the Government has done enough for the stockholders of the banks thus receiving Government aid through subscriptions for preferred stock or debentures without relieving them of paying a just proportion of the costs of the local government.

That is all I have to say.

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

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

Mr. COUZENS. I desire to take up with the Senator the very question that has been raised by the Senator from Kentucky. He has contended right along that the whole operation of the Reconstruction Finance Corporation may or may not be successful; that we cannot pick out a particular activity or a particular security and say whether that or it will be profitable or otherwise; yet all the statements issued by the distinguished chairman of the Reconstruction Finance Corporation say that he is going to get all his money back and make a substantial profit. There is not a reason in the world why any governmental agency that puts its money into private industry should not have it taxed.

Mr. ROBINSON rose.

Mr. ASHURST. Mr. President, I agree with the Senator from Michigan, and before I yield to my able friend from Arkansas, let me say that my opposition to this bill must not be construed as meaning that I have criticism of the Reconstruction Finance Corporation. The Reconstruction Finance Corporation had done excellent work.

Mr. ROBINSON and Mr. BARKLEY addressed the Chair.

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

Mr. ROBINSON. Mr. President, I do not understand the Senator from Kentucky to have implied that the Reconstruction Finance Corporation may prove to be unsuccessful.

Mr. BARKLEY. Oh, no, oh, no; I did not say that.

Mr. ROBINSON. I am referring now to the statement just made by the Senator from Michigan [Mr. COUZENS]. What I understood the Senator from Kentucky to say was that it would be impractical, if not impossible, now to say whether, on its transactions as a whole, the Reconstruction Finance Corporation will make a profit or will finally suffer some loss.

Whichever happens, the Reconstruction Finance Corporation probably will be regarded as having been successful, for the reason that when it was set up it was intended as a stabilizing and helpful factor to prevent the insolvency of banks that were threatened with it, and to avert the crash of industries that were in danger of going down.

It occurs to me—and I wish to suggest this for the consideration of the Senator from Arizona—that the primary question to be resolved in relation to this proposed amendment is, what was the original intention of Congress when, in order to save banks threatened with ruin, it authorized the Reconstruction Finance Corporation to purchase preferred stocks?

Of course, the Supreme Court has held, in the case referred to by the Senator from Michigan, that the language used in the act did not actually and legally relieve such preferred stocks from liability to tax by the States. That decision, of course, is conclusive and binding; but, still, the question arises as to what was actually the intention of the Congress. Did the Congress, at the time it authorized the Reconstruction Finance Corporation to purchase preferred stocks in banks for the purposes with which we are all more or less familiar, actually intend that such stocks should be subject to taxa-

tion by the States? If it did, the question as to whether this proposed legislation should be passed is different from that which arises in my mind if it is made clear that the original intention was to exempt such stocks from taxation.

Mr. ASHURST. Mr. President, the mere recital of what I shall now state will address itself with force to the very able Senator from Arkansas, whose merits as a lawyer I respect and at whose feet as a lawyer I sit.

He will observe that there was no intention of Congress to grant this exemption, because the law, which my able friend, the junior Senator from Florida [Mr. TRAMMELL], who sits on my left, had the kindness a moment ago to bring to my attention, specified the purposes and benefits. The law itself omitted to enumerate this exemption, and I again say that when, in making any law, we enumerate some, we exclude those not enumerated.

Mr. ROBINSON. I also know that the courts hold that in order to be effective, the intention of a law-making body must be expressed or implied in its language.

Mr. ASHURST. I admit that.

Mr. ROBINSON. The intention is drawn from the language. That is a legal proposition with which all good lawyers, like the Senator from Arizona, must be familiar. Nevertheless, it has been asserted, and the theory of this legislation is, as I understand it, that when Congress passed the law it intended that the stock should be exempt from taxes, and most of the States have placed that construction on it.

Mr. ASHURST. That is true.

Mr. ROBINSON. No doubt in one State, where an able and astute lawyer handled the matter, suit was brought questioning the validity of that interpretation, questioning whether the language actually used had the legal effect of exempting the stock.

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

Mr. ROBINSON. I yield.

Mr. WAGNER. I ask the Senator to yield so that I may read from the present statute, which I think Congress then felt would include the preferred stock. This is the law referring to the R. F. C.:

> The corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation.

I think in a narrow construction the Court has said that that does not include interest on preferred shares, but I am sure we intended at the time to include them.

Mr. ROBINSON. I had some indistinct recollection of the language which the Senator from New York has just read, and I thank him for reading it, because, to my mind, it at least makes probable the contention that Congress did not intend to subject the property of the Reconstruction Finance Corporation, whatever that property may be, to taxation by the States. I have not had the opportunity of reading the decision of the Supreme Court on that subject.

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

Mr. ROBINSON. I yield.

Mr. BARKLEY. After quoting the language which the Senator from New York has read the Court went on to discuss it, and referring to the contention made by the Government that it did exclude taxation on the certificates of stock, the Court said:

> The contention is plausible, yet it will not prevail against analysis.

Then the Court went on to explain why these preferred shares could not be interpreted to mean either franchise, capital, reserves, or surplus, the things referred to in the language quoted by the Senator from New York.

Mr. ROBINSON. I take it that the Supreme Court held that preferred stock did not come within the terms of the language which has just been read by the Senator from New York and to which reference has been made by the Senator from Kentucky. The material point in this connection, however, is that the Government itself, its agencies, its law authorities, believed that the preferred stock had been made exempt from taxes.

Mr. BARKLEY. And fought the lawsuit on that basis.

Mr. ROBINSON. And conducted the litigation on that basis, the Supreme Court saying that while the contention was plausible, it was not, in its opinion, sustained by the record.

Mr. ADAMS. Mr. President, may I interrupt the Senator?

Mr. ROBINSON. Certainly.

Mr. ADAMS. I gather just a slightly variant view of the Supreme Court's ruling. The ruling as I get it is that they do not say that those broad terms, "capital", "surplus", "reserves", and "income", do not include generally the preferred stock, but they say there was a specific statute providing that all stocks of national banks should be taxable, and they thought the specific declaration that they should be taxable should be read into this general statement, so that the general statement, even though it included it normally, would not include it as against that statute.

May I give one illustration in which I think the Senator from Arizona might be interested? We are dealing here with the one question as to whether the property of the United States Government shall be subject to taxation by cities, counties, school districts, and States. Take an automobile in the Ford factory in the State of Michigan; while it is there it is subject to taxation by the State of Michigan. If the United States Government, for its Army, or for some other purpose, buys that automobile, it is no longer subject to taxation.

If the Senator from Michigan had had a million dollars in gold, it would have been, in his possession, subject to taxation. When the Government, by virtue of the exercise of its power, impounded all of the gold in the country that gold ceased to be taxable.

In the city of Denver, within my State, is $2,000,000,000 of gold. If the argument of the Senator from Arizona is sound, the city of Denver is entitled to tax that $2,000,000,000 of gold within the city of Denver.

Mr. ROBINSON. Mr. President, to my mind the answer to the whole argument is comprehended in the question I originally propounded, what was the actual intention of the Congress, taking into consideration the record that has been made and referred to here by the various Senators, and the further fact, which, in my judgment, is of itself controlling, namely, that the Reconstruction Finance Corporation was not created by the United States for the purpose of making profit. It was created as an agency to save private industry and private organizations, so that it cannot be regarded as a profit-making organization, although I hope it will, at least in the long run, earn enough to offset such losses as may be made on the loans which have been negotiated.

If the Government did not intend when it created this corporation that its preferred stock should be taxed, if it placed that construction on it—and most of the States did the same thing—in my judgment the enactment of the proposed legislation is not only warranted, it is essential.

Mr. BARKLEY. Mr. President, will the Senator yield right there?

Mr. ROBINSON. Certainly.

Mr. BARKLEY. The Court's decision was based upon an old statute regulating national banks, a statute passed before the Reconstruction Finance Corporation was created, which, of course, gave consent of the Federal Government to the taxation of shares of national banks in the State. The Senator knows how impossible it is for us, in the passage of a new act, to specifically repeal or withdraw every exemption or every provision of an old act which may have been enacted before. There is no doubt but that when Congress passed the general legislation referred to by the Senator from New York it intended that all of these securities, whatever was held by the Reconstruction Finance Corporation, outside of real estate, should be exempt from local taxation. The mere fact that the Court held that it was not broad enough or specific enough to do that it seems to me should not militate against the enactment of the pending bill correcting that, and making it specific in the law.

Mr. WAGNER. Mr. President, will the Senator from Arkansas yield to me?

Mr. ROBINSON. I yield.

Mr. WAGNER. I just wanted to add to what the Senator from Kentucky has said, that as a matter of history,

in all legislation where Congress has intended that an instrumentality of government should be taxed, they have said so very distinctly and definitely, and even in the Reconstruction Finance Corporation Act we made an exception of real estate. We did not make any exception of preferred stock. We said, "You may tax real estate." The mere fact that we did not declare, "You may also tax preferred stock", to me shows the real intent of Congress that it should be exempt from taxation.

Mr. ROBINSON. I think that conclusion is supported by the whole record, and it is doubtful whether anyone can successfully maintain that the Congress intended that this preferred stock, which its agency was buying for the purpose of saving the banks, could be taxed. I do not believe that that can be successfully maintained. I am entirely content to rest the matter on that statement, as far as I am concerned.

Mr. SCHWELLENBACH. Mr. President, I should like to submit a question, purely for information, to the Senator from Colorado, with reference to States in a position like that of my State, and a number of others.

The original act, under which national bank stock was made taxable, was passed for the purpose of putting national bank stocks upon the same basis as State bank stocks. That is correct, is it not?

Mr. ADAMS. I think perhaps the reverse of that may be true, that the complaint was made that national banks were exempt from taxation, and then the Federal Government said, "You may tax national bank stocks if you also tax State bank stocks." Prior to that time the tax on the State banks was on the bank itself, rather than on the stock, and it put banking corporations in a separate class, where the tax is upon the stock and the stock owner.

Mr. SCHWELLENBACH. As a part of that act it was provided that the national bank stock would not be taxable if within the taxing district there were those in a competing business who were not subject to a similar tax.

Mr. ADAMS. That is correct.

Mr. SCHWELLENBACH. Under that statute, the national banks in our State went into both the State and Federal courts, and because of the fact that we had savings and loan associations, for example, which were not subject to taxation, the national banks succeeded in avoiding taxation upon their stock. Then the State banks went into court and said that because the national banks did not need to pay, it was unequal taxation to compel them to pay. The result is that we have no taxation of bank stock in the State. The question I wish to submit is this: Will the enactment of the pending bill, so far as my State and States under similar rules are concerned, have the slightest effect on the taxation of bank stock?

Mr. ADAMS. None at all.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Michigan [Mr. COUZENS].

Mr. McNARY. Mr. President, what is the amendment?

The PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 2, line 10, after the word "authority", it is proposed to strike out the words "whether now, heretofore, or", and on the same page, line 11, after the word "assessed", to strike out "and whether for a past, present, or future taxing period."

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Michigan [Mr. COUZENS].

The amendment was rejected.

Mr. VANDENBERG. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. On page 2, after line 12, it is proposed to insert the following new section:

SEC. 2. Effective upon the date of enactment of this act, interest charges on all loans by the Reconstruction Finance Corporation to closed banks and trust companies, now in force, or made subsequent to the date of enactment of this act, shall not exceed 3½ percent per annum: *Provided, however,* That no provision of this act shall be construed to authorize a reduction in the rate of interest on such loans by the Reconstruction Finance Corporation retroactive from the date of enactment of this act.

Mr. VANDENBERG. Mr. President, the subject matter of this amendment manifestly is not related to the subject matter of the bill itself; but, as we are legislating in respect to the Reconstruction Finance Corporation, I feel that it is entirely appropriate that this particular phase of the R. F. C. activities should be touched upon. The situation is a very simple one, and I shall state it in a very few words to the Senate.

At the present time the R. F. C. is charging 4 percent for its loans to closed banks and closed trust companies, meaning to the receivers of those institutions.

Mr. President, if there is one place more than any other where the R. F. C. certainly should not seek a profit in any degree, it is in this particular classification of loans, because the only possible beneficiaries from any savings in interest rates upon this particular classification of loans are the depositors in closed banks. The bank itself has little or no interest in the situation. It is the depositors having impounded deposits who are interested in the lowest possible administrative costs of the loans the R. F. C. makes to these particular instrumentalities.

I call the Senate's attention to the fact that the R. F. C. borrows its money for 2¾ percent. It loans the money to the receivership for 4 percent. There is a spread of 1¼ percent. I call the Senate's attention also to the fact that all expenses and servicing fees in respect to the management and administration and supervision of this particular class of loans are charged against the receivership by way of direct charge. Therefore, there is no administrative expense in respect to this particular type of loans. Under such circumstances, a spread of 1¼ percent, it seems to me, is not defensible.

Furthermore, if money is available through the Reconstruction Finance Corporation to going banks at the rate of 3½ percent, which is the case in respect to preferred stock, it seems to me there can be utterly no justification for any heavier load upon the receiverships which are seeking to liquidate the impounded accounts for the benefit of depositors whose money has been tied up.

I may add, I think with justification, that I discussed this matter a few moments ago, with the distinguished Chairman of the Reconstruction Finance Corporation, and he said to me that he had no objection to the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Michigan [Mr. VANDENBERG].

The amendment was agreed to.

By unanimous consent, "Sec. 2" was renumbered to "Sec. 3."

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass.

Mr. McNARY. I think there is a general desire for a yea-and-nay vote on this important legislation. This is to be the final vote. I ask for the yeas and nays.

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

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

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

Adams	Byrd	Gerry	Long
Ashurst	Byrnes	Glass	McAdoo
Austin	Capper	Gore	McKellar
Bachman	Caraway	Guffey	McNary
Bailey	Chavez	Hale	Metcalf
Barbour	Clark	Harrison	Minton
Barkley	Connally	Hastings	Murphy
Benson	Couzens	Hatch	Murray
Bilbo	Davis	Holt	Neely
Brown	Donahey	Keyes	Norris
Bulkley	Duffy	King	Overton
Bulow	Frazier	Logan	Pittman
Burke	George	Lonergan	Radcliffe

Robinson	Smith	Townsend	Van Nuys
Russell	Steiwer	Trammell	Wagner
Schwellenbach	Thomas, Okla.	Truman	Wheeler
Sheppard	Thomas, Utah	Vandenberg	White

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

The question is, Shall the bill pass?

Mr. McNARY. I ask for the yeas and nays.

The yeas and nays were ordered and the legislative clerk proceeded to call the roll.

Mr. BILBO (when his name was called). I have a general pair with the Senator from Iowa [Mr. DICKINSON], who is absent. I, therefore, withhold my vote.

Mr. BULKLEY (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent. Not being advised how he would vote, I transfer my pair with him to the senior Senator from Florida [Mr. FLETCHER] and vote "yea."

The roll call was concluded.

Mr. GLASS. I have a general pair with the senior Senator from Minnesota [Mr. SHIPSTEAD]. In his absence, I withhold my vote, as I do not know how he would vote.

Mr. FRAZIER. My colleague the junior Senator from North Dakota [Mr. NYE] is necessarily absent. He is paired on this question with the Senator from Illinois [Mr. LEWIS]. If present my colleague would vote "nay", and I am advised the Senator from Illinois [Mr. LEWIS] would vote "yea."

Mr. AUSTIN. I wish to announce that my colleague the junior Senator from Vermont [Mr. GIBSON] has a general pair with the junior Senator from Kansas [Mr. McGILL].

Mr. ROBINSON. I announce that the Senator from Alabama [Mr. BANKHEAD], the Senator from Florida [Mr. FLETCHER], and the Senator from Washington [Mr. BONE] are absent because of illness.

I further announce that the junior Senator from Massachusetts [Mr. COOLIDGE], the senior Senator from Massachusetts [Mr. WALSH], the Senator from New York [Mr. COPELAND], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Arizona [Mr. HAYDEN], the Senator from Connecticut [Mr. MALONEY], the Senator from Nevada [Mr. McCARRAN], the Senator from Kansas [Mr. McGILL], the Senator from New Jersey [Mr. MOORE], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Idaho [Mr. POPE], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Alabama [Mr. BLACK], and the Senator from Maryland [Mr. TYDINGS] are unavoidably detained from the Senate.

I also announce that the Senator from Colorado [Mr. COSTIGAN] is detained in an important committee meeting.

The result was announced—yeas 38, nays 28, as follows:

YEAS—38

Adams	Clark	McKellar	Schwellenbach
Bachman	Duffy	Minton	Sheppard
Bailey	George	Murphy	Smith
Barkley	Gore	Murray	Thomas, Okla.
Brown	Guffey	Neely	Thomas, Utah
Bulkley	Harrison	Norris	Van Nuys
Burke	Hatch	Pittman	Wagner
Byrnes	Logan	Radcliffe	Wheeler
Caraway	Lonergan	Robinson	
Chavez	McAdoo	Russell	

NAYS—28

Ashurst	Connally	Hastings	Overton
Austin	Couzens	Holt	Steiwer
Barbour	Davis	Keyes	Townsend
Benson	Donahey	King	Trammell
Bulow	Frazier	Long	Truman
Byrd	Gerry	McNary	Vandenberg
Capper	Hale	Metcalf	White

NOT VOTING—30

Bankhead	Costigan	La Follette	O'Mahoney
Bilbo	Dickinson	Lewis	Pope
Black	Dieterich	McCarran	Reynolds
Bone	Fletcher	McGill	Shipstead
Borah	Gibson	Maloney	Tydings
Carey	Glass	Moore	Walsh
Coolidge	Hayden	Norbeck	
Copeland	Johnson	Nye	

So the bill was passed.

The bill as passed is as follows:

Be it enacted, etc., That section 304 of the act entitled "An act to provide relief in the existing national emergency in banking and for other purposes", approved March 9, 1933, as amended, be further amended by adding at the end thereof the following:

"Notwithstanding any other provision of law or any privilege or consent to tax expressly or impliedly granted thereby, the shares of preferred stock of national banking associations, and the shares of preferred stock, capital notes, and debentures of State banks and trust companies, heretofore or hereafter acquired by Reconstruction Finance Corporation, and the dividends or interest derived therefrom by the Reconstruction Finance Corporation, shall not, so long as Reconstruction Finance Corporation shall continue to own the same, be subject to any taxation by the United States, by any Territory, dependency, or possession thereof, or the District of Columbia, or by any State, county, municipality, or local taxing authority, whether now, heretofore, or hereafter imposed, levied, or assessed, and whether for a past, present, or future taxing period."

SEC. 2. Effective upon the date of enactment of this Act, interest charges on all loans by the Reconstruction Finance Corporation to closed banks and trust companies, now in force or made subsequent to the date of enactment of this act, shall not exceed 3½ percent per annum: *Provided, however,* That no provision of this act shall be construed to authorize a reduction in the rate of interest on such loans by the Reconstruction Finance Corporation retroactive from the date of enactment of this act.

SEC. 3. If any provision, word, or phrase, of this act, or the application thereof to any condition or circumstance, is held invalid, the remainder of the act, and the application of this act to other conditions or circumstances, shall not be affected thereby.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 9130) to authorize the incorporated city of Skagway, Alaska, to undertake certain municipal public works, and for such purpose to issue bonds in any sum not exceeding $12,000, and for other purposes.

The message returned to the Senate, in compliance with its request, the bill (S. 3521) to authorize an exchange of land between the Waianae Co. and the Navy Department.

BANKRUPTCY AND RECEIVERSHIP PROCEEDINGS IN FEDERAL COURTS

Mr. ASHURST. Mr. President, about 2½ years ago I served as chairman of a special committee to examine into the proceedings in bankruptcy and receiverships in the Federal courts.

During the time I was chairman that special committee held hearings in California. We discovered that the total amount of fees and expenses paid on account of bankruptcy and receivership proceedings in three cities in California for a period of about 3 years was $9,243,407. As compared with this total of fees and expenses, the salaries of the President of the United States, the Vice President, 10 members of the Cabinet, 96 Members of the Senate, 9 members of the United States Supreme Court, 37 justices of the circuit court of appeals, and 145 justices of the district courts for a like period amounted, in the aggregate, to $7,782,500, or about 84 percent of the amount disbursed on account of receiverships and bankruptcy fees and expenses in three cities in one State.

In view of that condition, the Senate passed an act amending section 77B of the Bankruptcy Act, and it was expected under that amendment these enormous fees and expenses of receivers and attorneys for receivers and supernumeraries in bankruptcy and receivership cases would not be so large. I am no longer chairman of the Special Committee on Bankruptcies and Receiverships. The able junior Senator from California [Mr. McADOO] is now the chairman of that special committee. The committee of which he is chairman has pursued the work diligently and has brought to light many abuses.

In order that the Senate particularly and the country generally may know the amount of fees demanded by attorneys in bankruptcy cases and receivership cases and how much has been allowed by courts, in some 11 cases I have selected, I ask unanimous consent to have printed in the RECORD certain court decisions.

Mr. President, I call particular attention to the case involving the reorganization of the Paramount-Publix Corporation, a motion-picture concern. That reorganization spelled ruin to small investors, yet one firm of attorneys in that case received an ad-interim fee of $200,000 for its serv-

ices and asked for an additional fee of $700,000. I ask leave, as I said before, to have these documents printed in the RECORD.

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

The matter referred to is as follows:

In re Allied Owners Corporation. *Reconstruction Finance Corporation* v. *Callaghan et al.* No. 499. Circuit Court of Appeals, Second Circuit. July 22, 1935

Appeal from the District Court of the United States for the Eastern District of New York.

In the matter of the Allied Owners Corporation, bankrupt, in which Stephen Callaghan, Percival E. Jackson, and William M. Greve were named as trustees in bankruptcy, and in the matter of the Allied Owners Corporation, debtor, in which the same persons were named as trustees in reorganization under Bankruptcy Act, section 77B (11 U. S. C. A., sec. 207). From an order of the bankruptcy court fixing allowances for the services of the trustees in bankruptcy, the services of Goldwater & Flynn, attorneys for the trustees in bankruptcy; the services of Robert P. Levis, attorney for the bankrupt; and the services of Cullen & Dykman, attorneys for William M. Greve in a special proceeding; from an order fixing the compensation of Theodore Stitt as referee in bankruptcy; from an order in the reorganization proceeding directing the payment of said allowances; and from an order denying a motion to vacate each of said orders the Reconstruction Finance Corporation, a creditor, appeals.

Modified in part and reversed in part.

Debevoise, Stevenson & Plimpton, of New York City; and Max O'Rell Truitt, of St. Louis, Mo. (E. W. Debevoise, William E. Stevenson, and D. F. McGlinchey, all of New York City, of counsel), for appellant Reconstruction Finance Corporation.

Goldwater & Flynn, of New York City (Monroe Goldwater, Nathan Golstein, and Oliver T. Cowan, all of New York City, of counsel), for trustee in bankruptcy in reorganization.

Robert P. Levis, of New York City, for Allied Owners Corporation.

Cullen & Dykman, of Brooklyn, N. Y. (Maximilian Moss and John B. Bennett, both of Brooklyn, N. Y., of counsel), for William M. Greve.

Before Manton, Swan, and Augustus N. Hand, circuit judges.

Augustus N. Hand, circuit judge.

The questions raised by these appeals all relate to allowances which the court in charge of a proceeding for the reorganization of Allied Owners Corporation under section 77B of the Bankruptcy Act (11 U. S. C. A., sec. 207) ordered to be paid to persons engaged in a prior bankruptcy proceeding of that company. On August 8, 1933, the company was adjudicated a bankrupt on its voluntary petition. Stephen Callaghan and Percival E. Jackson became trustees in bankruptcy on August 25, 1933, and William M. Greve became a trustee on September 14, 1933. The delay between the date of his election and the date of taking office was due to his rejection by the referee because of a supposed disqualification. After the referee's ruling he employed Cullen & Dykman as his personal counsel and was reinstated by the court. On June 22, 1934, the bankruptcy proceedings were superseded by proceedings for reorganization under section 77B, and the former trustees in bankruptcy were appointed trustees in reorganization. Messrs. Goldwater and Flynn were attorneys for the trustees in each proceeding. The tenure of the trustees in bankruptcy and their counsel lasted about 10 months, and the amounts to which they are entitled as compensation for services during that period are in dispute on the present appeal. There is also before us the question of the compensation of Robert P. Levis, the attorney for the bankrupt, of Cullen & Dykman, who performed legal services in securing the reinstatement of William M. Greve as trustee, and of William Stitt, who as referee was in charge of the bankruptcy proceeding.

The referee awarded compensation to the persons engaged in the bankruptcy proceeding other than himself, and submitted to the district judge the question of the amount of his own compensation. The judge entered an order fixing the compensation of the referee at $25,000 and approving the awards made by the latter to the other persons. He fixed them at the same amounts except in the case of the three trustees in bankruptcy, whose award he raised from $60,000, allowed by the referee, to $90,000. After this was done the same judge made an order in the section 77B proceeding directing the payment of these allowances out of the estate of the debtor. As finally ordered, they were as follows:

To the trustees in bankruptcy	$90,000.00
To Goldwater & Flynn, attorneys for the trustees in bankruptcy	75,000.00
To Robert P. Levis, attorney for bankrupt	10,000.00
To Theodore Stitt, referee	25,000.00
To Cullen & Dykman, attorneys for William M. Greve, for services and disbursements prior to his qualifying as trustee	2,474.35

The Reconstruction Finance Corporation, a large creditor of Allied Owners Corporation, seeks by this appeal to have the allowances to the trustee, their attorneys, and the attorney for the bankrupt reduced, and those to the referee and Messrs. Cullen & Dykman entirely eliminated.

[1, 2] The appellant objects to the allowance to the trustees not only because it is excessive but because their compensation was governed by section 48a of the Bankruptcy Act (11 U. S. C. A., sec. 76 (a)), and, under that section, they were limited to "such commissions on all moneys disbursed or turned over to any person, including lienholders, by them, as may be allowed by the courts, not to exceed 6 percent on the first $500 or less, 4 percent on moneys in excess of $500 and less than $1,500, 2 percent on moneys in excess of $1,500 and less than $10,000. * * *" They may also, under section 48e of the act (11 U. S. C. A., sec. 76 (e)), receive an additional 1 percent if, as here, they conduct the business. If section 48a and section 48e had been applied, the trustees in bankruptcy would have been limited to the statutory fees on $731,425.57 cash turned over by them, or $14,628.50. But it is argued that their compensation was subject to no such limitations and that the language of section 77B (i) of the act (11 U. S. C. A., sec. 207 (i)) leaves the amount of compensation for services in the prior bankruptcy proceeding to the discretion of the judge in the reorganization proceeding, guided only by the "rule of reason." In our opinion, however, section 48a fixes the bounds of the fees which the trustees in bankruptcy can claim.

We have discussed the application of section 77B (i) in *Matter of New York Investors, Inc.* (C. C. A., 79 F. (2d) 182), so far as it relates to the fixing of fees in a prior-equity receivership. The principles involved where the prior insolvency proceeding is in bankruptcy are the same. Section 77B (i) provides that if a receiver or trustee has been appointed by a Federal, State, or Territorial court and if thereafter a reorganization proceeding under section 77B supervenes, "the trustee or trustees appointed under this section, or the debtor if no trustee is appointed, shall be entitled forthwith to possession of and vested with title to such property, and the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver or prior trustee and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver or prior trustee. * * *" The foregoing section, in our opinion, requires that the prior insolvency court shall fix allowances and the reorganization court shall provide for their payment insofar as they are found to be "reasonable." It seems quite unlikely that such a provision, made, as we believe, in order that the reorganization court might benefit by the experience of the prior court and its familiarity with the details of the business, was intended to leave the prior court free, within its statutory limitations, to fix conclusively any allowance it might deem reasonable. No such freedom had existed where ordinary bankruptcy had succeeded a State receivership (*Taylor* v. *Sternberg*, 293 U. S. 470; 55 S. Ct. 260, 79 L. Ed. 599; *Gross* v. *Irving Trust Co.*, 289 U. S. 342, 53 S. Ct. 605, 77 L. Ed. 1243, 90 A. L. R. 1215; *Hume* v. *Myers*, C. C. A., 242 F. 827). We think it plain that the words "equitable" and "reasonable" were intended to mean "reasonable" in the eyes of the reorganization court, and were to serve only as a check by the section 77B court on payments which might affect the proposed reorganization unfairly. If the parties whose compensation was fixed by the prior insolvency court felt aggrieved, they would seem to have had an obvious remedy by an appeal from the court which had fixed their compensation.[1] Under section 77B (i) the reorganization court is given power to pay allowances which have been fixed by the prior court only to the extent that they are found reasonable. Nothing in the language of the subdivision suggests the removal of any restriction which may exist upon the prior court in the determination of allowances. Indeed, it is impossible to imagine that court awarding compensation in excess of limitations imposed by a statute to which its orders are made subject. It seems equally unlikely that the reorganization court should be empowered by mere implication to make allowances for services by the agencies of another court which the statutes governing the action of that court forbid.

Judge Goddard in *Matter of Paramount Publix Corporation* ((D. C.) — F. Supp. —, Dec. 10, 1934) held that section 77B of the Bankruptcy Act did not enlarge the fees which might be granted under section 48a to trustees in bankruptcy, and we think his decision was entirely correct. In re National Department Stores, Inc., supra, Judge Nields recently held that under section 77B (i) the reorganization court had no power to revise allowances fixed by the prior court. With all due respect, we cannot agree with an interpretation of the subdivision that would seem to make the words "equitable" and "reasonable" mere exhortations to the prior insolvency court which could result in no effective control by the reorganization court over excessive allowances. We believe that it was the purpose of Congress to lessen the cost of insolvency proceedings which have long been regarded as too great (Cf. remarks of Cardozo, judge, in *Realty Associates Securities Corporation* v. *O'Connor*, 294 U. S. —, 55 S. Ct. 663, 79 L. Ed. —).

[3] It is argued that section 77B (k) of the act (11 U. S. C. A., sec. 207 (k)) makes section 48a inapplicable to the prior bankruptcy proceeding. This is plainly unsound. Subdivision (k) in terms relates only to "proceedings instituted under this section [77B]." It provides that certain sections of the Bankruptcy Act, including section 48 (11 U. S. C. A., sec. 76), shall not "apply to proceedings instituted under section 77B [this section] unless and until an order" of liquidation has been entered. This means that the judge fixing fees for services in a section 77B proceeding shall not be limited by section 48, and not that the bankruptcy judge in fixing fees in that proceeding is not so bound.

[4] It has been suggested that the trustees might be allowed compensation larger than $14,628.50 by calculating their commissions on the value of property as well as "moneys disbursed or turned over to any person", upon the analogy of *In re Toole* (D. C.) (294 F. 975) and *In re Kessler* (unreported decision in the

southern district of New York, July 16, 1918). But neither of these decisions was made upon facts like the present, and, if sound, each is limited to cases where it can be said that there is a constructive disbursement of moneys by turning over property at an agreed valuation. Here the commissions had to be figured upon cash disbursed (*In re Detroit Mortgage Corporation* (C. C. A. 6), 12 F. (2d) 889; certiorari denied, *Security Trust Co.* v. *De Land*, 273 U. S. 713, 47 S. Ct. 107, 71 L. Ed. 854; *American Surety Co.* v. *Freed* (C. C. A. 3), 224 F. 333). While we should allow a substantially larger compensation if we were at liberty to disregard section 48a, the amount awarded by the district court was plainly excessive. The services of the trustees only lasted 10 months, were in many respects preliminary to a reorganization, and were far less burdensome than those of their counsel. If the reorganization succeeds, they will be entitled to substantial compensation in the 77B proceeding.

We see no reason under present circumstances to suspend the payment of allowances to either the trustees or their counsel for work which has been completed. We award to the former $14,628.50, instead of the $90,000 granted by the district court.

[5] The next item to be considered is the compensation of Messrs. Goldwater & Flynn, the attorneys for the trustees in the bankruptcy proceeding. The value of the assets of the bankrupt based on the statement of its accountants as of December 31, 1933, was $18,161,470.38. This, of course, did not represent the realizable value at the date of bankruptcy, and the properties were subject to mortgages amounting to about $11,662,000. Among the principal properties of the estate were seven moving-picture theaters and a note of Ringling Bros. in which its participation interest was $828,000. In addition to this, there was cash on deposit in various banks and trust companies aggregating $341,414.22. The bankrupt was a subsidiary of New York Investors, Inc., which was in the hands of receivers in equity, and as such was involved in its complicated affairs. One of the most important matters that the attorneys had to attend to arose out of two actions pending on behalf of the bankrupt to recover monthly installments of purchase price on three of the theater properties from Loew's Theater & Realty Corporation and Loew's, Inc. The total amount sued for was nearly $300,000. Many complicated questions of law and fact were involved in these litigations in which answers and counter claims had been interposed, and the cases were prepared for trial by Messrs. Goldwater & Flynn. They were finally settled, shortly after the trustees under section 77B were appointed, by means of a guaranty by Loew's, Inc., of the aggregate amount payable under the installment contracts. Undoubtedly the settlement was largely due to the preparation of the cases for trial, and the guaranty of some $12,000,000 of future installment payments is said to be good. Claims for about $23,000,000 prepared by the attorneys were asserted by the trustees against Paramount Publix Corporation based on alleged damages because of breach by the latter of contracts for the purchase of theaters. The claims against Paramount were settled long after the termination of this proceeding. The Manufacturers Trust Co., which was trustee under a trust deed that secured a large bond issue, was dissuaded from foreclosing mortgages covering the theaters, and this made it possible to proceed with the actions against Loew's Theater & Realty Corporation and Loew's, Inc., and finally to settle them. These and many other important matters, such as litigation over the Ringling note, requiring skill and experience, are said to have occupied one or more of the partners in Goldwater & Flynn and two of their legal assistants for some 4,508 hours, of which 3,023 were those of their assistants. Many of the things done by these lawyers, as is always the case, were routine matters; many were matters of large importance; many were of a sort preliminary to the reorganization, which has not yet been completed. We think $50,000 is a reasonable compensation for these attorneys, and we award that amount, instead of $75,000, to which is to be added their disbursements of $1,247.80 directed to be paid by the district judge.

[6, 7] The attorney for the bankrupt was allowed $10,000 for his services. His most important services were advising the corporation about going into bankruptcy, preparing the petition, schedules, amended schedules, and notices to banks, asking for the immediate appointment of a trustee, and taking steps that were evidently successful, to prevent the expense of a receiver. These things were for the benefit of the estate and properly chargeable to it. His other services in attending creditors' meetings and examinations under section 21a of the act (11 U. S. C. A. sec. 44 (a)), supporting the proceeding of Mr. Greve for reinstatement as trustee, acquainting the trustees and their counsel with the previous business of the bankrupt, making arguments in connection with the Ringling note, arguing against the attempted foreclosure by the Manufacturers Trust Co. and Realty Associates, Inc., negotiating with the Loew interests, and filing the petition under section 77B, are not matters for which compensation can properly come from the bankrupt estate. Undoubtedly, the preparation of the schedules was a difficult matter requiring much time, labor, and skill, but an allowance of $5,000 is, in our opinion, adequate, if not liberal, compensation for all the services chargeable to the estate. We award that amount to the attorney for the bankrupt, instead of the $10,000 granted by the District Court.

[8] The award of $25,000 to the referee was clearly erroneous. We have already shown that the reorganization court was without power to increase allowances fixed by the prior court and that the prior court was limited by the provisions of the Bankruptcy Act. Under section 40a of that act (11 U. S. C. A., sec. 68 (a)), referees are only entitled to "a fee of $15 * * * in each case * * * and 25 cents for every proof of claim filed for allowance * * * and from estates which have been administered before them 1 percent commissions on all moneys disbursed to creditors by the trustee. * * *" Under section 40a, the referee here was limited to a fee of $15 and his filing fees, and under section 72 of the act (11 U. S. C. A., sec. 112) could not "in any form or guise receive * * * any other or further compensation."

[9] The award of $2,474.35 to Cullen & Dykman cannot stand. They performed legal services for Mr. Greve in procuring his reinstatement after the referee declined to approve his election by the creditors. But he was not trustee at the time the services were performed. They were performed for him personally, and, though they doubtless resulted in a benefit to the estate when the selection of a good trustee was thereby secured, it was not the sort of benefit which can be the basis of a charge against the fund in the hands of the trustees. The situation resembles that in *Weed* v. *Central of Georgia Ry. Co.* ((C. C. A. 5) 100 F. 162, 167), where an allowance was sought by counsel for an intervening creditor for securing the appointment of a coreceiver. The application was denied, the court saying: "That kind of service is certainly such a service as should be paid for by their clients."

The orders are modified as to Stephen Callaghan, Percival E. Jackson, William M. Greve, Goldwater & Flynn, and Robert P. Levis, and reversed as to Theodore Stitt and Cullen & Dykman, in accordance with this opinion.

In re Insull Utility Investments, Inc. No. 49943. District Court, N. D. Illinois, E. D. December 22, 1933

In bankruptcy. In the matter of Insull Utility Investments, Inc., bankrupt. On petition by Calvin Fentress, receiver, for compensation for his services rendered as receiver and for compensation to his attorneys for legal services.

Order refusing further allowance of fees to receiver or his counsel.

White & Hawxhurst and Jacobson, Merrick, Nierman & Silbert, all of Chicago, Ill., for petitioning creditors.

Rosenthal, Hamill & Wormser, of Chicago, Ill., for trustee.

William L. Latimer, of Chicago, Ill., for bankrupt.

Samuel A. & Leonard B. Ettelson, of Chicago, Ill., for Amy B. Ettelson.

Cassels, Potter & Bentley, of Chicago, Ill., and Allen & Dalbey, of Danville, Ill., for Calvin Fentress.

Evans, circuit judge.

The questions which are here presented grow out of the petition of Calvin Fentress for compensation for services rendered as receiver and compensation to Allen & Dalbey and Cassels, Potter & Bentley for legal services rendered.

(1) Fentress was appointed receiver of the Insull Utility Investments, Inc., upon motion of plaintiff Cherry, who filed a suit in the District Court for the Northern District of Illinois against said company. After his appointment as receiver in the main suit brought in the northern district of Illinois, he was appointed ancillary receiver in New York and was later appointed receiver in the bankruptcy proceedings instituted in the northern district of Illinois against the same company. He asks for compensation for himself and for the attorneys who acted as his counsel. Although his request for compensation is for services rendered by him and his attorneys in the bankruptcy matter, the court is required, under the rule laid down in *Gross* v. *Irving Trust Co.*, 289 U. S. 342, 53 S. Ct. 605, 77 L. Ed. 1243, to finally pass upon the reasonableness of the compensation allowed in the equity receivership matters and, to do so, must determine the value and the necessity of the services rendered by the receiver and his attorneys.

One Ettelson, an unsecured creditor, objects to the allowance of any fees either to the receiver or his attorneys, Allen & Dalbey, on the ground that the suits were collusively instituted to secure, through the practice of fraud on the court, the appointment of receiver and counsel who would not, and could not, adequately represent those not parties to the fraudulent agreement. No objection is made to the allowance of fees to Cassels, Potter & Bentley, who were employed some weeks after the receiver was appointed, and who are admittedly outside the scope of the alleged collusive agreement; nor is there any objection to the reasonableness of the sums sought, if the court be of the opinion that fees should be allowed.

All of the receiverships above mentioned have been terminated, and the receiver Fentress has turned over all of the assets, which he received or collected as receiver, to his successor, the trustee of the bankrupt estate of Insull Utility Investments, Inc.

The application for the appointment of a receiver of Insull Utility Investments, Inc., was made April 16, 1932. The receiver Fentress was appointed April 16, 1932. He was named ancillary receiver in New York on the 19th day of May 1932. He was named receiver in the matter of the bankrupt estate of Insull Utility Investments, Inc., on the 22d day of September 1932. The trustee of the bankrupt estate was appointed March 9, 1933.

There are two specific questions which the court must determine: (a) Was there such collusion in the institution of the original suit wherein Fentress was appointed receiver, or in the ancillary proceedings wherein he was appointed ancillary receiver, or in the proceedings leading to his appointment as receiver in the bankruptcy matter, as to justify the refusal of any compensation

to him and to his attorneys? (b) If not, what sum would compensate him for work performed and what sum should be allowed his counsel for services rendered?

In order that we may apply the rule, it is necessary first to ascertain what constitutes collusion. It has been frequently defined by various courts, including the Supreme Court.

In *Dickerman* v. *Northern Trust Co.* (176 U. S. 181, 20 S. Ct. 311, 314, 44 L. Ed. 423) the Court said:

"We have no doubt that this judgment was collusive in the sense that it was obtained by the plaintiff and consented to by the defendant company for the purpose of giving the trustees a legal excuse for declaring the principal and interest of the mortgage to be due and to give authority for a foreclosure. But this did not constitute collusion in the sense of the law, nor does it meet the exigencies of the petitioner's case. Collusion is defined by Bouvier as 'an agreement between two or more persons to defraud a person of his rights by the forms of law or to obtain an object forbidden by law', and in similar terms by other legal dictionarians. It implies the existence of fraud of some kind, the employment of fraudulent means, or lawful means for the accomplishment of an unlawful purpose; but if the action be founded upon a just judgment, and be conducted according to the forms of law and with a due regard to the rights of parties, it is no defense that the plaintiff may have had some ulterior object in view beyond the recovery of a judgment, so long as such object was not an unlawful one."

In re Metropolitan Railway Receivership (208 U. S. 90, 28 S. Ct. 219, 224, 52 L. Ed. 403), the court said:

"It is asserted also that there was collusion between the complainants and the street railway companies, on account of which the court had no jurisdiction to proceed * * *. Whether the suit involved a substantial controversy we have already discussed, and the only question which is left under that act is as to collusion.

"In this case we can find no evidence of collusion, and the circuit court found there was none. It does appear that the parties to the suit desired that the administration of the railway affairs should be taken in hand by the circuit court of the United States, and to that end, when the suit was brought, the defendant admitted the averments in the bill and united in the request for the appointment of receivers. This fact is stated by the circuit judge; but there is no claim made that the averments in the bill were untrue or that the debts, named in the bill as owing to the complainants, did not in fact exist; nor is there any question made as to the citizenship of the complainants, and there is not the slightest evidence of any fraud practiced for the purpose of thereby creating a case to give jurisdiction to the Federal court. That the parties preferred to take the subject matter of the litigation into the Federal courts instead of proceeding in one of the courts of the State is not wrongful. So long as no improper act was done by which the jurisdiction of the Federal court attached, the motive for bringing the suit there is unimportant. (*Dickerman* v. *Northern Trust Co.*, 176 U. S. 181, 190; *South Dakota* v. *North Carolina*, 192 U. S. 286, 311; *Blair* v. *City of Chicago*, 201 U. S. 400, 448; *Smithers* v. *Smith*, 204 U. S. 632, 644.)"

Other decisions dealing with the same subject are to be found in *Harkin* v. *Brundage* (276 U. S. 36, 48 S. Ct. 268, 72 L. Ed. 457); *Black & White Taxicab Co.* v. *Brown & Yellow Co.* (276 U. S. 518, 48 S. Ct. 404, 72 L. Ed. 681, 57 A. L. R. 426); *Street* v. *Maryland Central Ry. Co.* (C. C.) (58 F. 47); *Burton* v. *R. G. Peters Salt & Lumber Co.* (C. C.) (190 F. 262); *May Hosiery Mills, Inc.*, v. *F. & W. Grand 5-10-25 Cent Stores, Inc.* (D. C.) (59 F. (2d) 218); *Williams* v. *Nottawa* (104 U. S. 209, 26 L. Ed. 719); *Lake County Commissioners* v. *Dudley* (173 U. S. 243, 19 S. Ct. 398, 43 L. Ed. 684).

A general statement of what constitutes collusion appears in Corpus Juris, volume 11, page 1220, section 2, from which the following quotation is taken:

"Collusion in judicial proceedings is a secret agreement between two persons that the one should institute a suit against the other, in order to obtain the decision of a judicial tribunal for some sinister purpose, and appears to be of two kinds: (1) When the facts put forward as the foundation of the sentence of the court do not exist. (2) When they exist, but have been curruptly preconcerted for the express purpose of obtaining the sentence. In either case the judgment obtained by such collusion is a nullity. The term is nearly allied to covin and has been judicially defined as a secret agreement between two or more persons, whose interests are apparently conflicting, to make use of the forms and proceedings of law in order to defraud a third person, or to obtain that which justice would not give them, by deceiving a court or its officers; a secret understanding between two parties who plead or proceed fraudulently against each other to the prejudice of a third person; an agreement between two or more persons unlawfully to defraud a person of his rights by the forms of the law, or to obtain an object forbidden by law * * * or where two persons apparently in a hostile position, or having conflicting interests, by arrangement do some act in order to injure a third person, or to deceive a court, or by keeping back evidence of what would be a good answer, or by agreeing to set up a false case; a deceitful agreement or compact between two or more persons, for the one party to bring action against the other for some evil purpose, as to defraud a third person of his right; an agreement to obtain an object forbidden by law; a concerted or agreed purpose to commit a fraud or to accomplish a wrong; fraud."

A few illustrations of collusion which clearly fall within the condemnation of the courts may be helpfully stated.

A sues B on a debt when there is no debt, and B by his answer admits the indebtedness pursuant to an agreement between A and B to defraud other creditors of B. Here we have a clear case of collusion. Again, A is indebted to B in a sum less than $3,000 and through agreement with B raises the sum to an amount in excess of $3,000 so that the jurisdiction of the Federal court may be invoked; and B, in his answer, admits indebtedness in excess of $3,000. Here we have another illustration of fraud which clearly establishes collusion.

The instant case, however, may readily be distinguished from the above illustrations.

(2) The inquiry may be stated thus: In a receivership proceeding, may the defendant cause a suit to be brought against it by a bona-fide creditor and, by answering and truthfully admitting the allegations of the complaint, join in the recommendation of a certain receiver? Obviously, the answer must be "yes." No collusion in this statement of facts is disclosed, for, as stated in *Dickerman* v. *Northern Trust Co.* (176 U. S. 181, 190; 20 S. Ct. 311, 314; 44 L. Ed. 423):

"* * * It (collusion) implies the existence of fraud of some kind, the employment of fraudulent means, or lawful means for the accomplishment of an unlawful purpose * * *."

(3, 4) But, if the receivership proceedings are brought about by the defendant (that is, by the defendant's inducing a friendly creditor to bring suit against it) for the purpose of securing a receiver who will be friendly to those who have previously operated the company's affairs and have been guilty of peculation or other wrongdoing, and in the motion for the receiver, the plaintiff, without informing the court who it was that induced him to bring the suit and make the nomination, recommends as the receiver, the party selected by the defendant company, and the defendant, also remaining silent on the conflict of interest, joins in the recommendation, then we have, so far as the appointment of a receiver is concerned, collusion. Likewise, if B, an insolvent company that has preferred X, a creditor, causes a suit to be instituted against it by A, one of its "friendly" creditors, and X and B, for the purpose of preventing the receiver from vigorously prosecuting either the managing officers or those who hold preferred or secured claims subject to be set aside, induce A to recommend to the court the name of one chosen by X and B, and A fails to inform the court by whom his nominee was chosen and fails to inform the court of the adverse character of their interests, then, too, we have a case of collusion.

[5] No other rule could safely be adopted or would adequately protect a court from the imposition of fraud upon it by parties interested in protecting themselves rather than the involved company or its unsecured creditors. The importance of such a rule of practice as here announced can hardly be overestimated. The court should, when appointing receivers, pay heed to the recommendations of those vitally interested. Receiverships are not perquisites or patronage of a court. They are not favors to be passed to friends. The request of those who have invested their money in the enterprise must be the persuasive voice in the determination of the appointee. True, the court has a veto power which should be freely exercised, but only when convinced that another can serve better than the recommended party. It is because of the importance of the recommendation thus made that the court is entitled to candor, good faith, and a full disclosure of the interests of those who bring the suit and of those making the recommendation.

[6] Because the equity proceeding is instituted in order that the affairs of the company may be temporarily operated by a receiver, and operation of such affairs by the receiver is the essence of such suit, we must look to the proceedings preliminary to the receiver's appointment to ascertain whether there was collusion. In the illustrations cited above, the establishment of a fraudulent or an enlarged claim constitutes the collusion. In the case under consideration the inquiry must be directed to interested parties' activities and to the effect of such activities leading up to the appointment of the receiver.

[7] The adversary relation between plaintiff and defendant must exist at all times. It does not and cannot exist where the defendant picks its adversary, prepares a complaint for it, and said adversary appears in court and, as an adversary, nominates one selected by the defendant company or by a creditor whose position is hostile to the position of the receiver to be appointed. That the line of demarcation may be clearly drawn and the distinction between this and other suits which have been sustained by the courts may be emphasized, it may not be inappropriate to more definitely distinguish between proper and improper practices. This I shall endeavor to do.

An involved company may explain its embarrassment to a creditor. It may select one creditor over others. It may urge a creditor to bring a suit and request the appointment of a receiver. It may furnish to said creditor the facts which show the advisability and necessity of the appointment of a receiver. It may recommend for receiver the name of one whom it prefers. All these things it may lawfully and properly do.

But it may not alone, or in conjunction with secured creditors whose security must or may thereafter be attacked by the receiver, induce said creditor to bring the suit and recommend as its own naming a receiver selected by the company and said secured creditors. Nor can an executive of the company interested in protecting his own action, while directing the affairs of the company, assume to speak for the company when it comes to nominating a receiver who, in the performance of his duties, may be required to bring suit against said executive officer. It is not the bringing of a suit by a friendly creditor that is objectionable, nor is consent to the entry of a decree evidence

of collusion. It is only when the suit is one for the appointment of a receiver and the nominee proposed for receiver is urged by one who, assuming to speak as a creditor, voices the recommendation of those whose interests are adverse to that of the company and its creditors that fraud appears.

The word "collusion" is somewhat of a misnomer. The theory upon which the foregoing rule is based must be traceable to certain maxims of equity which find elaboration in the case of *Keystone Driller Co.* v. *General Excavator Co.* (290 U. S. 240, 54 S. Ct. 146, 147, 78 L. Ed. 293), decided December 4, 1933, by the Supreme Court, Justice Butler writing the opinion. The Court was considering the effect of a failure to disclose certain material facts to the Court.

The Court said:

"Plaintiff contends that the maxim does not apply unless the wrongful conduct is directly connected with and material to the matter in litigation, and that, where more than one cause is joined in a bill and plaintiff is shown to have come with unclean hands in respect of only one of them, the others will not be dismissed.

"The meaning and proper application of the maxim are to be considered. As authoritatively expounded, the words and the reasons upon which it rests extend to the party seeking relief in equity. 'It is one of the fundamental principles upon which equity jurisprudence is founded, that before a complainant can have a standing in court he must first show that not only has he a good and meritorious cause of action, but he must come into court with clean hands. He must be frank and fair with the court; nothing about the case under consideration should be guarded, but everything that tends to a full and fair determination of the matters in controversy should be placed before the court.' (Story's Equity Jurisprudence (14th ed.) sec. 98.) The governing principle is 'that whenever a party who, as actor, seeks to set the judicial machinery in motion and obtain some remedy, has violated conscience, or good faith, or other equitable principle, in his prior conduct, then the doors of the court will be shut against him in limine; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any remedy.' (Pomeroy, Equity, Jurisprudence (4th ed.) sec. 397.) This court has declared: 'It is a principle in chancery that he who asks relief must have acted in good faith. The equitable powers of this court can never be exerted in behalf of one who has acted fraudulently or who by deceit or any unfair means has gained an advantage. To aid a party in such a case would make this court the abetter of iniquity' (*Bein* v. *Heath*, 6 How. 228, 247, 12 L. Ed. 416.) And again: 'A court of equity acts only when and as conscience commands; and if the conduct of the plaintiff be offensive to the dictates of natural justice, then, whatever may be the rights he possesses and whatever use he may make of them in a court of law, he will be held remediless in a court of equity' (*Deweese* v. *Reinhard*, 165 U. S. 386, 390, 17 S. Ct. 340, 341, 41 L. Ed. 757).

"But courts of equity do not make the quality of suitors the test. They apply the maxim requiring clean hands only where some unconscionable act of one coming for relief has immediate and necessary relation to the equity that he seeks in respect of the matter in litigation. They do not close their doors because of plaintiff's misconduct, whatever its character, that has no relation to anything involved in the suit, but only for such violations of conscience as in some measure affect the equitable relations between the parties in respect of something brought before the court for adjudication (Story, id., sec. 100; Pomeroy, id., sec. 399). They apply the maxim, not by way of punishment for extraneous transgressions, but upon considerations that make for the advancement of right and justice. They are not bound by formula or restrained by any limitation that tends to trammel the free and just exercise of discretion."

It is urged that the practice followed in the instant case has the sanction of like practices in most large receivership matters here and elsewhere. If so, the solution is a simple one. Cease the practice.

As the rule of conduct has been determined, it becomes necessary to consider the evidence to ascertain whether the parties seeking the appointment of a receiver kept within, or stepped outside, the rule of proper conduct.

[8] A brief review of the situation that existed when the receiver was appointed is herewith attempted. It is quite impossible to separate the application for the appointment of a receiver in the Insull Utility Investments, Inc., from like applications in Middle West and Corporation Securities Cos. Three companies were organized and promoted by the so-called Insull interests. They all revolved about the activities of one Samuel Insull, Sr. One company, the Middle West, was a holding company, and the other two are investment trusts. Neither the genus, the holding company, nor the specie, the investment trust, can find but little justification for legal existence. Their unfortunate presence in our midst is due to the desire of States to secure revenue and the race of the States has been one of laxity and not one of diligence (*Liggett* v. *Lee*, 288 U. S. 559, 53 S. Ct. 481, 77 L. Ed. 929, 85 A. L. R. 699).

As it was conducted in 1929, the investment trust was nothing but a glorified gambling institution. Hardly had Insull Utility Investments, Inc., sailed forth on the sea of speculation carrying the Insull flag than it was attacked by the pirate ship Eaton, from Cleveland. In 1929, piracy was not outlawed, nor, it seems, was there any closed season on the operations of those engaged in this popular pastime on the sea of high finance. When the smoke of this conflict disappeared and the damage was appraised, it was found that the assets of the Insull Utility Investments, Inc. were sadly depleted. In the succeeding months the company borrowed vast and ever vaster sums of money from banks to secure which it hypothecated most of its remaining assets.

On April 16, 1932, when the receivers were appointed, it had outstanding unsecured debentures of series B, aggregating $60,000,000, and it had another issue of debentures, known as series A, aggregating $6,000,000. It owed banks in the sum of $42,085,020, all secured. Its capital stock was represented by 60,000 shares of prior preferred stock without par value; 40,000 shares of preferred stock, first series without par value; 450,000 shares of preferred stock, second series; and 3,636,622 shares of common stock without par value. Its unliened assets aggregated approximately $1,500,000. Mr. Insull made one last, final effort to borrow money with which to pay interest on the debenture notes but failed. The company was therefore unable to pay the interest about to become due upon its debenture notes. In short, its financial condition was desperate beyond all hope of rehabilitation. It was hopelessly and irretrievably insolvent.

Each debenture note contained the following provision:

"The company hereby covenants and agrees with the holder hereof that so long as this debenture shall be outstanding and provision for the payment thereof shall not have been made, it will not mortgage or pledge any of its property unless the instrument creating such mortgage or pledge shall provide that this debenture shall be secured thereby equally and ratably with all other obligations issued or to be issued thereunder, except that the company without so securing this debenture (a) may at any time mortgage or pledge any of its property for the purpose of securing loans to the company contracted in the usual course of business for periods not exceeding 1 year, and (b) may, in order to secure the purchase price or part thereof of any property which it may hereafter acquire, mortgage, or pledge any or all of such acquired property."

It was in the face of this situation that Samuel Insull, Sr., invited representatives of banks, who held the company's notes secured by the company's assets, to meet and discuss with him the question of a receivership, which discussion included the nomination of receivers.

Mr. Insull's attorneys, presumably upon his instructions, drew bills of complaint for the appointment of a receiver for at least two, if not three, of the aforenamed companies. At the second meeting held in Insull's office that gentleman refused to accept Mr. Calvin Fentress as sole receiver of Insull Utility Investments, Inc.

Secured creditors suggested the name of Mr. Calvin Fentress. Mr. Insull insisted upon naming one of his attorneys as coreceiver. An agreement was then reached and carried out whereby the banks named one receiver, Mr. Insull named the others. The plaintiff who brought the suit represented to the court that the two chosen individuals were the choice of himself and other creditors.

The banks insist that they were activated only by the best of motives in suggesting the name of Calvin Fentress. The subsequent conduct of Mr. Fentress justified the words of commendation of him spoken, but the situation which existed in the affairs of the company made the action of those who sponsored him collusive.

The company had assets of $1,500,000 with which to meet the unsecured debenture obligations of $66,000,000, as well as other debts which would, of course, leave nothing for the stockholders. The debenture holders had, however, a possible claim against the banks because of the alleged unauthorized action of Mr. Insull in hypothecating the assets which were the only security back of the debenture notes. I do not mean to say that the cause of action in favor of the debenture holders against the secured creditors is a good one. That question is not before me, and I have not been enlightened as to the facts. However, there was the cause of action, and it constituted the one and only hope of the debenture holders.

In such a situation the query, Who represented the debenture holders?, becomes an insistent and a most pertinent one.

The secured creditors were not interested in the receiver, for their claims were secured by the hypothecated securities of the company. Mr. Insull, the other nominator of the receivers, asserted an interest because he and his family owned stock in the company. The stock was worthless, however, even if the assets of the bank were returned to the company. Only a small fraction of the indebtedness could be paid, which left absolutely nothing for the stockholders. Mr. Insull (and I refer at all times to Insull, Sr., and not Insull, Jr.) was, however, interested in perpetuating his control and perhaps avoiding liabilitity for unauthorized official and other action. The secured creditors, likewise, might have been interested in obtaining the appointment of receivers who would not too aggressively or ably prosecute the company's suit to recover the hypothecated assets. These two interests, thus uniting upon receivers, sought a creditor who signed the bill of complaint prepared for him, and his representative presented it to the court with a statement that the principal creditors desired the appointment of Mr. Fentress and Mr. Cooke.

Upon this showing, and bearing in mind that the suit was one for the appointment of a receiver, a finding that the suit was collusively brought is unavoidable.

But the question of Mr. Fentress' compensation, notwithstanding the collusive agreement, remains for determination. Moreover, his appointment in the ancillary suit was not objectionable, unless such ancillary proceedings are subject to the same attack

as the main suit. There can, however, be little question but that his appointment as receiver in the bankruptcy proceedings was on the judge's own initiative and uninfluenced by any outside recommendation. The testimony on the trial supplemented by the voluminous record before me confirm Judge Lindley's judgment. Calvin Fentress, as receiver, earned and deserved the appointment of receiver in the bankruptcy proceedings provided it was a proper case for the appointment of a receiver. His conduct throughout the receivership proceedings was that of an independent and aggressive officer of the court, who merited the court's approval. No sooner was he appointed than he sought and secured an order enjoining the creditor banks in New York from selling the securities which they held. When the order was vacated on appeal, he was appointed ancillary receiver in New York and again stayed the hand of the secured creditor banks in New York by legal action. He promptly demanded and secured the consent of the creditor banks in Chicago, who held the securities hypothecated with them, to hold such securities and not to offer them for sale without 5 days' notice to him, and otherwise fully protected the assets of the company for which he was acting as receiver. He was vigilant, honest, and industrious.

His coreceiver, Mr. Cooke, resigned shortly after he was appointed and there is no question involved concerning his action or his compensation.

Mr. Insull, who, as a part of this general scheme, was appointed one of the receivers of Middle West Utilities Co., was, a few weeks after his appointment and immediately upon the discovery of irregularity in his conduct, removed as receiver by Judge Lindley. Judge Lindley's prompt action in dismissing him immediately upon the discovery of grounds therefor, is to be commended.

During the entire period from April 16, 1932, when Fentress was appointed, until he turned over the assets to the trustee in bankruptcy, no creditor, debenture holder, or anyone else objected to his appointment as a receiver.

Whether the compensation of a receiver appointed under the circumstances here shown should be denied in toto (where creditors do not object and the receiver renders valuable and honest service) or whether such compensation should be charged to the plaintiff who brought the suit, need not be decided in view of my determination of the fair value of the receiver's services necessarily rendered.

FEES

[9] While the objecting creditor has not contested the amount of the fees, if the right to recover exists at all, the court is not so readily absolved from responsibility. The court must determine the reasonableness of the charges, even though no objections are made by any security holder.

Before taking up the specific facts in the instant case, it may not be inappropriate for me to give my conception of a receiver's duties, without an understanding of which it is difficult, if not impossible, to appraise the value of his services or the amount of compensation which should be awarded him.

The position of receiver is one which calls for the performance of responsible and onerous duties, the rendition of which may, as in this case, result in criticism. At times the positions of creditors and stockholders of an involved company are antagonistic and the receiver must act honestly, fairly, impartially and without fear of criticism or attack. He is an officer of the court and often referred to as an arm of the court. His selection evidences confidence in him by those who nominate him and by the court that appoints him. His qualifications should be those that invite trust and confidence. Because of his integrity and experience and his record of achievement in other fields of activity, he is selected. The position is therefore one of honor. And this, too, must have a large bearing in determining the amount of his compensation. By honor, I do not refer to those superficial and artificial indicia of office or position which express themselves in titles, in robes, in ranks, in preferred positions at social functions, and so forth. Honor as here used has reference to the esteem which is paid to worth—to men who have learned and fully appreciate the meaning of the word "responsibility." I, of course, use the word "honor" in this sense when I refer to the position of receiver as one of trust and honor.

The position of receiver being one of honor and trust, an officer of the court, the incumbent must recognize that a substantial part of his compensation must be found in the opportunity to serve. He has, in other words, joined the ranks of those who are public servants, whose compensation never has been and never will be as large as of those engaged in private employment. His compensation must in some ways be compared to the salary of the judge who was sitting on the bench when the appointment was made. An inquiry into the compensation of the United States district attorney and the postmaster is appropriate. The salary of the Chief Justice of the United States Supreme Court may well be viewed as the maximum which should be allowed. These are not the sale tests, but it must be recognized that receivers in the Federal courts are in their nature public officers and their compensation must be determined in the light of such facts. Unless the courts can secure the services of such men, and unless courts insist upon the selection of such receivers, the task of meeting a situation such as has confronted them since 1929 may well be surrendered to other bodies.

Unless the appointee looks upon the appointment as an opportunity for real service, he will not be reconciled to this compensation. But until and unless such a conception of his position is fully established, it seems to the writer that the administration of embarrassed or bankrupt companies in the Federal courts will never be satisfactory.

[10] The Supreme Court in *Newton* v. *Consolidated Gas Co.* (259 U. S. 101, 105, 42 S. Ct. 438, 439, 66 L. Ed. 844), has announced standards by which compensation of officers of the court may well be measured. It said:

"The value of a capable master's services cannot be determined with mathematical accuracy; and estimates will vary, of course, according to the standard adopted. He occupies a position of honor, responsibility, and trust; the court looks to him to execute its decrees thoroughly, accurately, impartially, and in full response to the confidence extended; he should be adequately remunerated for actual work done, time employed, and the responsibility assumed. His compensation should be liberal, but not exorbitant. The rights of those who ultimately pay must be carefully protected; and while salaries prescribed by law for judicial officers performing similar duties are valuable guides, a higher rate of compensation is generally necessary in order to secure ability and experience in an exacting and temporary employment which often seriously interferes with other undertakings. See *Finance Committee of Pennsylvania* v. *Warren* (82 F. 525, 527, 27 C. C. A. 472); *Middleton* v. *Bankers' & Merchants' Tel. Co.* ((C. C.) 32 F. 524, 525).

"Having regard to these general principles and the special value of knowledge possessed by the trial court, much weight must be given to its opinion. Ordinarily we may not substitute our judgment for its deliberate conclusions, nor interfere with the exercise of its discretion. But when that court falls into error which amounts to abuse of discretion and the cause comes here by proper proceedings, appropriate relief must be granted.

"Notwithstanding protracted, painstaking, and for the most part excellent services rendered by the master and the large amounts involved in these causes, after viewing the records and considering the circumstances disclosed, we cannot doubt that the allowances are much too large—certainly twice and three times what they should be. If the time devoted to the entire service—282 days—be accepted as equivalent to 1 year, the total allowance is 15 times the salary of the trial judge and 8 times that received by justices of this court. It may be compared to the compensation of the mayor of New York City, $15,000, the salaries of the Governor and members of the Court of Appeals of New York, $10,000, and the $17,500 paid to judges of the supreme court in the city of New York. Although none of these can be taken as a rigid standard, they are to be considered when it becomes necessary to determine what shall be paid to an attorney called to assist the court. His duties are not more onerous or responsible than those often performed by judges."

Another important factor in the compensation of the receiver is the time devoted to the work and the character of the work performed. Does such appointment exclude the appointee from carrying on other work? Is the appointee thus named a receiver in other suits? Are the appointees engaged in business, and does the appointment terminate such participation? Another matter: Does the performance of the receivership call for special knowledge and special training? If so, does the receiver who is appointed qualify? A single illustration will suffice. A president of a railroad has reached his position after 40 years of service. He has devoted his entire life and all his time to the transportation business. His road goes into receivership, and he is named receiver. He continues to devote his entire time, and his experience is as valuable as a receiver as it was as president of the railroad. Under such circumstances the court must, of course, consider the compensation which the appointee received as president of the railroad. The same applies to the receiver of any other utility. If the appointee be an engineer or an operator, whose years of experience especially qualify him and he has technical training supplementing such experience, and he gives all of his time to the task, he should be paid more than one who, though entitled to the confidence of the court, is not equally qualified to render the service for which the technical experience of the engineer qualifies him. Nor should one award the same compensation to an outsider who does not devote all of his time to the management and operation of the company.

Moreover, the success of the receivership cannot be entirely overlooked in determining the fees which should be allowed, although at times the importance of this factor is often greatly exaggerated, and at times, though rarely, it has been underestimated.

[11] And finally, in determining compensation, it must be kept in mind that 1933 is not 1929. The wages and salaries of all kinds were much lower in 1932 than in the twenties. The difference must be reflected in the compensation of receivers and their counsel, as it is in other fields.

[12] Mr. Fentress as receiver in equity charged and received $12,500. As receiver in the ancillary proceedings, his bill is $7,500. As receiver in bankruptcy, he asks $10,000. In all three proceedings he served for a period of 11 months.

Mr. Fentress devoted 11 months to all three services. He has received $12,500. He has not severed his connection with the business house of which he was an officer. Considering what has been said, I am of the opinion that Mr. Fentress has received all the compensation the court should allow him. In other words, I fix the value of his services at $12,500 in this case. This sum he has received. No further allowance will be made.

[13, 14] In view of what has already been stated on the subject of receivers' fees, little need be said of lawyers' fees.

Receiverships, as far as fees are concerned, are of two kinds. One class calls for administrative work such as the operation of a manufacturing plant or the running of a public utility. Here

the receiver renders the greater service. In the other class of cases, the problems are legal in nature and demand the rendition of legal services in following assets which have disappeared or which have been transferred, etc. In the latter class, the attorneys render the more important service.

The legal services rendered in this case, while entirely worthy and evidencing ability, were devoted to maintaining the status quo rather than to the recovery of the securities hypothecated with the secured creditors. No increase in the assets of the estate resulted from the services of counsel or receiver. This fact is most significant. Compensation should be generous when the attorneys, through their efforts, create the estate to be administered. When their services are rendered without hope of compensation unless they are successful in creating the estate to be administered, their compensation should be still larger. For under such circumstances the attorneys work on a contingent or a nearly contingent basis.

Each firm has filed itemized statements setting forth the time devoted to the case. Each firm has received $12,500. The firm of Cassels, Potter & Bentley ask for a further allowance of $5,000; while Allen & Dalbey pray an allowance of $9,000.

Under numerous authorities there was no ground for the appointment of a receiver in the bankruptcy matter. *In re E. H. Walsh, Inc.* (C. C. A. 295 F. 504); *In re Gochenour* (C. C. A. 64 F. (2d) 500); *Ingram* v. *Ingram Dart Lighterage Co.* (D. C. 226 F. 58); *In re Federal Mail Co.* (D. C. 233 F. 691); Collier, Bankruptcy Supp., p. 23. The rule seems to be that receivers in bankruptcy matters will not ordinarily be appointed where there are duly appointed receivers in possession of the property. The statute itself (Bankruptcy Act, sec. 2, subd. 3, 11 U. S. C. A., sec. 11 (3)) provides limitations on the powers of the court to make appointments. It provides for the appointment of "receivers or marshals, * * * in case the courts shall find it absolutely necessary, for the preservation of estates, to take charge of the property of bankrupts * * *."

Likewise, the duties of the receiver and his attorneys are limited —quite different from those of a receiver in the ordinary equity suit or from those of a trustee subsequently named in the bankruptcy matter. *In re Marcuse & Co.* (C. C. A. 11 F. (2d) 513).

The bankruptcy estate for which the receiver was appointed and for whom the attorneys rendered their services consisted of stocks, notes, and bonds of various public utilities. These assets required little or any service, legal or otherwise, to protect them pending the election of the trustee in bankruptcy. They were not perishable commodities. It is inconceivable that any considerable amount of time was necessarily devoted to the protection or preservation of these securities by counsel or receiver.

Under all the circumstances the court finds that the allowance or $12,500 in each case is sufficient. The court concludes that further allowance in either case would be unjustifiable.

The court finds there was no collusion in the naming of counsel. In fact, the firm of Cassels, Potter & Bentley was not appointed until some weeks after the receivers were named. The objector Ettelson, in open court, disavowed all intention of involving this firm in the collusion charges.

Expenses and disbursements have been incurred by counsel as well as receiver. No objection is made to either the amount or to any item. They will be allowed.

An order will be entered refusing further allowance of fees to receiver and refusing further allowance to counsel. The same order will provide for the payment of said expenses and disbursements.

In re Kentucky Electric Power Corporation. District Court, Western District of Kentucky. August 12, 1935

Proceedings in the manner of the Kentucky Electric Power Corporation, debtor. On petitions of attorneys for bondholders' committee, attorneys for debtor, and bondholders' committee for allowance of fees and expenses.

Orders in accordance with opinion.

Ritchie, Janney, Ober & Williams, of Baltimore, Md., and Crawford, Middleton, Milner & Seelbach, of Louisville, Ky., for petitioners.

Hamilton, district judge:

This action is pending before the court on the petition of the law firm of Ritchie, Janney, Ober & Williams, Baltimore, Md., attorneys for the bondholders' committee, for an allowance of an attorneys' fee of $20,000 and expenses of $918.89; petition of Crawford, Middleton, Milner & Seelbach, Louisville, Ky., attorneys for the debtor, for an allowance of $5,000; and petition of Moncure Biddle, J. C. M. Lucas, and Charles B. Roberts 3d, bondholders' protective committee, for an allowance of $12,000, $4,015.94 of which has heretofore been paid (without the approval of the court), and in addition the committee requests an allowance of $4,473.68 for expenses incurred.

The attorneys for the bondholders' protective committee set out as a basis for their charge for services substantially the following facts:

The committee was formed in June 1932, and immediately employed the firm of Ritchie, Janney, Ober & Williams to represent it. The attorneys immediately prepared a bondholders' deposit agreement in the customary form, and made an investigation of the liability for stamp taxes under the internal-revenue laws in the exchange of bonds for certificates of deposit under the deposit agreement, and as a result of this investigation advised the committee to change their plan of deposit to an outright assignment of the bonds to the committee, which was done. The attorneys also supervised, considered, and approved letters and statements mailed by the bondholders' committee to the debtor's creditors.

At the time the bondholders' committee was formed, the company had defaulted in the payment of interest and amortization requirements for the retirement of the bonds, and the company was required to raise additional capital to finance the construction of transmission lines. Cash was also required to meet payroll expenditures.

The bondholders' committee, together with the attorneys, held six meetings during July, August, and September 1932, and as a result of these meetings the committee and the attorneys worked out plans for procuring additional capital. The attorneys prepared forms for assignment of accounts and a pledge of deposited bonds to secure loans, and prepared for the corporation necessary resolutions for the borrowing of money from banks and assignments to the lenders of accounts receivable and the pledge of the company's bonds that had been deposited with the committee. As a result of the efforts of the committee and the preparation of the papers by their attorneys, $17,448.63 was borrowed.

The company has from the date of its incorporation operated a power plant, disposing of power wholesale under contract with the Kentucky Utilities Co. This contract was about to expire and it appeared that probably it could not be renewed. It was, therefore, necessary for the company to acquire franchises and build distributing lines. The bondholders' committee prepared to do this, and the attorneys advised them what legal steps to take to accomplish it. However, because of an injunction, this plan was not feasible, and it became necessary to negotiate a new contract, which was made possible by reason of the cooperation of the bondholders in providing money in order to keep the corporation alive, even to the extent of entering the independent distributing field. The committee and its counsel negotiated a contract with the Kentucky Utilities Co. for the purchase by it of all the power produced by the company at its plant. Several conferences were held in Kentucky with the utilities company before this contract was completed, which required the committee and its counsel to leave their places of business in Baltimore and come to Kentucky. Also, there was much correspondence between the representatives of the Kentucky Utilities Co. in Kentucky and the committee and its counsel in Baltimore, Md. The contract, as originally drawn, provided that it should be terminated at the option of the Kentucky Utilities Co., if the Kentucky Electric Power Corporation, the debtor herein, became bankrupt or was placed in receivership. This provision of the contract was a barrier to a reorganization of the company or bankruptcy proceedings. The committee and its counsel commenced negotiations to obtain a modification of the contract in this particular, which was accomplished in July 1933, whereby the Kentucky Utilities Co. agreed to waive this provision of the contract, provided 75 percent of the bonds of the company were deposited with the committee and retained by it. The required amount of bonds having been deposited, the committee's counsel prepared the petition filed in this action for a reorganization under the provisions of section 77B of the Bankruptcy Act (11 U. S. C. A., sec. 207).

The committee and counsel examined and considered all contracts existing between the debtor and others, prepared the plan of reorganization, submitted it in writing to the bondholders and counsel for the committee, and some members of the committee attended several hearings before this court at Louisville, Ky. The committee's counsel prepared the charter and bylaws and attended to the organization of the new corporation, which acquired the assets of the old corporation under the judgment and orders of this court. Committee's counsel prepared the mortgage indenture between the Kentucky Electric Power Co. (the new corporation) and the Baltimore National Bank, trustee for the bondholders. Petitioners' counsel spent approximately 1,500 hours on these matters.

On the filing of the petition in this action this court on January 22, 1935, appointed the law firm of Crawford, Middleton, Milner & Seelbach as counsel for the debtor, the Kentucky Electric Power Corporation. Thereafter said attorneys represented the debtor in these proceedings.

The company's counsel critically examined all pleadings, the plan of reorganization, the draft of letter to the bondholders, notifying them of the plan, arranged for an appraisal of the properties of the company, and held numerous conferences with counsel for interested parties; prepared and presented to the Kentucky Utilities Commission the proposed plan of reorganization and attended several hearings before the court on matters connected with the reorganization, spending a total of 151 hours on these matters.

The debtor in this action had immediately before it was instituted assets of the book value of $2,648,413.28, and had outstanding $107,755.55 of debenture notes, $1,100,000 first-mortgage bonds, $400,000 of 10-year debenture notes, $500,000 par-value preferred stock, and $1,000,000 of common stock. The reorganization plan approved in this action has reduced the book value of assets approximately $1,878,413.28.

[1] The attorneys representing both the debtor and the bondholders' committee possess learning and ability and are outstanding in their profession. However, it is the duty of the court to carefully protect the rights of those who must ultimately pay the allowances herein granted.

Section 77B of the Bankruptcy Act (11 U. S. C. A., sec. 207), provides that the court "may allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and the plan by officers, parties in interest, depositaries, reorganization managers, and committees, or other representatives of creditors or stock-

holders, and the attorneys or agents of any of the foregoing and of the debtor, but appeals from orders fixing such allowances may be taken to the circuit court of appeals independently of other appeals in the proceeding and shall be heard summarily."

The court is faced with an unpleasant and delicate task in fixing reasonable allowances in proceedings under section 77B. Usually, as in this case, no one objects to or protests the amounts of such allowances as requested by counsel and committee. The court must, therefore, independently pass on the question unaided by counsel for opposing parties.

The members of the bar have a greater personal interest in the allowance of reasonable fees than anyone else. Bishop Burnet in his History of Our Own Times said, "The law of England is the greatest grievance of the nation, very expensive and dilatory."

Exorbitant fees cause the people to set up bureaus in the executive branch of the Government to pass on their rights and to formally approve and supervise corporate reorganizations and the issue of securities. Much is said by members of the legal profession about bureaucracy and the intrusion of the executive branch of the Government into the judicial field. If the courts were more prompt in disposing of matters brought before them and attorneys were less eager to receive exorbitant fees, the cry against bureaucracy would not be so blatant and the legislatures would not be so often importuned by members of the bar to pass acts defining the practice of law and prohibiting the layman from invading the legal field.

All deeds of conveyance were one time written and prepared by lawyers. This was likewise true of wills. The charges of the lawyers for these services drove the layman to either prepare his own deeds or wills or hire another layman to prepare them for him.

The exorbitant fees allowed by courts to lawyers and excessive allowances to receivers in the Federal courts have so aroused litigants as to cause the Congress to appoint a committee to investigate the courts of the land. Section 77B provides a simple and convenient method for the reorganization of financially distressed corporations. The salutary benefit of this act will be destroyed, and it will become a disused statute unless the judges of the Federal courts carefully scrutinize the claims of attorneys and committees for allowancs for services and allow only reasonable fees based on services rendered.

There has been no contest of any kind over the proceedings in this action. The plan of reorganization was simple; and while the attorneys for the committee have spent a great deal of time in considering the affairs of the debtor, most of the time was consumed on work that did not contemplate a reorganization.

[2] In the administration of the bankruptcy law it is the policy of the courts to keep the administration expenses to the minimum, and unless this is done the purpose of the act will be defeated. Economy is strictly enjoined, and this policy should always be adhered to by the courts and the attorneys.

In determining reasonable compensation for the attorneys in this case I am taking into consideration their excellent character, ability, and experience. They have performed their duties well.

The court in the case of *Frink* v. *McComb* (C. C., 60 F. 486, 489) said: "There is no standard by which the compensation of counsel can be properly and definitely determined as to amount. The question, when presented at this time, must be decided upon considerations as vague and indefinite as when it was said in the Mirror (ch. 2, sec. 5) that 'four things are to be regarded: (1) The greatness of the cause; (2) the pains of the sergeant; (3) his worth, as his learning, eloquence, and gift; (4) the usage of the court.'"

The second circuit, *In re Consolidated Distributors, Inc.* (298 F. 859, 863), said:

"In the case *In re Curtis* (100 F. 784, 785, 41 C. C. A. 59, 60) the Circuit Court of Appeals for the Seventh Circuit cut down an allowance to the attorneys from $12,500 to $2,000, and in doing so said: 'We have searched this record with care that we might arrive at just judgment with regard to the amount that should be allowed for the service rendered. We have been solicitous to award full reasonable compensation, but careful to withhold inordinate allowance. We reach the conclusion that an allowance of $2,000 fully compensates the service. We have doubted if this be not too large a sum. We are not unmindful of the dignity of the profession, nor forgetful of the important duty of counsel. We would not underrate that duty. We would magnify his office. For exacting labor done, weighty responsibilities assumed, and great results accomplished, we would deal out compensation with a liberal hand. We think, however, that the dignity and honor of the profession are not conserved, or its influence for good promoted, by excessive allowance for service. That would lend countenance to the suggestion, sometimes heard, that the commercial spirit of the age has invaded even the legal profession, to the impairment of its dignity, the blunting of its sense of honor; that a profession instituted for the maintenance of justice has become degenerate, and that its main calling now is a vulgar scramble for the almighty dollar. We cannot bend our judgment to lend sanction to a foul aspersion.'

"We find ourselves in entire sympathy with the statement which we have quoted. The administration of the bankruptcy law is to be conducted primarily for the benefit of the creditors of a bankrupt's estate, and that is and ought to be the policy of the law. Any different policy would discredit the law itself and the courts. We have no doubt that the district judge was conscientious in fixing the amount of compensation he allowed the attorneys in this case. He would not intentionally lend himself to extravagance and injustice, and we think he was in error, and that his conclusion was founded in a misconception of the ground upon which the allowance was to be based. In our opinion, under the circumstances disclosed, the allowance of $5,000 is unreasonable compensation to the attorneys for the service they rendered to the bankrupt's estate."

[3, 4] The usual guidepost for fixing attorneys' fees is absent in this case. There was no recovery of any sum for creditors. There was a scaling down of the corporate structure, and some classes of creditors lost their entire claim. I have concluded in view of all the facts that the attorneys for the bondholders committee are entitled to receive a fee of $7,500 and $918.89 expenses; the attorneys for the debtor, a fee of $1,500.

[5–8] The committee for the bondholders relies on the statement of its counsel for proof of its work performed and the allowances asked. It is a little difficult to tell from the record just what was done by the committee independently of its attorneys. Its chairman, Mr. Moncure Biddle, claims his services were worth $7,000 and his associates $2,500 each. While the committee was acting the debtor corporation continued its active business and paid salaries to its executive officers. Its board of directors continued to function, and this court did not disturb the management of the corporation during the pendency of this action. The bonds of the company were owned by approximately 300 individuals and corporations. It had deposited with it approximately 84 percent of the entire bonds outstanding. No commissions were paid to anyone for getting bonds deposited.

In letters mailed to the owners of the bonds seeking deposits with the committee no statement was made that the committee intended to charge for its services. Under these circumstances the court should exercise the utmost care in making any allowance whatever to the committee. In fact, it would be a wholesome rule for courts to adopt to make no allowances to bondholders' committees under section 77B of the Bankruptcy Act unless the committee in its formation and requests for the deposit of bonds or securities advised the depositors that it expected to be remunerated for its services. However, in view of the fact that no such rule has been adopted by the courts, I do not feel justified in applying it to this case.

Some of the facts on which the committee relies for an allowance, such as the negotiation of the contract with the Kentucky Utilities Co., and its modification, are properly within the province of the board of directors and should have been handled by them.

The Bankruptcy Act contemplates that allowances for compensation shall only be made for services rendered in connection with the proceeding for the reorganization, and I do not believe this court has jurisdiction to allow compensation for services rendered in matters collateral to or indirectly affecting the proceedings.

The bondholders' committee has approved an allowance for its members of $12,000, and also an allowance of $20,000 for its attorneys. I find myself unable to act on the recommendation of the committee, and have reached the conclusion that the total allowance to the committee should be as follows:

Moncure Biddle (chairman)	$3,500
J. C. M. Lucas	1,250
Charles B. Roberts, III	850
	5,600

Mr. Biddle has been paid, without the approval of the court, $3,215.94, which leaves a balance of $284.06 due him. Mr. Iredell W. Iglehart, a former member of the committee, now deceased, was paid before his death $800, without the approval of the court. This allowance is approved to the extent of $400.

The secretary of the committee, Mr. Robert L. Randolph, is allowed $1,500, credited by $250 heretofore paid to him by the committee without the approval of the court.

The committee has furnished the court inadequate supporting evidence of its expenses, but probably it is sufficient for the court to approve the amount requested of $4,473.68, which is done.

[9] In future cases this court will not approve allowances of compensation to committees for stockholders, creditors, or bondholders, where voluntarily formed, unless the committee in writing, when soliciting the deposit of bonds or stocks or assignment of claims, advises that it expects to charge for its services.

In re De Witt Clinton Co., Inc. District Court, Southern District of New York. November 27, 1934

Proceeding in the matter of the petition of the De Witt Clinton Co., Inc., debtor.

Decree in accordance with opinion.

Kadel, Van Kirk & Trencher, of New York City, for debtor.

Hornblower, Miller, Miller & Boston, of New York City, for bondholders' committee.

Wise, Shepard & Houghton, of New York City, for successor trustee.

Samuel L. Chess, of New York City, for certain bondholders.

Pollock & Nemerov, of New York City, for certain bondholders.

Harry Hoffman, of New York City, stockholder in person.

Goddard, district judge:

The compensation of the committee is fixed at $7,500 with the following amounts for expenses incurred and to be incurred:

Item (a): Mr. Pounds' affidavit of Nov. 22, 1934	$1,500
Item (b): Mr. Pounds' affidavit of Nov. 22, 1934	2,238
Item (c): Mr. Pounds' affidavit of Nov. 22, 1934 (disbursements of depositary)	100
Item (d): Mr. Pounds' affidavit of Nov. 22, 1934	1,500
Item (e): Mr. Pounds' affidavit of Nov. 22, 1934	1,000

(This allowance of $1,000 is, I believe, a generous share of these general expenses for this estate to stand.)

The compensation of attorneys for committee is fixed at $10,000.

Relative to the amount of fees and disbursements which should be allowed in this matter is the fact that this is only one of a large number of similar Strauss & Co. issues covering various properties which are represented by this same committee and counsel. Presumably one of the reasons for placing so many of them in the hands of one committee and its counsel is that they could be handled less expensively, a considerable part of the services rendered and agreements prepared being substantially duplications of those in other bond issues represented by the committee and its counsel.

The compensation of the Continental Bank & Trust Co., of New York, for services rendered in the foreclosure proceeding and to be rendered, including fees for its counsel and other disbursements, is fixed at $6,000.

The compensation of Kadel, Van Kirk & Trencher, as attorneys for the debtor, for their services is fixed at $12,500.

[1] It is obvious that the fact that the debtor may have agreed to the allowances of the committee and of counsel is not an infallible guide as to the actual value of the services rendered by them, for although they presumably negotiated solely in behalf of the bondholders, other considerations may enter into the situation.

[2, 3] I believe that except in very unusual instances the Court should make no allowances from the estate for fees to counsel representing individual bondholders, as that would tend to encourage evil practices. Such counsel ordinarily should look to their own clients for their compensation. From the hearing before me and from the records I am convinced that Mr. Samuel L. Chess and Pollock & Nemerov, who respectively represented groups of bondholders, devoted an exceptional amount of time and effort in helping to bring about a successful reorganization in which all the bondholders have benefited, and in fairness that they should be allowed some compensation. Accordingly Mr. Chess is allowed a fee of $3,000 and Pollock & Nemerov are allowed a fee of $1,000.

No fee from the estate can be allowed to Mr. Hoffman who, although he may have aided in the reorganization, represented bonds which he himself or his family owned.

The amount of $19,641.97, which is the difference between the amounts the debtor had offered to pay to the committee and counsel for fees and disbursements and to the Continental Bank & Trust Co., and the allowances now fixed by the Court are to be paid into a fund and distributed by the debtor to bondholders who had to forego interest for a period prior to reorganization.

Settle order on notice.

In re National Department Stores, Inc. (two cases). In re Tech Corporation. No. 966. District Court, District of Delaware. July 1, 1935

In bankruptcy. In the matter of the National Department Stores, Inc., bankrupt; in the matter of the National Department Stores, Inc., debtor; and in the matter of the Tech Corporation, a subsidiary of the National Department Stores, Inc., debtor. The proceedings are now before the court on the question of allowances heretofore paid and other allowances now claimed by receivers and their attorneys and by others.

Order in accordance with opinion.

See, also, 8 F. Supp. 19; 11 F. Supp. 101.

Jacob Demov, of New York City, and Reuben Satterthwaite, Jr., of Wilmington, Del., for trustees.

The other petitioners for allowances appeared in their own behalf.

Nields, district judge.

National Department Stores, Inc., has been administered by this court in bankruptcy for almost 2½ years. The successive steps of administration were by bankruptcy receivers from February 6, 1933, until June 30, 1933; by bankruptcy trustees from June 30, 1933, until June 12, 1934; and by trustees under section 77B, Bankruptcy Act (11 U. S. C. A., sec. 207) from June 12, 1934, until the present. In this proceeding Tech Corporation, a subsidiary of National Department Stores, Inc., was also administered by this court from February 26, 1935, until the present. April 19, 1935, a plan of reorganization was approved. Throughout this opinion the word "debtor" refers only to National Department Stores, Inc.

Allowances heretofore paid and other allowances now claimed by receivers and their attorneys, by trustees and their general and special attorneys, by the debtor and its attorneys, by reorganization managers and their attorneys, by a creditors' committee and its attorneys, by attorneys of a second creditors' committee, and by a stockholders' committee and its attorneys, and by accountants, auditors, and tax consultants aggregate approximately $1,500,000. Claims to which objections have been filed with the amounts heretofore paid and the additional amounts requested to be paid are as follows:

	Amount paid	Additional amount claimed
Harry H. Schwartz, coreceiver and cotrustee	$35,000	$110,000
Joseph Bancroft, cotrustee		55,000
Samuel C. Lamport, cotrustee		55,000
Reuben Satterthwaite, Jr., general attorney for trustees	25,000	100,000
Jacob S. Demov, associate general attorney for trustees	25,000	295,000
Charles F. C. Arensberg, attorney for receivers and trustees at Pittsburg	1,800	26,000
Edgar A. Hahn, attorney for receivers and trustees at Cleveland	10,800	20,000
Stevenson, Butzel, Eaman & Long, attorneys for trustees at Detroit		$14,000
Clark R. Fletcher, attorney for trustees at Minneapolis		22,500
Carter & Jones, attorneys for receivers and trustees at St. Louis	$3,600	3,600
Morton Stein, attorney for receivers and debtor at New York	22,500	75,000
Richards, Layton & Finger, attorneys for receivers and debtor at Wilmington	18,000	17,500
Wolf, Block, Schorr & Solis-Cohen and Hirshwald, Goff & Rubin, attorneys for trustees at Philadelphia		5,000
Phillips B. Scott, Pennsylvania tax attorney		3,000
Alter, Wright & Barron, attorneys for Tech Corporation at Pittsburgh		5,000
Samuel D. Leidesdorf and Robert C. Adams, reorganization managers		20,000
White & Case, attorneys for reorganization managers		90,000
Advisory merchandise creditors' committee, Mortimer J. Davis, secretary		10,000
Otterbourg, Steindler & Houston, attorneys for advisory merchandise creditors' committee		65,000
Edward B. Levy and Joseph Handler, attorneys for a second merchandise creditors' committee		10,000
Samuel Ungerleider, Robert C. Adams, E. S. Hanson, Philip W. Russell, and Hugh W. Long, stockholders' committee		25,000
Weil, Gotshal & Manges and John Biggs, Jr., attorneys for stockholders' committee		60,000
Dunbar & Dubail and Charles R. Judge, attorneys for 2 stockholders		150
Total	141,700	1,086,750

National Department Stores, Inc., was incorporated in 1922 and operated either as a holding or operating company a chain of 18 department stores. These stores were located in Portland, Oreg.; Houston and San Antonio, Tex.; Minneapolis; Detroit; Cleveland; two in Wheeling; Memphis; St. Louis; three in Pittsburgh; Atlanta; Richmond; Trenton; and two in Philadelphia. Merchandise of all kinds was purchased for these stores through an executive and central office in New York. To this office reports were sent from time to time from the various stores. The officers, managers, and employees of the subsidiary corporations and units of the debtor called there for the purpose of exchanging views, determining questions of policy, submitting budgets, and making purchases. Practically all important documents were kept in the New York office. That office is the clearing house for the business of the debtor. The chain of stores employed upward of 7,000 people and furnished an outlet of business to over 30,000 supply houses. The annual sales volume during the 2½ years of bankruptcy administration was about $40,000,000. The major problems involved the abandonment of properties, revamping of leases, and rehabilitating credit. The solution of these problems required high talent and a vast amount of work in many mercantile centers of the country. The work was crowned with substantial success. This is demonstrated by the conversion of a loss at the beginning of the administration into a profit at the present time. The reduction of the claims as filed by several million dollars was a notable accomplishment. From the start, the problem of reorganization was considered by all parties in interest. Owing to the depression, efforts to obtain financial aid from private bankers proved futile. Liquidation appeared inevitable until the passage of section 77B. In the fall of 1934, necessary aid was afforded by the Reconstruction Finance Corporation. Thereafter an operable plan of reorganization was drafted. When the required acceptances were obtained, the plan was approved by this court.

Technically, this proceeding may be divided into three periods, but actually the proceeding involves the same estate pending before the same court with identical creditors and stockholders. The services were practically continuous throughout the whole period and related largely to the same matters. At the conclusion of the bankruptcy receivership, allowances were made by the special master and his report thereof was confirmed by this court. These allowances appear under the head "Paid" at the beginning of this opinion. A consideration of the full record proves the allowances of the special master excessive.

[1, 2] The amount of fees to be charged against a bankrupt estate is an expense of administration subject to examination and approval of the court. At any time before the closing of the estate, and on its own motion, the court may review and reexamine allowances paid to trustees and attorneys and make such final disposition of the matter as the equities of the case require. The mistake made by the court in approving the report of the special master is not irreparable and must be corrected at this time. An allowance to each person now seeking compensation should be considered as one allowance for the entire period of his service. I have therefore considered the record of allowances before the special master, together with the testimony during the 5-day hearing in open court.

[3] The court is not without instruction in making allowances. Last April the Supreme Court declared: "Extravagant costs of administration in the winding up of estates in bankruptcy have been denounced as crying evils" (*Realty Associates Securities Corp.* v. *O'Connor*, 55 S. Ct. 663, 665; 79 L. Ed. 1446). A year ago Congress, in enacting section 77B, provided: "The compensation allowed a receiver or trustee or an attorney for a receiver or trustee shall in no case be excessive or exorbitant, and the court in fixing such

compensation shall have in mind the conservation and preservation of the estate of the bankrupt and the interests of the creditors therein" (act June 7, 1934, sec. 3, 11 U. S. C. A., sec. 76a). Recently our own circuit court of appeals adopted language of the Supreme Court: "We were desirous of making it clear by our action that the judges of the courts, in fixing allowances for services to court officers, should be most careful, and that vicarious generosity in such a matter could receive no countenance" (*in re Gilbert*, 276 U. S. 294; 48 S. Ct. 309, 310; 72 L. Ed. 580). The circuit court of appeals followed with the words: "This warning of the Supreme Court against vicarious generosity has also been sounded by other Federal courts" (*Bailie* v. *Rossell* (C. C. A.), 60 F. (2d) 806, 807). Formerly the idea prevailed that attorneys were entitled to greater compensation when employed in a receivership or bankruptcy case than when serving private interests. In reality, receivers and attorneys are officers of the court. As public servants, their compensation should never be as large as the compensation of those engaged in private employment. By such considerations, debtors may be relieved and creditors and stockholders served.

[4] Applying these general principles to the protracted, painstaking, and for the most part excellent service rendered by petitioners, it is apparent the allowances claimed are excessive and in certain instances exorbitant. Valuable services were rendered. Those who rendered such services are entitled to fair compensation. Where numerous persons participate in rendering one service susceptible of being rendered by one person, needless duplication results which should not form the basis of compensation. This evil is well illustrated in this case.

In the following recital of services under the names of the various petitioners there is no attempt to make a full and detailed recital of services. To do so would unduly prolong this opinion and serve no useful purpose.

ALLOWANCES

[5] Harry H. Schwartz was employed by debtor for a year and a half before bankruptcy at an annual salary of $25,000, with an option on 10,000 shares of debtor's common stock. As the active receiver and trustee for 2½ years he shouldered the burden of operating the numerous enterprises of debtor and effectively assisted in its rehabilitation and reorganization. His services to the estate are worth $25,000 per year. After deducting the $35,000 received, there should be paid to him the sum of $27.500.

[6] Joseph Bancroft and Samuel C. Lamport were cotrustees with Schwartz. As Schwartz was the active trustee, his cotrustees were relieved from personal participation in operating the chain of stores. Their character, experience, and advice were helpful. Bancroft was more constant in his attention to the work and should be allowed somewhat higher compensation than Lamport. Eighteen thousand dollars should be paid to Bancroft and $12,500 to Lamport.

[7] Reuben Satterthwaite, Jr., served as general counsel of the trustees for approximately 2 years. During the first year he devoted about 80 percent of his time to this business and during the second year about 50 percent. He received daily reports from his cocounsel in New York for his own use and the use of the cotrustee resident in Wilmington. He attended the 20 meetings of the trustees. He obtained orders from the court upon many petitions drafted in large part by others. It does not appear that he actively negotiated in solving the major problems. He shared with the assistant general attorney of the trustees in scrutinizing the claims and in filing exceptions. He has received $25,000 and should be paid an additional amount of $12,500.

[8] Jacob S. Demov was associate general counsel for the trustees. A study of the petitions, record, and testimony shows that the major part of the services performed by general counsel for the trustees was performed by Demov. He was in New York, close to the office of the debtor and within easy access of the trustees and store managers. A report of matters handled by Demov and copies of correspondence were sent to his cocounsel in Wilmington and to the trustees. From the start, he was occupied with the problem of reducing rents in some 75 leases and in negotiating use and occupation agreements. With local counsel he attended hearings in connection with leases in Trenton, Minneapolis, Detroit, Pittsburgh, Cleveland, St. Louis, and Philadelphia. The local counsel in these cities have been paid or are asking handsome allowances for the results of the hearings. Attempts were made to segregate the assets in the local jurisdictions of each of the stores. Demov, with the aid of local counsel, obtained possession of the assets from ancillary receivers in Philadelphia, Minneapolis, and Detroit. He gave instructions to the various local counsel in jurisdictions where the stores were located.

Demov conducted the greater part of the litigation before the referee. He made an analysis of upward of 4,000 claims filed with the referee. Eighteen hundred and sixty-eight of these claims were compromised through conference and correspondence. Comparatively few claims were submitted to the referee or special master for determination, and none was reviewed by the district court or by the circuit court of appeals. As a result of his efforts, the general claims were reduced by over $2,000,000. Demov attended all meetings of the trustees which numbered about twenty and were held in New York, Philadelphia, and Wilmington. He drafted the minutes of the meetings. He prepared numerous reports and petitions filed in these proceedings. He has served the trustees efficiently for 2 years. He has been paid $25,000. Upon the basis of an annual salary of $30,000, there is now due him the sum of $35,000.

[9] Charles F. C. Arensberg was local counsel for the receivers and trustees of the debtor at Pittsburgh. There the debtor was burdened with complicated leases. Petitioner participated in negotiations in the revamping of the Frank & Seder and Rosenbaum leases, in the preparation of use and occupation agreements, and in communications leading to the settlement of contingent claims of landlords. Claims investigated included DeRoy, Mellon, and Acheson claims. The last is the principal claim and remains unsettled. Petitioner attended probably 20 hearings in the Tech receivership proceedings, and reported events to general counsel for the debtor and trustees. He has been paid $1,800 and, in view of the services rendered, should receive an additional sum of $10,000.

[10] Edgar A. Hahn was local counsel of the receivers and trustees at Cleveland. He had been local attorney for the debtor for many years. His services extended over a period of about 2½ years. They involved correspondence, drafting agreements, notices, and pleadings, and trips to New York, Wilmington, Wheeling, Columbus, Cincinnati, and Dayton. He participated in negotiations for the settlement of rents and the making of new leases. He has received $10,800 and has earned an additional sum of $10,000.

[11] Stevenson, Butzel, Eaman & Long were local counsel for the receivers and trustees in Detroit. Here, again, the problems were the lease situation and an ancillary receivership. Numerous interests in the leases required the drafting of seven different agreements. The services included conferences and correspondence about tax claims of the city of Detroit. Trouble with labor unions had to be ironed out and important claims compromised. Options for continuance of leases were obtained. Petitioners have received $11,000 and in addition should be paid $7,500.

[12] Clark R. Fletcher was local counsel for the trustees at Minneapolis. Here also ancillary proceedings and leases were the problems. Petitioner acted as counsel for the ancillary receivers in Minneapolis and was paid a fee of $18,000 in that proceeding. Through that appointment he came to represent E. E. Atkinson & Co., a wholly owned subsidiary of debtor. Representing that company he recovered judgment in the Neisner action for rent. Petitioner deducted $25,000 as a fee from the amount recovered in that action and remitted to his client the balance. The Neisner trial consisted in taking formal proof on behalf of the plaintiff. The trial court refused to permit defendant to introduce any proof under the pleading. This ruling was affirmed on appeal. Petitioner has received $43,000 in fees. A further allowance of $5,000 will fully compensate him for all of his services.

Carter & Jones were local counsel for the receivers and trustees at St. Louis. They rested upon their petition for an allowance of $3,600 and submitted no testimony in support thereof. They have received $3,600. Upon consideration of their petition I consider them entitled to a further allowance of $1,400.

[13] Morton Stein was counsel for the receivers and for the debtor. He had been a director, member of the executive committee, and treasurer of the debtor until 1931. Thereafter he continued its general counsel. He was familiar with the set-up, personnel, and operations of the entire chain of stores. In addition, he knew personally the landlords and the trustees for bondholders. Petitioner advised the receivers respecting the abandonment of property, the disaffirmance of leases, and about the credit situation. He procured an order of court subordinating obligations of the debtor against its subsidiaries to claims of creditors. During the trusteeship petitioner went to St. Louis with others and helped settle the claims of landlords and the claims of Nugent Realty Co. bondholders and of Giblin bondholders. He aided also in revamping the Frank & Seder leases, in reducing rents, and in canceling landlord claims. His records show that he devoted to the affairs of debtor, 1,508½ hours; that he conferred with 118 persons; and that, in all, the number of conferences were 709. His acquaintance with the landlords and representatives of bondholders materially assisted in procuring acceptances of the plan of reorganization. Immediately before bankruptcy, he was under a general annual retainer of $22,500. He has been paid $22,500 and is entitled to receive $27,500 in addition.

Richards, Layton & Finger were local attorneys for the receivers and for the debtor at Wilmington. As such, they rendered effective service. They have been paid $18,000 and should receive $7,000 in addition.

[14] Wolf, Block, Schorr & Solis-Cohen and Hirshwald, Goff & Rubin were attorneys for the ancillary receivers in Philadelphia. They were allowed $60,000 for their services. Turning over the assets by such receivers to the trustees was incidental to the closing of the receivership estate. Petitioners' services incident thereto were fully covered by the allowance made in the ancillary receivership. No further allowance should be made.

Phillips B. Scott, tax attorney in Pennsylvania, petitioned for an allowance of $3,000, and has sustained his petition by oral proof.

[15] Alter, Wright & Barron were attorneys for Tech Corporation at Pittsburgh. In the Tech receivership proceedings in the western district of Pennsylvania these petitioners were allowed $80,000. They prepared a creditors' petition under section 77B against Tech while acting as attorneys for receivers of Tech, and submitted the same to the Chase National Bank of New York, a large creditor of Tech. Thereafter they delivered the petition to another attorney who filed the same in Pittsburgh for the petitioning creditors. An examination of the record shows that any services on behalf of Tech Corporation in the section 77B proceeding in this district were trifling in character. For such services, the court allows the sum of $500.

Samuel D. Leidesdorf and Robert C. Adams were reorganization managers. The court had the opportunity of hearing both peti-

tioners testify about their services as managers and awards to each the sum of $5,000.

[16] White & Case were attorneys for the reorganization managers. Their services cover the entire period of 2½ years and were of high quality. The preservation of this estate for the benefit of its creditors and stockholders necessitated the elimination of claims by litigation and adjustment; the settlement of large disputed claims by negotiation; negotiations for reduced rentals; negotiations for renewed leases; obtaining new money for working capital; the formulation of a proper plan of reorganization; and obtaining assents to the plan by creditors and stockholders. In the accomplishment of this purpose petitioners were the indispensable agents. Briefly, the causes of bankruptcy were: (a) Loss of adequate working capital due to losses in operations resulting from decline in sales; (b) unprofitable stores in St. Louis and Pittsburgh; (c) failure to obtain bank credit or extension of existing bank indebtedness; (d) failure to obtain satisfactory merchandise and trade credit; (e) burdensome leases; and (f) burdensome fixed charges in connection with bonds, mortgages, and other long-term indebtedness. Relief from these oppressive conditions had to precede the formulation and approval of a plan of reorganization. The credit of furnishing this relief is primarily attributable to petitioners, yet the full accomplishment of the results obtained was due to the effective cooperation of Schwartz and other petitioners. Throughout the entire period of 2½ years petitioners were engaged in the task of formulating an acceptable plan of reorganization. This involved the formulation of numerous plans and reconciling, through skillful negotiation, diverse interests. This skillful and difficult work was primarily performed by Colonel Hartfield. He enlisted the aid of the Reconstruction Finance Corporation, which resulted in a commitment for a loan of $2,250,000. He negotiated with the creditors and stockholders' committees and other interested parties until far more than the required number favored his plan. For these constructive services petitioners should be paid $62,500.

[17] Mortimer J. Davis was secretary of the advisory merchandise creditors' committee. He is associated with a credit organization or adjustment bureau in New York which is very active in bankruptcy proceedings. The services and facilities of that association were furnished through Davis to the creditors' committee. These services, however, are compensated by the expenses allowed to the petitioner in the sum of $3,847.02. For his services as secretary of the committee Davis should be paid $1,000.

[18] Otterbourg, Steindler & Houston were attorneys for the advisory merchandise creditors' committee. That committee was organized about February 6, 1933. By advertisements and circulars petitioners communicated with merchandise creditors of the debtor and procured numerous proxies. The committee represented 1,981 creditors of debtor with claims aggregating $447,250.26 and 575 creditors of Tech with claims aggregating $124,161.33. Petitioners took an active interest in the affairs of the debtor by attending conferences, appearing in court in Pittsburgh and Wilmington, and participating in various hearings. In the Acheson and in other proceedings they filed independent briefs. They appeared and participated in the examination of witnesses at the hearing in Pittsburgh on allowances in the Tech receivership proceeding. Representing creditors they participated in the formulation of the plan of reorganization and made many suggestions which were adopted in whole or in part. Petitioners communicated with the creditors concerning the plan and furnished them with copies of their opinion with respect thereto. They were of great assistance in procuring acceptances of the plan by merchandise creditors. For their services they should be paid $25,000.

[19] Edward B. Levy was attorney for a second merchandise creditors' committee. This committee was not authorized to intervene in this proceeding until February 19, 1935. It was organized subsequent to the organization of the advisory merchandise creditors' committee. After the filing of the 77B petition in this court, Levy, in association with another New York lawyer, filed an involuntary petition against the debtor under section 77B in th southern District of New York without the knowledge of the debtor. This petition was dismissed. The record fails to disclose a reason for the organization of a second creditors' committee. Its interests were identical with the interests of the creditors' committee already organized which was fully cooperating with the trustees, the debtor, and the reorganization managers. In view of all the circumstances the court feels that no allowance should be made to this committee or its counsel.

[20] Samuel Ungerleider, Robert C. Adams, E. S. Hanson, Philip W. Russell, and Hugh W. Long constituted a stockholders' committee. This committee held no fixed or organized meetings. It received no deposits of stock. From the petition and testimony it is difficult to determine what services were rendered by the committee. Mr. Adams has waived any fee as a member of this committee. The record only justifies a nominal allowance of $1,000 to each of the four remaining members of the committee.

[21] Weil, Gotshal & Manges and John Biggs, Jr., were attorneys for a stockholders' committee. It is difficult to grasp from the record what services were rendered and what results were obtained by petitioners. The time actually spent by them on behalf of the committee does not clearly appear. The day sheets are brief and do not indicate services of a substantial character. Petitioners did cooperate with their committee in procuring the assent of stockholders to the plan of reorganization. For all their services they should be allowed the sum of $5,000.

[22] Dunbar & Dubail and Charles R. Judge, attorneys for two stockholders, petitioned for an allowance of $150 for examining and filing objections to the plan of reorganization. The estate was in no way benefited and no allowance should be made.

Accountants, auditors, and tax consultants have petitioned for payment of their services. An examination of the record discloses that the services set forth were rendered and that the amounts claimed should be paid.

It is unnecessary to consider in detail the expenses claimed in the various petitions filed. Adequate proof was furnished relating to these expenses, and in each and every instance they should be paid.

An order in accordance with this opinion may be submitted.

In re 2747 Milwaukee Ave. Bldg. Corporation. No. 57262. District Court, Northern District of Illinois, Eastern Division. October 24, 1935. Supplemental opinion November 19, 1935

Proceeding in the matter of the 2747 Milwaukee Avenue Building Corporation, debtor, on applications for fees and allowances for services rendered in connection with proceeding brought under the Bankruptcy Act to reorganize the debtor.

Order in accordance with opinion.

Woodward, district judge:

A plan of reorganization of the above-named debtor has been confirmed. Applications for fees and allowances have been made as follows:

Leo S. Samuels [of Chicago, Ill.], attorney for petitioning creditors:		
Fees	$6,000.00	
Expenses	134.06	
		$6,134.06
Francis A. Lackner, employee of petitioning creditors to prepare plan of reorganization, fees		800.00
Schwartz & Cooper [of Chicago, Ill.], attorneys for debtor, fees		7,500.00
Benjamin E. Cohen [of Chicago, Ill.], attorney for trustee, fees		1,200.00
Howard K. Hurwith, trustee, fees		2,500.00
Taylor, Miller, Busch & Boyden [of Chicago, Ill.], attorneys for intervening creditor, fees		200.00
Butz, Von Ammon & Marx [of Chicago, Ill.], attorneys for trustee under trust deed, fees		5,000.00
Chicago Title & Trust Co., services to bondholders' committee:		
Fees	$1,500.00	
Expenses	559.40	
		2,059.40
Barkhausen et al., bondholders' committee:		
Fees	10,523.00	
Expenses	534.21	
		11,057.21
Butz, Von Ammon & Marx [of Chicago, Ill.], attorneys for bondholders' committee, fees		4,000.00
Total		40,450.67

The court at this time is withholding its ruling on the application of the bondholders' committee and its attorneys for the allowance of their fees and expenses.

The applications were referred to a special master, who has submitted his report with recommendations.

The Corporate Reorganization Act (Bankruptcy Act, sec. 77B; 11 U. S. C. A., sec. 207) was framed with the view of economical administration. The allowance of fees and expenses, therefore, is of prime importance. The pertinent statutory provisions may be summarized as follows:

Section 64b (3) of the Bankruptcy Act (as amended by act May 27, 1926, sec. 15, 11 U. S. C. A., sec. 104 (b) (3)), of which section 77B (11 U. S. C. A., sec. 207) is a part, provides for the payment of one reasonable attorney's fee to petitioning creditors, irrespective of the number of attorneys employed.

Section 77B (k) (11 U. S. C. A., sec. 207 (k) provides that, with certain exceptions not material here, the general provisions of the Bankruptcy Act shall apply to proceedings under section 77B.

Section 77B (b) (3) (11 U. S. C. A., sec. 207 (b) (3)) provides that the plan must contain provisions for the payment in cash or securities of the costs of administration and other allowances found by the court to be reasonable.

Section 77B (c) (9) (11 U. S. C. A., sec. 207 (c) (9)) provides that the judge may allow reasonable compensation and reimbursement for actual and necessary expenses incurred in connection with the proceeding and the plan to officers, parties in interest, depositaries, reorganization managers, and committees or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor.

[1] The court may allow only the fees and expenses authorized by the statute, and may not enforce, as a charge against the debtor's property, a liability neither assumed by it nor imposed by the Bankruptcy Act.

[2] Under the provisions of section 77B, fees, allowances, and expenses which may be awarded by the court fall into two categories: (1) Those in connection with the proceeding and the plan, as described in subsection (c) (9) (11 U. S. C. A., sec. 207 (c) (9)); that is, those incurred in this proceeding; and (2) those incurred in a prior receivership or trusteeship, as described in subsection (i) (11 U. S. C. A., sec. 207 (i)), being the reasonable administrative expenses and allowances in a prior Federal or State court proceeding.

Whether the fees and allowances are awarded for services in connection with the present proceeding, or are allowances in the prior proceeding, they must be reasonable. Moreover, subsection (k) specifically provides that section 64 of the Bankruptcy Act shall apply to a 77B proceeding, and subsection (b) (3) of section 64 permits only reasonable compensation for services actually rendered. It will therefore be observed that the rule of reasonableness as to compensation to be allowed is stressed in the three sections noted. Further, under the general Bankruptcy Act, the design of Congress was that the administration of bankrupt estates should be had at the minimum of expense. (*In re Curtis* (C. C. A.) 100 F. 784, 792; 2 Collier on Bankruptcy (13th ed.), p. 1351.)

The intent of the act is to minimize the expense of debtor's rehabilitation, wherein it will be noted that the general purpose is to facilitate amicable adjustments between creditors and distressed debtors under the supervision of the bankruptcy court, which holds the property during the period of readjustment, thus saving the debtor in the first instance from liquidation. The estate is kept intact under the jurisdiction of the court, the purpose being to disturb the operation of the business as little as possible, thereby minimizing losses caused by the filing of the petition. The intent of Congress to provide relief, to rehabilitate the debtor, and to minimize the cost of administration is further expressed in the following:

(1) Compensation allowed must be found to be reasonable.

(2) Ancillary receiverships are obviated, and the estate is administered by one trustee, thereby saving the ancillary cost.

(3) Debtor corporation may be the finally reorganized corporation, thus saving the cost of the formation of a new corporation and the expense incident thereto.

(4) Outstanding securities may be exchanged or extended, and liens modified or satisfied, saving the cost of new securities and the expense of foreclosure.

(5) The debtor may be continued in possession and its officers retained at salaries approved by the judge, or, because of their interest, at no salaries, thus saving the expense of a trusteeship.

(6) New securities may be issued free from stamp tax.

(7) A plan of reorganization may be accepted by creditors and stockholders before the petition is filed, thus shortening the proceeding.

The attorney for the petitioning creditors, under subsection (c) (9), is asking for an allowance of $6,000. Although he performed conscientious services, yet in view of the rule of reasonableness, an allowance of such sum would be excessive.

Before any allowance can be made, the court must determine for what services the attorney for petitioning creditors is entitled to receive compensation from the debtor estate.

[3] Section 77B (a), 11 United States Code Annotated § 207 (a), provides that the burden of satisfying the court that the petition has been filed in good faith is upon the petitioner, regardless of whether the petition is voluntary or involuntary (*Manati Sugar Co.* v. *Mock*, C. C. A. 75 F. (2d) 284).

While no satisfactory and comprehensive definition can be given to the vague term "good faith", it is certain that in a 77B proceeding, one of its elements is that it must appear that there is at least some prospect that the affairs of the debtor corporation may be reorganized. A general showing, therefore, should be made, either in the petition or otherwise, that the circumstances reasonably indicate the desirability and possibility of a reorganization. An allowance, therefore, may be made to the attorney for the petitioning creditors for actual services rendered in establishing "good faith."

If the court is satisfied that the petition has been filed in "good faith", the petition is approved and the court takes jurisdiction of the debtor and its property. The services required of an attorney for petitioning creditors under section 77B are similar to those rendered by an attorney for petitioning creditors under the General Bankruptcy Act, and an order approving the petition is equivalent to an order of adjudication in bankruptcy.

[4] The circuit court of appeals for the second circuit, in the case of *In re Consolidated Distributors* (298 F. 859, 863), holds that the allowances must be confined to services actually rendered in preparing and filing the petition and prosecuting it to the adjudication of the bankrupt, whereupon the estate passes to the control and jurisdiction of the court, and thereafter there is no necessity and no opportunity for the attorney for the petitioning creditors to render actual service to the estate.

The approval of the petition in a 77B proceeding concludes the services required of petitioning creditors. However, their service may extend to and include the appointment of a temporary and permanent trustee. Such approval opens the door of the court to suitors who desire debtor's reorganization. For such services actually rendered the attorney for the petitioning creditors is entitled to receive reasonable compensation from the debtor estate.

[5] Without contest the petition was approved. Subsequent thereto, with leave of court, petitioning creditors filed a plan of reorganization. This plan was not approved, and bore no resemblance to the approved and accepted debtor's amended plan, which was the result of collaboration with the attorneys for petitioning creditors and the bondholders' protective committee. To the extent of their participation in debtor's plan, the attorney for the petitioning creditors is entitled to receive reasonable compensation for actual services rendered.

The attorney for petitioning creditors rendered further beneficial services to the debtor estate in the appointment of the temporary and permanent trustee, in the matter of claims, and other minor services as reported by the special master. The court recognizes these services.

The court is of the opinion that the sum of $3,000 is a reasonable allowance for the services rendered by the attorney for the petitioning creditors, and the fee is fixed at that amount. Petitioning creditors are allowed the sum of $134.06, representing reimbursement for advances.

[6] The court is asked to allow a fee to a real-estate expert employed by petitioning creditors. The work for which he asks compensation consists of investigating the affairs of the debtor, preparing and submitting to petitioning creditors the data for their plan, securing consents thereto, investigating court records, and attending hearings before the master on the fairness of the debtor's plan. He further states that it will be necessary to spend additional time in putting the debtor's plan into effect.

Part of these services are compensable from the estate of the debtor. He may be compensated only for those services which directly affected the question of "good faith." The reasonable value of these services is the sum of $60, which is allowed to Francis A. Lackner.

The remaining services were rendered subsequent to the approval of the petition, were not required of petitioning creditors, and were duplications of the services rendered by the attorney for the debtor. Such services are not compensable in this proceeding.

The trustee has been in full control and management of the debtor estate since his appointment by this court. The estate consists of a building having 52 apartments under one net lease, and 14 stores. For the period from October 19, 1934, to June 15, 1935, the trustee has collected a total gross rental of $22,891.52.

[7, 8] In determining what allowance should be made to the trustee in addition to what has been stated, the following from *Bailie et al.* v. *Rossell* (C. C. A.) 60 F. (2d) 806, 807, is of importance: "The controlling consideration in fixing a receiver's compensation are the fair value of the time and labor required in the performance of his duties as measured by ordinary business standards and the degree of activity, integrity, and dispatch with which the work has been performed."

The Chicago Real Estate Board, in its schedule of commission rates, rule 29, section 3, article 2, declares that for property of this character the minimum charge for complete management service, such as would be required of an owner, should be not less than 5 percent of gross collections. With these principles as a guide, and considering that 80 percent of the premises are under a single net lease, the court is of the opinion that 5 percent of the gross amount collected, which the special master finds to be $22,891.52, is a reasonable charge for the trustee's services, and fixes that amount at $1,144.58, which is allowed.

[9] Benjamin E. Cohen, duly appointed attorney for the trustee, requests an allowance. He is entitled to receive reasonable compensation from the estate for services rendered to the trustee in the preservation and prosecution of the trust estate, including court appearances involving the trust property. The special master has reported that a reasonable charge for this service is the sum of $965.63, which is allowed. A request for an allowance for services rendered in the examination of the various plans of reorganization and attendance on the hearings thereof before the master is denied.

[10] The firm of Taylor, Miller, Busch & Boyden, representing a nondepositing bondholder, seeks an allowance of $200 for services rendered in the examination of the debtor's plan resulting in accepted modifications of debtor's amended plan. The special master has found that such services were beneficial to the estate and that the sum of $200 is a reasonable charge therefor, which sum is hereby allowed.

An order may be presented in conformity herewith.

SUPPLEMENTAL OPINION

In an opinion in this cause, bearing date October 24, 1935, the court reserved for further ruling the applications of the bondholders' committee and others for the allowance of fees and expenses. In this supplemental opinion the court will cover the matters heretofore reserved.

The bondholders' protective committee and its attorneys, as well as the Chicago Title & Trust Co., are asking for allowances. The petitions for allowances were referred to a special master to take the evidence and to report with recommendations. The master filed his report. On the motion of the Chicago Title & Trust Co. testimony, so far as pertinent, taken in another proceeding, is to be considered on the final hearing of its application in this case, together with the special master's report. The matter now comes up on the report of the special master and the testimony taken in the other proceeding.

The Chicago Title & Trust Co. was named trustee in the trust deed securing a bond issue of the debtor in the aggregate sum of $425,000, as well as the trustee in other bond issues sold by or through Lackner, Butz & Co., the house of issue. Prior to the default of the debtor, which occurred on January 1, 1933, the Chicago Title & Trust Co. cooperated in the organization of a voluntary bondholders' protective committee for the protection of the bondholders of all Lackner and Butz issues. Under the provisions of the bondholders' protective agreement, the Chicago Title & Trust Co. was designated the depositary for the bonds. It was also employed by the committee to render secretarial and clerical services to the committee. Under the provisions of the trust deed concerted action of 20 percent of the unpaid and outstanding bonds was necessary in order to institute foreclosure proceedings. Upon default communication was sent to the bondholders of the debtor requesting the deposit of their bonds with the depositary. the depositary accepted $247,600 in principal amount of bonds, approximately 59 percent of the issue, and issued 214 certificates of deposit. Upon demand of the bondholders' protective committee, the Chicago, Title & Trust Co., as trustee, filed a bill to foreclose

the trust deed in the circuit court of Cook County, Ill. No proofs were ever offered on the bill to foreclose. Thereafter a creditors' petition was filed under section 77B (11 U. S. C. A., sec. 207), resulting in the confirmation of a plan of reorganization. The plan, as finally adopted and confirmed, was the result of the joint services of the attorney for petitioning creditors, the attorney for the debtor, and the attorney for the bondholders' protective committee.

The Chicago Title & Trust Co. has since April 27, 1933, acted as depositary for and has rendered secretarial services to the bondholders' protective committee. The Chicago Title & Trust Co., by its organization and experience, was well equipped to render such service. In the discharge of its duty as depositary and secretary it furnished office space, office machinery and equipment, and a trained personnel, including the services of its excutive officers and financial experts. It set up books and records, conferred with bondholders, and held numerous conferences with members of the committee and the attorneys for the committee. This service also included the making of appraisals and reappraisals, correspondence with bondholders, assembling from the various departments of the Chicago Title & Trust Co., and presenting data for consideration at committee meetings with reference to the valuation of the properties, tax questions, income and rental problems, and management operations. This service also included keeping books of account on committee operations and maintenance of books and records for the committee. Subsequent to filing the petition under section 77B, the Chicago Title & Trust Co. furnished secretarial services with respect to negotiations for the proposed reorganization and, through attorneys, assisted in consummating the plan of reorganization.

The same department, equipment, and personnel were used in at least 90 similar Lackner-Butz issues.

The supplemental evidence relates largely to the reasonableness of the rates charged for depositary and secretarial services covering the whole period of service from the deposit of the bonds to the final decree in the reorganization case. The contention is made that the rates fixed by the Corporate Fiduciaries Association should govern.

In order to determine to what extent the services of the bondholders' protective committee, the Chicago Title & Trust Co., as depositary and secretary, and their respective attorneys are chargeable to the debtor estate, resort must be had to the provisions of section 77B. Section 77B (i) (11 U. S. C., sec. 207 (i)) provides in part as follows: "And the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver or prior trustee and for the payment of such reasonable administrative expenses and allowances in the prior proceeding as may be fixed by the court appointing said receiver or prior trustee."

[11] Obviously, the terms of the trust deed dictated the method by which bondholders might institute foreclosure proceedings. In the absence of any provisions in the trust deed, there is no provision under the laws of the State of Illinois whereby the court in the foreclosure proceeding had the power to allow fees to be paid from the mortgage estate to bondholders' committees, their depositaries, secretaries, or attorneys. Compensation for such services performed by the bondholders' protective committee, its depositary and secretary, and their attorneys is not allowable as administrative expenses in a "prior proceeding" under section 77B (i).

[12] If compensation is to be allowed from the debtor estate to the above parties, it must be by virtue of section 77B (c) (9), 11 U. S. C. A., section 207 (c) (9), which, so far as pertinent, reads as follows: "The judge * * * may allow a reasonable compensation for the services rendered and * * * for the actual and necessary expenses incurred in connection with the proceeding and the plan by * * * depositaries, reorganization managers, and committees, or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor."

The relief contemplated by section 77B of the amended Bankruptcy Act is relief to an involved debtor. Such relief cannot be accorded to it if, on reorganization, its estate is burdened with the payment of large and excessive fees and administration expenses. Fees and administrative expenses in bankruptcy and insolvency litigation must be held down to a minimum consistent with fairness and equity to all parties who have contributed to the presentation of the res and its administration for the common benefit. When, therefore, the judge is authorized to make allowances for expenses "incurred in connection with the proceedings and the plan" the words must be given a construction in harmony with the principles above stated. While the words "proceedings" and "the plan" have different connotations, yet, so far as the allowance of expenses are concerned, such expenses must have been "incurred" in or in contemplation of the proceeding by which some scheme of reorganization was consummated. The "proceeding" mentioned can mean nothing more than the proceeding instituted under section 77B. The words "the plan" seem to have been used deliberately to deprive the court of any power to allow expenses except in connection with the plan formulated and approved in the section 77B proceeding. Any other construction would open wide the door to the allowance of undefined, excessive, and extravagant expenses not connected remotely or directly with any reorganization under section 77B. Congress never intended the district judge to exercise so wide a discretion.

(13) The court must reject as untenable the contention of counsel for the committee and its depositary that the court may allow as administration expenses under section 77B (c) (9) compensation for the committee members as well as compensation and expenses to the depositary and secretary of the committee for all services from the inception of the committee to the final decree in the reorganization case. Creditors, in the absence of special contract with their debtors, assume the expense of prosecuting and collecting their debts. In the instant case they were persuaded that this could best be accomplished by their joint action. In receiving the deposit of bonds, in making appraisals, in holding conferences, and writing letters to bondholders, in instituting the foreclosure proceeding, and in practically all the other work performed before the commencement of the section 77B proceeding, the committee and its depositary were performing services in the interests of the depositing bondholders. The debtor's estate cannot be burdened with such expense.

It is contended that the debtor's reorganization was made possible by the cooperation of the bondholders' committee; that thereby the debtor was able to conclude a speedy reorganization and, in addition, was saved the expense of securing the consents which the committee caused to be voted to the final plan. It is admitted that the work and expense of assembling the bondholders was completed long before the adoption of the section 77B amendment, and that the general purpose in assembling the bondholders, in the first instance, was the protection of their rights under the trust deed and in the foreclosure action. Nevertheless, it is urged that the committee's services also inured to and were beneficial to the debtor's reorganization, and that therefore their fees and expenses in assembling the bondholders should be considered as services rendered and expense incurred in connection with "the proceeding and the plan", and compensated accordingly.

The answer to these contentions is that the work so performed was primarily to the benefit of the depositing bondholders and evidently contrary to the wishes of nondepositing bondholders and other creditors of the debtor. It may well be contended that nondepositing bondholders, constituting 41 percent of the total issue, after considering the unprecedented chaotic condition of the realty market, were not in sympathy with the methods employed by the bondholders' committee and were content to let the debtor remain in possession after its default, thereby eliminating the burden and expense to the estate resulting from the foreclosure proceeding. What was done prior to the section 77B proceeding was to the interest of the depositing creditors and they must bear their own expense.

It is further urged that the fees and expenses of the committee should be allowed because the plan so provides. The court, before confirming a plan of reorganization, must be satisfied that the plan is fair and equitable and does not discriminate unfairly in favor of any class of creditors or stockholders. Section 77B (f) (1) 11 U. S. C. A., section 207 (f) (1). Without further comment it is apparent that any allowance to a bondholders' committee for services rendered prior to a section 77B proceeding would unfairly discriminate, decrease the assets of the estate, and be prejudicial to the rights of other creditors of the debtor, including nondepositing bondholders. The court holds that no compensation or item of expense can be allowed from the assets of the debtor estate to bondholders' committees for services rendered prior to, and not in contemplation of, a section 77B proceeding.

[14] Beneficial services were rendered by the committee in connection with the debtor's reorganization, as reported by the special master. Services rendered in connection with the actual proceeding and the plan are compensable, for which the court may award reasonable compensation, from the assets of the debtor estate. In determining what is reasonable compensation, the court considers that the committee, over the same period of time, with the same facilities, rendered similar services in approximately 90 similar Lackner-Butz issues. For their services in connection with 214 certificates of deposit, the following sums are allowed, which the court finds to be reasonable:

(1) To Henry G. Barkhausen et al., comprising the bondholders' protective committee, for their advice, attendance at conferences, resisting petitioner's plan of reorganization, their advice and counsel in the formation of debtor's amended plan, their advice and services with reference to the release of the second mortgage, attendance by one of their members before this court and its masters on the hearing on the plans, and all other services, the total sum of $750

[15] (2) To the Chicago Title & Trust Co., as depositary, for its complete services in this proceeding, in the exchange and delivery of the new securities. Such services are clerical in nature, and the court allows the sum of $1 per certificate, or the total sum of 214

[16] (3) To the Chicago Title & Trust Co.:

(a) For their complete past secretarial services to the committee, in connection with this proceeding and the plan, consisting of correspondence with the bondholders, making of appraisals, and assembling data for the committee $750

[17] (b) For their future secretarial services and expense with reference to the exchange of the securities, which services are clerical, the sum of $1 per certificate, or 214

Total 964

All other requests of the committee and its depositary and secretary are disallowed.

[18] Butz, Von Ammon & Marx ask an allowance for services as attorneys for the bondholders' protective committee. This firm was employed in this proceeding and rendered valuable legal serv-

ices herein from September 15, 1934, the date the petition was filed, continuously to the date of the confirmation of the plan. The services to which such petitioners are entitled to compensation out of the debtor estate include the following:

Examination of the petition, conferences with the attorneys for the petitioning creditors, and the attorneys for the debtor corporation, conferences with the bondholders' protective committee, appearances in court upon the appointment of temporary and permanent trustees, examination and taking an active part in the resistance of the plan proposed by the petitioning creditors, examination of receiver's reports and accounts, securing entry of an order authorizing the trustee under the trust deed to file a bulk claim on behalf of the bondholders securing an order authorizing the bondholders' protective committee to file a claim on behalf of the depositing bondholders, collaboration with the debtor's attorney and the attorney for the petitioning creditors in the formation of an amended plan for the debtor, appearances before the district court and Master Herriott on the hearings on said plan, and participation in the proceedings eliminating the $80,000 junior trust deed from the proceeding.

The court fixes the reasonable value of such services at $2,037.50, which sum is allowed.

[19] Schwartz & Cooper represented the debtor in this proceeding and are entitled to compensation out of the debtor's estate. These services consisted of investigating the affairs of the debtor, preparing and submitting the debtor's plan, the attendance of Mr. Schwartz throughout the various stages of debtor's reorganization. The special master has recommended that a reasonable charge for the services set forth in the petition is the sum of $4,200, which the court allows.

[20] The Chicago Title & Trust Co. requests an allowance for its services and expenses as trustee under the trust deed. Petitioner was designated as trustee May 15, 1927, and since that time has acted as such. As trustee it maintained adequate books and records, answered inquiries by mail and telephone, but performed no substantial duties until May 5, 1933, when demand was filed and the bill of foreclosure was presented for its signature and later filed. It employed attorneys to represent it in the legal phase of the foreclosure proceeding. Aside from the cancelation of a unit lease, its services were largely clerical in nature and should be compensated for on that basis. The court fixes the reasonable value of such services at the sum of $500. As trustee it incurred expenses for filing fees, abstract examination, sheriff's fees, and publication costs in the sum of $559.40, which are allowed in that amount.

[21] Butz, Von Ammon & Marx request an allowance for legal services to the trustee in the foreclosure proceeding in the State court.

Mr. Joseph H. Lawyer appeared and testified that his firm represented the Chicago Title & Trust Co., as trustee, in the State court foreclosure proceeding; that in April 1933 the issue was referred to the bondholders' protective committee for action; that after examination of the files and ascertainment that the committee had acquired 20 percent of the bonds to institute foreclosure proceedings, he caused notice to be served upon the debtor corporation for the default that existed; that as attorney for the committee, he notified the trustee of the default and the election to accelerate the unpaid balance, prepared the bill of complaint in foreclosure, affidavit of unknown residence; submitted the bill of complaint to Chicago Title & Trust Co. for signature, prepared the summons, filed the bill of complaint on May 5, 1933, case no. B–268212, entered order of consolidation in the foreclosure of the second mortgage, contested the fairness of the leases entered into by the receivers, ordered examination of title and information from the Chicago Title & Trust Co. covering the filing of the foreclosure proceeding, examination of the same, filing an amended bill of complaint, summons issued thereunder, appeared in mechanics' lien action, examined the receiver's reports, and appeared in court when such reports were filed and allowances of fees asked for, and suggested that the receiver carry fire insurance in more than one company.

Mr. Lawyer testified that following the schedule of fees of the Chicago Bar Association, dated January 20, 1933, the minimum total fee provided for in an uncontested typical $420,000 bond issue foreclosure would be $8,150, and that the services rendered constituted three-fourths of the services which would have been rendered in a complete foreclosure proceeding.

While the Chicago Bar Association rules are intended as a guide to the courts in the allowance of fees, they are merely advisory and can have no application where the law is otherwise and judicial determination has found the policy for fee allowances in the Federal courts.

The court finds that reasonable compensation to the attorneys for the trustee is the sum of $3,087.50, which is allowed.

Attached hereto is a summary of the allowances made in the first and supplemental opinions.

An order may be submitted in conformity with this supplemental opinion.

Memorandum of allowances

Leo S. Samuels [of Chicago, Ill.], attorney for petitioning creditors:		
Fee	$3,000.00	
Expense	134.06	
		$3,134.06
Francis A. Lackner, employee of petitioning creditor: Fee		60.00
Howard K. Hurwith, trustee under section 77B proceeding: Fee		$1,144.58
Benjamin E. Cohen [of Chicago, Ill.], attorney for trustee Hurwith: Fee		965.63
Taylor, Miller, Busch & Boyden [of Chicago, Ill.], attorneys for intervening creditor: Fee		200.00
Chicago Title & Trust Co.:		
(1) As trustee under trust deed:		
Fee	$500.00	
Expense	559.40	
		1,059.40
(2) As depository for bondholders' protective committee: Fee		214.00
(3) For past secretarial services to bondholders' protective committee: Fee		750.00
(4) For future secretarial services to bondholders' protective committee: Fee		214.00
Butz, Von Ammon & Marx [of Chicago, Ill.]:		
(1) Attorneys for trustee under trust deed: Fee		3,087.50
(2) Attorneys for bondholders' protective committee: Fee		2,037.50
Schwartz & Cooper [of Chicago, Ill.], attorneys for debtor: Fee		4,200.00
Henry G. Barkhausen et al., bondholders' protective committee: Fee		750.00

Memorandum of allowances—Continued

In re New York Investors, Inc. *Reconstruction Finance Corporation* v. *Endelman et al.* Nos. 492, 493. Circuit Court of Appeals, Second Circuit. July 22, 1935

Appeal from the District Court of the United States for the Eastern District of New York.

In the matter of New York Investors, Inc., debtor. From orders directing Charles H. Kelby and Clifford S. Kelsey, as trustees in reorganization of the debtor, to pay out of the estate of the debtor certain allowances for services of Charles H. Kelby and Clifford S. Kelsey, as receivers, Powell & Ruch, as attorneys for the receivers, and Edward Endelman, as attorney for an intervening preferred stockholders' protective committee, in the receivership in the suit in the eastern district of New York, entitled "John A. Selby, complainant, against New York Investors, Inc., defndant, in Equity No. 7020, the Reconstruction Finance Corporation, a creditor, appeals.

Modified in part and reversed in part.

Root, Clark, Buckner & Ballentine, of New York City (William P. Palmer and Everett I. Willis, both of New York City, of counsel), for appellant.

Edward Endelman, of New York City, pro se.

Powell & Ruch, of New York City (Clinton J. Ruch, of New York City, of counsel), for appellees; Powell & Ruch and Charles H. Kelby and Clifford S. Kelsey, as trustees.

Before L. Hand, Augustus N. Hand, and Chase, circuit judges.

Augustus N. Hand, circuit judge:

The appellees Kelby and Kelsey were appointed equity receivers of New York Investors, Inc., on July 14, 1933, and remained such until January 7, 1935. Their work thus covered about 18 months, and upon its termination they became trustees in the reorganization proceding instituted by the debtor under section 77B of the Bankruptcy Act (11 U. S. C. A., sec. 207). On June 29, 1934, they were appointed trustees of Prudence-Bonds Corporation, a subsidiary of New York Investors, Inc., in a similar reorganization proceeding, so that their time was considerably occupied during the final 6 months of the receivership of the latter company in the affairs of the Prudence-Bonds Corporation. The receivership of New York Investors, Inc., was particularly difficult because of the numerous large subsidiaries of which it owned the stock and the intricate relations of these subsidiaries with the debtor and in many cases with one another. Proper administration of the receivership by the receivers and their attorneys, Powell & Ruch, required constant attention, as well as skill and training of a high order. Judge Kelby and Mr. Kelsey have each received an interim allowance of $20,000. The former has been awarded $25,000 more and the latter $10,000 more as final allowances. Each allowance was fixed by the court which had appointed the equity receivers, and was thereafter ordered paid from the debtor's estate by the court in the 77B proceeding. The same judge who had charge of the estate from the beginning made the orders in each court.

The Reconstruction Finance Corporation, a secured creditor having a claim of $20,000,000, intervened in the 77B proceeding and objected to the foregoing allowances, as well as to the others we shall discuss, on the ground that they are excessive. It has chiefly objected to any final allowances at this time, when the prospects of a reorganization are yet uncertain and the yield of the estate in reorganization or, if reorganization shall fail, in liquidation, cannot be foreseen.

[1] In an opinion denying the motions by the appellees to dismiss the appeals by the Reconstruction Finance Corporation, which is to be filed herewith (79 F. (2d) 179), we have held that the court in the reorganization proceeding was authorized under section 77B (i) of the act (11 U. S. C. A., sec. 207 (i)) to reduce the allowances fixed in the equity receivership, if they were found to be unreasonable. There remain for consideration the questions whether only ad-interim allowances should be made at present and whether, in case final allowances are appropriate at this time, those granted have been too large.

Although section 77B (i) only provides for "payment of such reasonable administrative expenses and allowances in the prior

proceeding as may be fixed by the court appointing said receiver or prior trustee" and does not in so many words authorize ad-interim payments, we have no doubt that the section 77B court may employ any fair method to determine what allowances are "reasonable", and to that end may authorize payments on account if it is otherwise difficult to determine what, under the circumstances, is proper compensation. But here the work in the receivership is completed, there are ample assets with which to pay the expenses of the receivers, and we can see nothing to be gained by delaying a final settlement. We, therefore, shall dispose of the allowances at the present time.

[2] Judge Kelby during the first 3 months of the receivership not only performed all the usual services of a receiver but substantially all legal services required, and apparently gave the receivership a great part of his time. During the last 6 months of his tenure he also acted as trustee of the Prudence-Bonds Corporation, and in that capacity will be entitled to remuneration. In view of the fact that the receivership had free assets of only about $1,200,000 and that the total assets, of a book valuation of $42,000,000, are of uncertain value and are to a great extent pledged to the appellant, an allowance to Judge Kelby of $37,500 seems more reasonable than that awarded by the court below. We accordingly reduce the total of $45,000 to $37,500 and direct a further payment to him of $17,500 instead of $25,000.

[3] Mr. Kelsey's allowance by the court below, if reduced in the same way, would aggregate $25,000, and the further payment to him would amount to $5,000. His work for the receivership seems to have been largely concerned with attending to claims filed with the receivers and with care of the bank accounts and office of the debtor. As this work was divided with work for the Prudence-Bonds Corporation, or as trustee thereof, and as he seems to have had no individual office expenses, we think such allowance reasonable. Accordingly the total allowed to him is reduced from $30,000 to $25,000, and a further payment to him of $5,000, instead of $10,000, is directed.

[4, 5] The compensation awarded to Messrs. Powell and Ruch seems far too large. Though we realize the difficulty and intricacy of the problems with which they have had to deal and the training and skill necessary for their solution, they were engaged on this receivership for only 15 months, and received an ad interim allowance of $32,500, and during the same period were paid $25,000 by the receivers out of collections on the so-called Ringling collateral by virtue of the terms of the collateral agreement. While this payment did not come out of the estate, it represented compensation for services for the same period during which they are seeking remuneration from the estate. During the last 6 months of the time they have also been counsel for the trustees in the Prudence-Bond Corporation reorganization, and will be entitled to compensation for services from the estate of that company. They also intend to apply for an allowance of $15,000 in connection with the plan of reorganization of Allied Owners Corporation, and have had an allowance of $3,000 awarded to them in the reorganization of the Prudence Co., each of those corporations being subsidiaries of New York Investors, Inc. They set forth, as do the receivers, voluminous services in ascertaining the financial condition of the various subsidiaries. Undoubtedly it was necessary to perform at least many of these services, but they were largely of a preliminary nature, and the most important work of this sort will be in connection with the reorganizations, if and when they take place. In such circumstances an allowance of $50,000 to Powell & Ruch for their services over and above the $25,000 they have already received out of the Ringling collateral will be ample compensation. They have already received $32,500 and should be allowed only $17,500 more, instead of the $75,000 awarded by the court below, as full compensation for their services. We accordingly direct a further payment to them of $17,500.

The Supreme Court has given notice on more than one occasion that receivers and attorneys engaged in the administration of estates in the courts of the United States and in litigations affecting property within the jurisdiction of those courts should be awarded only moderate compensation, and that many of the allowances heretofore awarded have been too high. In *Newton* v. *Consolidated Gas Co.* (259 U. S. 101, 42 S. Ct. 438, 66 L. Ed. 844), the compensation granted to the master by the lower courts was cut nearly in half. In *United States* v. *Equitable Trust Co.*, (283 U. S. 738, 51 S. Ct. 639, 75 L. Ed. 1379), the allowances fixed by the district court for attorneys, who had recovered a fund for the benefit of an incompetent Creek Indian, were reduced almost 73 percent, and those granted by this court by 50 percent. A similar attitude toward extravagant fees and a determination to hold parties connected with judicial administration to moderate ones is evidenced by the recent opinion of Justice Cardozo in *Realty Associates Securities Corp.* v. *O'Connor* (295 U. S. 295, 55 S. Ct. 663, 79 L. Ed. —). These declarations of policy by a tribunal which is controlling upon the lower courts must be kept constantly in mind in dealing with judicial allowances—a subject difficult and unsatisfactory because of lack of any definite standards.

We can readily imagine that our reduction of the fees of counsel by more than 50 percent may be regarded as drastic in view of the "overhead" necessary for the conduct of a large and intricate receivership like the one before us. But there is no claim that any persons except the two partners and an assistant were engaged in performing the services in question, and their office was engaged in other matters outside of the receivership and was earning other substantial fees that are both in esse and in posse. Moreover, it should be remembered that the work of receivers and counsel in equity receiverships was to some extent only preliminary and that they are representing the estate of the debtor in the section 77B proceeding. They will hereafter be entitled to substantial compensation for work of more vital import in connection with the reorganization, if it proves successful.

[6] The final objection raised by appellant is to the allowance from the estate of the debtor to the appellee Edward Endelman. It was fixed by order of March 1, 1935, in the equity receivership, and directed to be paid by order in the section 77B proceeding of March 22, 1935. This allowance was in addition to a prior one of $3,000 which was made on April 13, 1934. Mr. Endelman was never attorney for the receivers, nor was any order made authorizing him to act on their behalf. He represented an intervening protective committee for the preferred-stock holders of the Prudence Co., whose 7 percent annual dividend was guaranteed by New York Investors, Inc. Although he frequently assisted in matters arising during the administration of the estate, his services seem to have been such as were properly within the duties of the attorneys for the receivers, except those which related primarily to securing and increasing the interest of the creditors whom he represented. No claim is made that the services of the receivers and their counsel were not capable or adequate and they have been, or are to be, awarded substantial compensation for their work. Under the circumstances, it is well settled that services by the attorneys for an intervener, however meritorious, cannot be paid out of the general estate (*Louisville, Evansville & St. Louis R. Co.* v. *Wilson*, 138 U. S. 501, 11 S. Ct. 405, 34 L. Ed. 1023; *Davis* v. *Seneca Falls Mfg. Co.*, 17 F. (2d) 546, C. C. A. 2; *Weed* v. *Central of Georgia R. Co.*, 100 F. 162, C. C. A. 5).

In *Nolte* v. *Hudson Nav. Co.* (47 F. (2d) 166 (C. C. A. 2)) the attorney for part of the unsecured creditors was allowed payment out of the share which went to the creditors of that class, but his services there resulted in a definite addition to the share of all unsecured creditors, and were rendered in a controversy in which apparently the receiver could not properly take part. He nevertheless was not allowed compensation from the general estate.

[7] Mr. Endelman contends that the order directing payment of his allowance cannot be revised because the appeal, if of any validity, was taken under section 24b (11 U. S. C. A., sec. 47 (b)) of the Bankruptcy Act, and any revision of the allowance under section 24b must only be based on errors of law. This contention is without merit, for the facts are not disputed, and the question raised is whether an allowance could be granted to the attorney for an intervener who did not and was not authorized to act for the receivers. This is the question of law which we have decided against the appellee, Endelman.

The order granting an additional allowance of $20,000 to Mr. Endelman should be reversed. If we are correct in our understanding as to the $3,000 which he has already received as an ad-interim allowance, the trustees should take steps to secure the refund of that amount from Mr. Endelman.

The order in respect to the allowances of Messrs. Kelby and Kelsey and their attorneys, Powell & Ruch, is modified in accordance with the terms of this opinion, and the order for compensation of Mr. Endelman is reversed.

In re Memphis Street Railway Co. *Central Hanover Bank & Trust Co.* v. *Memphis Street Railway Co.* Nos. 11792, 1205. District Court, Western District of Tennessee. July 24, 1935

Proceedings in the matter of the Memphis Street Railway Co., debtor, and suit by Central Hanover Bank & Trust Co., trustee, against the Memphis Street Railway Co. On applications for fees and allowances.

Decree in accordance with opinion.

Larkin, Rathbone & Perry, of New York City, for themselves and reorganization committee, as petitioners for fees and allowances.

Armstrong, McCadden, Allen, Braden & Goodman, of Memphis, Tenn., for petitioner Walter P. Armstrong, of Memphis, Tenn., for receivers.

Waring, Walker & Cox, of Memphis, Tenn., for petitioner Roane Waring, of Memphis, Tenn., for debtor corporation.

Stickley, Exby, Moriarity & Pierce, of Memphis, Tenn., for receivers as petitioners for additional fee allowances.

Martin, district judge:

The original bill in equity receivership case 1205 was filed on July 21, 1933, by the Central Hanover Bank, trustee, through Messrs. Armstrong, McCadden & Allen, of Memphis, and Larkin, Rathbone & Perry, of New York, as solicitors for the complainant. The bill was filed as a foreclosure proceeding under the consolidated mortgage on the property of the defendant, Memphis Street Railway Co. On the day that the bill was filed, July 21, 1933, the Memphis Street Railway Co., through Messrs. Waring, Walker & Cox, filed an answer, admitting the allegations of the bill, and on the same date an order was entered appointing Messrs. E. W. Ford and J. H. Townsend receivers and Hon. Walter P. Armstrong attorney for the receivers.

On July 22, 1933, an order was entered fixing the fees of Receiver E. W. Ford at $600 per month and Receiver J. H. Townsend at $300 per month. This order was succinct, distinct, and clear-cut, and made no reservation whatever of the right to allow any additional compensation to the receivers. That no additional compensation was contemplated is evidenced by the fact that on August 21, 1933, an order was entered that: "Walter P. Armstrong, as attorney, solicitor, and counsel for said receivers, be, and he is hereby, allowed the sum of $1,000 a month from and after

July 21, 1933, on account of his services as such attorney, solicitor, and counsel. All other matters, including the final compensation of said attorney, solicitor, and counsel, are reserved."

On August 26, 1933, an intervening petition was filed by Messrs. Frederic J. Fuller, Earl G. Johnston, J. K. Newman, A. B. Ruddock, and Paul H. Saunders, through Messrs. Larkin, Rathbone & Perry, of New York, and Roane Waring, attorney, of Memphis, in which a plan of reorganization was presented by the petitioners, as a reorganization committee.

It appears fully from the record that in January 1932 these same gentlemen had been constituted a bondholders' protective committee and had, as such, devoted much time to the formulation of a plan of reorganization for the Memphis Street Railway Co., and in the course of their work had retained as counsel for the said committee the firm of Larkin, Rathbone & Perry, of New York City.

On July 9, 1934, there was entered, nunc pro tunc, as of June 26, 1934, an order approving the fairness, timeliness, and equitableness of the reorganization plan. It has been shown that there were only minor deviations in the plan, as finally confirmed, from the original plan of the bondholders' protective committee.

On October 13, 1934, the Memphis Street Railway Co., through attorneys Waring, Walker & Cox, filed a debtor petition for the reorganization of the company under section 77B of the amendments to the National Bankruptcy Act (11 U. S. C. A., sec. 207); and on the same date an order was entered approving the filing of the petition and appointing Messrs. E. W. Ford and J. H. Townsend as temporary trustees. This order contains the following provision: "The compensation of the respective trustees shall be at the same rate as was fixed for their compensation as receivers by order of this court in the prior proceeding. The trustees are hereby authorized to retain and employ Walter P. Armstrong as their solicitor, upon the same terms as fixed by the order of this court in the prior proceeding."

It was further provided that the court "reserved the full right and jurisdiction to make such orders for the payment of such reasonable administration expenses and allowances in the prior proceeding as may be fixed by the court in the prior proceeding."

On November 3, 1934, an order was entered, making permanent the appointment of said trustees.

On November 17, 1934, an order confirming the plan of reorganization was entered, in which it was provided: "That all amounts to be paid by the debtor, and all amounts to be paid to said reorganization committee for services or expenses incident to the reorganization are to be subject to the approval of this court."

All of the aforesaid orders were entered and proceedings were had during the tenure of office of the predecessor judge of this court, the distinguished and late lamented Hon. Harry B. Anderson.

It now becomes the duty of the successor judge of this court to pass upon the several petitions for allowances and expenses in the equity receivership cause and also in the debtor proceeding under section 77B. A complete hearing has been held on these petitions. Much testimony has been adduced, and arguments have been made.

It is not a pleasant duty for a judge to pass upon the value of services of eminent and able counsel, whose skill is well known to him, but it is his duty to do so when petitions of the character now before the court are presented for consideration and action.

[1] At the outset, let it be said that this court, as has been frequently heretofore pronounced, is firmly of the opinion that it is essential to a proper administration of insolvency and bankruptcy proceedings, in the disastrous era in which our country has been placed, to hold down the expenses of reorganization to as low a basis as is consistent with fairness to parties who have rendered services to creditors in such proceedings or to the debtor.

In the recent case of *Realty Associates Securities Corporation* v. *O'Connor* (decided in the spring of this year and reported in 295 U. S. 295; 55 S. Ct. 663, 665; 79 L. Ed. 1446), the Supreme Court of the United States, speaking unanimously through Mr. Justice Cardoza, has said: "Extravagant costs of administration in the winding up of estates in bankruptcy have been denounced as crying evils (Strengthening Procedure in the Bankruptcy System, S. Doc. No. 65, 72d Cong., 1st sess. (1932), p. 53; also H. Rept. 65, 55th Cong., 2d sess. (1898), p. 44). In response to those complaints Congress has attempted in the enactment of the present statute to fix a limit for expense growing out of the services of referees and receivers" (citing sections of the Bankruptcy Act).

Thus the highest Court in the land has declared this policy in favor of the economical administration of matters in bankruptcy and receiverships.

In *In re Insull Utility Investments, Inc.* (D. C. Ill., 1933, 6 F. Supp. 653, 661), Evans, circuit judge, said: "And finally, in determining compensation, it must be kept in mind that 1933 is not 1929. The wages and salaries of all kinds were much lower in 1932 than in the twenties. The difference must be reflected in the compensation of receivers and their counsel, as it is in other fields."

In a recent district court decision, *In re Wayne Pump Co.* (D. C. Ind., 1935, 9 F. Supp. 940, 942), the court said:

"It might be well to remind all claimants that this procedure is under an act of Congress designated 'An act for the relief of debtors.' If relief is to be extended, it must be real and not illusive or imaginary. Reorganization must result in benefits to the distressed debtor. To accomplish this the expense must bear a proper relation to the advantage gained. The action of some of the claimants in hastily organizing a committee composed of members residing in Minneapolis, Chicago, Buffalo, and New York, employing attorneys in Chicago, Buffalo, and Indianapolis, in traveling from the Pacific coast to New York City, in telephoning and telegraphing to all parts of the United States, in employing expert typists, in advertising in the newspapers in the cities of Chicago and New York, in sending out warnings and appeals to join in the movement in opposition to the proposed plan of reorganization, promising security holders what, under the circumstances, was impossible of performance, should be discouraged. It has all the earmarks of a mad scramble for advantage at grossly exaggerated expenses, which the court is now asked to burden upon the debtor.

"Fees and expenses are petitioned for totaling the tidy sum of $91,000. This amount is out of all proportion to the benefits to the debtor or the real value of the work done and the results accomplished. Counsel, committee members, and their employees seem to have lost their true sense of proportion. It therefore becomes the stern duty of the court to protect the debtor and its security holders."

The court held that where counsel of a debtor corporation, since organization, received annual retainers from $2,500 to $6,000, they were entitled to $5,000 for services rendered in reorganization of the corporation under section 77B. The court said further: "It is a serious question how far a volunteer committee is justified in making charges for services and expenses, but this, at least, may be positively stated, that the true basis of all allowances is the value of the service rendered."

(2) The receivers and the attorneys for the receivers are, of course, entitled to fee allowances to be determined by the court, because these gentlemen are acting as arms of the court. The debtor corporation is also entitled to the benefit of counsel in its own interest. It is, therefore, proper for the court to allow a fee to the debtor's attorney.

Any other fee allowances are not required by the statute, section 77B, and are not, in equity, to be allowed by the court out of the funds of the debtor corporation, being administered in insolvency proceedings, or in bankruptcy, unless the services for which fee allowances are claimed were authorized by the court before they were rendered, or are found by the court to have been rendered by the claimants acting in an entirely disinterested manner for the benefit of the estate as an entirety. The only justification for such allowances, in the discretion of the court, is found in section 77B of the amendments to the National Bankruptcy Act (11 U. S. C. A., sec. 207): "(c) Upon approving the petition or answer, or at any time thereafter, the judge, in addition to the jurisdiction and powers elsewhere in this section conferred upon him * * * (9) may allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and the plan by officers, parties in interest, depositaries, reorganization managers, and committees or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor, but appeals from orders fixing such allowances may be taken to the circuit court of appeals independently of other appeals in the proceeding and shall be heard summarily."

In the light of these principles, and the policy of this court by its orders and decrees to enforce the economical administration of estates in receiverships and in bankruptcy, the court will now proceed to examine the various petitions which are before the court for action.

[3] The reorganization committee, Messrs. Frederic J. Fuller, Earl G. Johnston, J. K. Newman, A. B. Ruddock, and Paul H. Saunders, ask an allowance of $10,000 to themselves for services. They further ask an allowance of $11,275.90 as expenses paid by the reorganization committee to May 28, 1935, together with an added item of interest of $1,078.63. They further petition for the approval of allowances listed as approved and assumed but not actually paid. These last-named expenses are in excess of $33,000. They further ask for allowances to several banks and trust companies for services as special depositaries.

As has been heretofore pointed out, this reorganization committee was originally a bondholders' protective committee, which commenced its functions early in 1932, more than a year preceding the filing of any court proceeding.

It appears that the committee agreed that the value of the services of Messrs. Larkin, Rathbone & Perry, as counsel, amounted to $25,000 for services rendered prior to the filing of the equity bill on July 21, 1933, for foreclosure under the consolidated mortgage; and that many other expenses were also incurred prior to the filing of the foreclosure bill, for which allowance is now claimed.

It seems obvious to this court that such expenses are not allowable out of this estate in bankruptcy under section 77B. The establishment of the principle in United States courts that such expenses are allowable, carried to its logical conclusion, would be subversive of the idea and purpose underlying the enactment of the amendments to the National Bankruptcy Act. To let gentlemen proceed on the idea and theory that they can employ counsel, advertise, expend money freely, or economically, as the case may be, and then come into court and burden upon the debtor expenses incurred prior to any court proceeding, is not contemplated by the act. Therefore, the allowance of any such claim is not even considerable in this court.

(4) The reorganization committee also approves and asks the payment, by court allowance in this case, of the sum of $22,500 to Messrs. Larkin, Rathbone & Perry, as counsel for the reorganization committee, in addition to the aforesaid allowance of $25,000 to said firm of attorneys. The reorganization committee also asks the allowance of expenses listed in its petition.

Messrs. Larkin, Rathbone & Perry, by the undisputed record, were attorneys for the Central Hanover Bank & Trust Co. and for the bondholders secured under the consolidated mortgage, in which said bank was trustee. Services rendered by them toward a complete consummation of the plan which the bondholders advanced through the reorganization committee (which had formerly been the bondholders' protective committee) must be deemed to have been services rendered to the bondholders. This firm would have been unfaithful to its trust as attorneys unless throughout the entire proceedings it had properly represented the interest of the bondholders. It would have been an obviously conflicting position for them to undertake to represent anyone else who would have a conflicting interest with the bondholders. Therefore, the court assumes that they performed their professional duties and represented their clients throughout this entire proceeding, both in court and out of court, and they must accordingly look to their clients for compensation and not to the funds of the debtor corporation, now under the protection of this court in bankruptcy.

The reorganization committee, as has been stated, was also originally the chosen representative group of the bondholders, and each of the members of that committee, it has been shown, was either personally interested as a bondholder or was representing the interest of large bondholders. Therefore, they were giving their time and attention to the cause of these bondholders in all steps taken both before and after the original bill was filed. Messrs. Fuller, Johnston and Ruddock were really representatives of Mr. Billings, or his estate; the Billings holdings constituting a very heavy percentage of the total bonds outstanding. Dr. Saunders and Mr. Newman were representing the group of southern bondholders, largely centered in New Orleans. From the inception of this matter the reorganization committee and its counsel were in the position of being the special representatives of the bondholders. They must look to their clients, or those whom they represented, for their compensation. It follows, therefore, that the petition of the reorganization committee for the allowances claimed, and the fee claimed for its attorneys, Messrs. Larkin, Rathbone & Perry, is denied.

Certain of the expenses listed in the petition of the reorganization committee, excluding any fee allowances, may be properly chargeable to the estate of the debtor; but these petitions do not separate or segregate the items of expense in such manner that this court can determine which items of expense were of benefit to the creditors and to the debtor corporation generally, and which were expenses of the protective committee, or expenses of the protective committee continuing as a reorganization committee, and acting entirely in the interest of the bondholders. A reference will be made to the standing master for proof of any of such claims as, under the opinion of this court and the decision now being rendered, are properly allowable out of the funds in the hands of the trustees.

The court must not be construed by anything that has been said as intending remotely to reflect upon the good work performd by the reorganization committee, or its highly regarded counsel in working to the consummation of a plan which has been approved by the predecessor judge of this court. The court knows from the record that these gentlemen are experts in their lines; that they have put in much time, thought, and effort to the work, finally resulting in the consummation of a plan of reorganization for the Memphis Street Railway Co., debtor. But the court is simply holding, without passing (because it is unnecessary to do so) on the reasonableness or unreasonableness of any fee allowances, or other allowances claimed as expenses in this case, that the reorganization committee and its attorneys must look to the bondholders for payment.

(5) The receivers in the equity cause, who are also trustees in the corporate reorganization proceeding under section 77B, Messrs. E. W. Ford and J. H. Townsend, have filed claims for the allowance to each of $5,000 additional compensation.

The claims of the receivers and trustees for additional compensation are denied, for the reason that the court orders, heretofore discussed, expressly provided and fixed the basis of compensation at $600 and $300 to the respective receivers and trustees; and for the further reason that the court is of the opinion that the total allowance originally fixed by the court, $600 and $300 a month, is a reasonable and fair allowance, and adequately compensates the gentlemen for their services.

The salary of Mr. Ford was $8,000 per annum prior to the receivership proceeding; his salary as trustee at $600 per month would be $7,200 per annum, a reduction of only 10 percent from his previous salary with a going concern as operating superintendent. Mr. Townsend's services at $300 per month, added to the allowance of $600 per month to Mr. Ford, make the total salaries paid trustees and receivers considerably in excess of the salary which Mr. Ford would have received had the corporation continued operating as a going concern.

Such considerations seem material. No matter how able the official, when the company in which he has been an officer for many, many years reaches the point, whether due to unavoidable causes or not, where it is necessary to have the protection of the courts for the preservation of its assets and to keep it operating, he might be considered lucky, in these days and times, if he is appointed receiver and continues the general work which he has been doing, with some added duties. The court held Mr. Ford in an undisturbed position, as receiver and trustee, and he now continues as an official of the reorganized company. It is not asking any great sacrifice of Mr. Ford that he receive slightly less compensation, only 10 percent, as receiver than he would have received had his company continued as a going concern.

In composition debtor reorganization proceedings there must be sacrifice of self-interest to some extent if successful plans are to be worked out. The creditors generally must make sacrifices, and the debtor cannot expect to obtain all that he desires. It is highly important, also, that the courts insist upon an economical administration to achieve successful reorganization of debtor corporations brought within their jurisdiction under section 77B.

Before passing to a consideration of the claims which have not yet been discussed, the court deems it proper to observe that there has already been paid to the receivers and the attorneys for the receivers the sum of $41,800. Had the claims as filed in this cause been allowed, the total expense of the receivership and ensuing reorganization under section 77B, including the attorneys', receivers', committees', and other expenses would have amounted to approximately $175,000. This sum is entirely too high an expense for a receivership in which, after all, as Dr. Saunders has testified, the bondholders are merely trying to pull themselves up by their bootstraps and to put their collateral in better shape. The Memphis Power & Light Co., owner of all the common and preferred stock, has been satisfied to take stock in cancelation of the entire indebtedness to it of the Memphis Street Railway Co. in an amount in excess of $2,650,000. It would be too heavy a burden to place upon the Memphis Street Railway Co., a utility serving the public, holding its franchise from the public, and receiving its revenue from the public, the total expenses claimed. The allowance of the claims which have been denied might seriously impair the benefit and relief which this proceeding has sought to obtain for the debtor, Memphis Street Railway Co., in corporate reorganization.

Now, of course, in referring to approximately $175,000 of expenses, it must be noted that a portion of such expenses would have fallen upon the Street Railway Co. had the company not been forced into receivership and subsequent bankruptcy.

The fees of the able counsel for the Memphis Street Railway Co., Mr. Armstrong, and the salary of the competent general superintendent, Mr. Ford, would have been payable had the company continued as a going concern. But, even considering those items as obligations, the actual cost of this proceeding would have been in the neighborhood of $140,000.

A clear-cut and comprehensive petition has been filed by the attorney for the receivers and trustees, in which the court is asked to allow an additional fee of $10,000.

[6] Before this hearing the court took pains to study the complete record in the case, because he was not judge of the court during the time that the proceedings had been had, either in the equity cause or in the bankruptcy proceeding under section 77B. The court desired to be fully informed as to all the proceedings and examined all the documents, and had, therefore, a comprehensive view of this case before the hearing. From inspection of the record, it is manifest that Hon. Walter P. Armstrong has done a very excellent piece of work. The receivership and ensuing proceeding in bankruptcy have been handled in shipshape.

It appears that in the original court order allowing his compensation of a thousand dollars per month there is a reservation for additional compensation allowable in the discretion of the court.

Mr. Armstrong has drawn as compensation the sum of $22,000. He is somewhat in the position of Mr. Ford, in that the continuity of his representation of the company as its attorney has been carried on throughout the proceeding. He has performed a heavy amount of work, and his work has been well and ably done. But, during these days and times, a fixed and certain salary of a thousand dollars per month from one client is substantial compensation, even considering the fact that lawyers' fees are not net earnings, but are to be considered in the light of overhead expense. This court knows that, unhappily, the earnings of lawyers have been greatly reduced, as have been the earnings of business men, professional men, laboring men, and men generally. But, as stated in the opinion cited, supra, 1933 is not 1929; nor, it may be added, is 1935.

It is extremely difficult to calculate the value of professional services extending over a long period of time, covering as wide a field of work as is embraced in this case; but the court is not committed in duty to follow opinion testimony entirely in fixing fees, even though the highest respect be entertained for the lawyers who have given their opinions in support of the fee allowances claimed. The court's function is to adjudge these fees, and it is the court's duty to protect the estate under its care.

Considering to the best of the ability and conscience of the court the claim of the able attorney for the receiver for an additional allowance, and viewing it from the double standpoint of conserving the assets of the estate and allowing a fair compensation to counsel for services worthily rendered, the court is of the opinion that an added compensation of approximately 30 percent, to that which has been already awarded and drawn, would be fair and reasonable. Therefore, the court will allow the Honorable Walter P. Armstrong, as attorney for the receivers and trustees, an additional compensation of $6,500.

[7] There remains for consideration the petition of Col. Roane Waring, of Waring, Walker & Cox, for counsel fees as attorneys for the debtor corporation. As has been heretofore stated, it is proper that such fee be paid out of the estate of the Memphis Street Railway Co., debtor in bankruptcy. The firm of Waring, Walker & Cox has been long connected with the Memphis Street Railway Co. Col. Roane Waring became one of its attorneys shortly after he was graduated from the University of Virginia. He has been thoroughly familiar with the Memphis Street Railway Co.'s busi-

ness, and was in a peculiar position to render valuable services to the company. He, like Mr. Armstrong, also had the benefit of the assistance of able partners and associates in the work of this receivership.

Upon the showing from the record in this cause, neither Col. Waring, nor any member of his firm, has received any compensation whatever from the Memphis Street Railway Co. since the filing of the equity-receivership bill. Their services were highly important and valuable, as has been abundantly shown. The court will, therefore, allow a fee of $6,000 to Messrs. Waring, Walker & Cox, as attorneys for the debtor corporation.

Appropriate orders will be drawn and entered in conformity with this opinion.

In re New Rochelle Coal & Lumber Co. District Court, Southern District New York. March 21, 1935

Proceeding in the matter of the New Rochelle Coal & Lumber Co., debtor.

Decree in accordance with opinion.

Twyeffort & DuBois, of New York City, for debtor.

Seacord, Ritchie & Young, of New York City, for New Rochelle Trust Co.

Caffey, district judge:

[1] The statute plainly authorizes allowance to the attorneys of the debtor for services such as have been rendered by the attorneys for the debtor in this case. In view of the debtor having expressly consented to the allowance of the amount applied for by its attorneys, there being no opposition by creditors and it being satisfactorily established that there is no likelihood of the interest of the creditors being adversely affected, the amount asked for by the debtor's attorneys will be approved. In the circumstances it would serve no useful purpose to summarize these services, which are adequately described in the petition. Nevertheless, within the rule of *Randall* v. *Packard* (142 N. Y. 47, 36 N. E. 823) governing the determination of the value of professional services, I think the sum sought here is reasonable.

Subdivision (c) (9) of section 77B of the Bankruptcy Act, 11 U. S. C. A., sec. 207 (c) (9), dealing with compensation to be paid by the debtor or out of the debtor's estate, is very general in terms. On the other hand, the section in its entirety makes it manifest that it is the duty of the court to keep expenses to the debtor or to a debtor's estate carefully within rather narrow limits. This is the view taken by my associates. See, for example, the memorandum of Judge Goddard, dated November 27, 1934, *In the Matter of the Petition of DeWitt Clinton Co., Inc., a Corporation* (D. C. No. 60123, 11 F. Supp. 829).

[2] With the view just stated in mind, I am persuaded that only two types of services rendered by the attorneys for the trust company come within the intention of the clause of the statute referred to. These are the services rendered to the trust company in guiding it as a depositary of the bonds and the services rendered to the debtor as the owner (through a subsidiary) of a portion of the bonds. As nearly as I can estimate, a reasonable value of those services is $500.

All I have said is without criticism of or in derogation of the value of the whole of the legal services rendered by the attorneys for the trust company; but I am persuaded that the attorneys must look elsewhere than to the debtor for compensation for such of those services as are outside of the two specific kinds which I deem to be within the statute.

I have signed an order accordingly.

In re Wayne Pump Co. District Court, Northern District of Indiana, Fort Wayne Division. February 8, 1935

Petition by the Wayne Pump Co. for reorganization under section 77B of the Bankrutcy Act, wherein John H. Farley and others intervened. On petition for allowance of fees and expenses.

Decree in accordance with opinion.

James R. Fleming and Willard Shambaugh, both of Fort Wayne, Ind., and Hays, Wolf, Kaufman & Schwabacher, of New York City, for Wayne Pump Co.

Peabody, Westbrook, Watson & Stephenson, of Chicago, Ill., Moot, Sprague, Marcy, Carr & Gulick, of Buffalo, N. Y., and Pickens, Gause, Gilliom & Pickens, of Indianapolis, Ind., for bondholders' protective committee.

Slick, district judge:

A petition was filed on June 9, 1934, by the Wayne Pump Co., a corporation organized under the laws of Maryland, alleging that the company was unable to meet its obligations as they matured, and desired to effectuate a reorganization under section 77B of the Bankruptcy Act (11 U. S. C. A. sec. 207). The petition was approved as properly filed June 11, 1934.

On September 7 an order was made permitting Mr. John H. Farley, of Minneapolis, Mr. Charles C. Wells, of Chicago, and Mr. Robert M. Weidenhammer, of New York City, members of a debenture bondholders' protective committee, to intervene. Later Mr. David L. Landy, of Buffalo, was added to this committee, and Mr. Maurice P. Angland, of Minneapolis, acted as its secretary. So far as it appears of record, none of the members of this committee owned any of the bonds or stock of the corporation proposing the reorganization.

The court is now asked to allow fees and expenses to the company's counsel, the members of the debenture bondholders' protective committee, and its counsel, special masters' fees and expenses, and some other expenses, all in reference to the reorganization.

[1] It is a serious question how far a volunteer committee is justified in making charges for services and expenses, but this at least may be positively stated, that the true basis of all allowances is the value of the service rendered.

The committee started out to oppose the plan of reorganization, and solicited bondholders to cooperate with them and withhold consents to the reorganization proposed, and revoke powers of attorney already granted. Some of its members traveled quite extensively, employed counsel, and made many other expenditures.

The counsel employed by the committee were Peabody, Westbrook, Watson & Stephenson, of Chicago; Pickens, Gause, Gilliom & Pickens, of Indianapolis; and Moot, Sprague, Marcy, Carr & Gulick, with whom Committeeman Landy is associated, of Buffalo. The committee has presented claims for its own fees and expenses, and the fees and expenses of its counsel, in the sum of $50,464.95, and the counsel fees requested by counsel for the company, including all other expenses, total $40,785.26, making a grand total of counsel fees, committee fees, and expenses to this estate asked in the sum of $91,250.21.

The attitude of counsel for the committee after the first brush or two in court was conciliatory and constructive, and, regardless of the motives of the committee, resulted in a compromise reorganization beneficial to the company and not prejudicial to the rights of the bondholders. The activities of the law firms were of great value to the estate. Bad advice at this point in the proceedings could very easily have resulted in prolonged litigation with possible appeals and unpreventable delays, which would in all probability have destroyed the very purpose of the act and the reorganization proceedings.

[2] The court is persuaded that counsel, when acting in good faith, should be encouraged to advise and persuade clients whenever possible to assist in and cooperate with an honest endeavor to reorganize an industry, and that they should be assured by the courts that such constructive conduct on their part will meet with reward commensurate with the character of the assistance rendered and the results obtained, rather than that such counsel will be penalized for shortening, instead of prolonging, the court procedure.

[3] On the other hand, the hasty organization of so-called protective committees who volunteer advice to bondholders and solicit holders of securities not to go along with a company reorganization, suggesting a better method to be proposed and advising the revocation of assents already made, as was done in this case, should, to say the least, be scrutinized carefully by the court when asked to make liberal allowances to the members of such volunteer committee.

[4] A very much smaller committee composed of members living in closer contact with each other could have functioned as effectively, and, in all probability, more efficiently, and with much greater economy, than did this committee whose members were located in Minneapolis, Chicago, Buffalo, and New York City. If members of a protective committee expect to ask the court for reimbursement of expenses, they must exercise discretion and judgment in creating that expense. At least the same degree of care must be used as if the committeemen were expending their own money. It is entirely too easy to spend the company's money and leads to extravagance and unnecessary travel, as well as to the doing of other unnecessary things. The record discloses that the committee met several times, spent some days discussing the proposed plan and suggesting modifications, and then turned the matter over to their counsel. The committeemen were present in court when the compromise plan was presented, but it does not appear that their presence was necessary. They were not called to testify.

It might be well to remind all claimants that this procedure is under an act of Congress designated, "An act for the relief of debtors." If relief is to be extended, it must be real and not elusive or imaginary. Reorganization must result in benefits to the distressed debtor. To accomplish this the expense must bear a proper relation to the advantage gained. The action of some of the claimants in hastily organizing a committee composed of members residing in Minneapolis, Chicago, Buffalo, and New York, employing attorneys in Chicago, Buffalo, and Indianapolis, in traveling from the Pacific Coast to New York City, in telephoning and telegraphing to all parts of the United States, in employing expert typists, in advertising in the newspapers in the cities of Chicago and New York, in sending out warnings and appeals to join in the movement in opposition to the proposed plan of reorganization, promising security holders what, under the circumstances, was impossible of performance, should be discouraged. It has all the earmarks of a mad scramble for advantage at grossly exaggerated expenses which the court is now asked to burden upon the debtor.

Fees and expenses are petitioned for totaling the tidy sum of $91,000. This amount is out of all proportion to the benefits to the debtor or the real value of the work done and the results accomplished. Counsel, committee members, and their employees seem to have lost their true sense of proportion. It, therefore, becomes the stern duty of the court to protect the debtor and its security holders.

[5] Certainly valuable legal services were rendered, and most certainly those who rendered these services are entitled to fair compensation. The value of these services should be measured by what lawyers would be justified under the circumstances in charging and collecting from a client for the legal work done, having due regard for the results accomplished and the ability of the

client to pay. More than this would be an outrage upon the debtor—less would be unfair to counsel.

[6] However, it should be remembered that the legal services were to be rendered in the northern district of Indiana, and the value of those services is to be measured by the customary fees paid in this jurisdiction. Counsel accepting employment are charged with knowledge of this rule. Where parties or committees procured the services of counsel residing in New York, Chicago, and Indianapolis it was incumbent upon the parties or their counsel to provide for the rendition of the legal services in the jurisdiction of this court, and for that reason no transportation expenses will be allowed.

After the hearing at which testimony was adduced in reference to the services rendered and the value of those services, the affidavit of the treasurer of the company was filed, showing that the firm of Hays, Wolf, Kaufman & Schwabacher, counsel for the debtor, has been on retainer from this company since its organization. It seems that this company was organized in 1928 by an investment banking house of New York City, a client of this law firm. An operating company manufactured and sold gasoline pumps. This company was prospering and making money for its stockholders when, through the aforesaid investment banking house, all of the common stock of the operating company was purchased and a new company, a holding company, which is the company now being reorganized, formed to purchase and hold all the common stock of the operating company.

This was done, and bonds were sold against this common stock. Very large profits were made by someone in this promotion. It was a high-finance promotion typical of the halcyon days of 1928 and 1929. It is not for this court to criticize, and the action taken in 1928 should be viewed as of that date and not as of the present writing.

However, the fact stands out that the counsel who are asking to be reimbursed liberally for reorganizing this company are the same counsel who acted for, and were paid by, the investment company in the original organization and set-up, and who have been on yearly retainer by the company in difficulty since its organization. The retainer fees paid were as follows:

For part of the year 1928	$2,500
For 1929	6,000
For 1930	4,000
For 1931	4,000
For 1932	3,000
For 1933	3,000

And for 1934, while the reorganization was in progress and for which these fees are petitioned, the sum of $3,000.

[7] Under the circumstances, this court does not feel like allowing the fees of $15,000 petitioned for by this firm. The court feels that $15,000 would be a fair fee to all the attorneys who acted for the company in this reorganization, and that amount is allowed, $5,000 being allowed to Hays, Wolf, Kaufman & Schwabacher, $5,000 to James R. Fleming, and $5,000 to Willard Shambaugh.

The court further feels that $11,000 is a fair fee for counsel for the committee, having due regard for the constructive service rendered by these counsel, the results obtained by their advice and labors, and the ability of the reorganized company to pay. That sum is therefore allowed as follows: $6,000 to the firm of Peabody, Westbrook, Watson & Stephenson, and $4,000 to the firm of Pickens, Gause, Gilliom & Pickens, and $1,000 to the firm of Moot, Sprague, Marcy, Carr & Gulick, of Buffalo.

A total of fees and expenses will be allowed in the sum of $44,432.77. This seems like a rather large amount to burden upon the company which is just now struggling to make ends meet, but the allowances have been cut as far as the court feels justified in going.

The company will be ordered to pay all allowances herein made in cash except the fees allowed to counsel for the company in the sum of $15,000, and to counsel for the committee in the sum of $11,000. The company will be ordered to pay these fees as follows: One-half cash and one-fourth in 6 months, and the balance in 1 year from the date of the filing of this order, the deferred payments to be evidenced by notes bearing 5-percent interest.

United States District Court, Southern District of New York. *In the matter of Paramount-Publix Corporation, debtor.* In consolidated proceedings for reorganization of a corporation. No. 56763

OPINION ON ALLOWANCES

Coxe, district judge:

These are applications by 53 petitioners for the allowance of fees and expenses in connection with the equity, bankruptcy, and reorganization proceedings of Paramount-Publix Corporation, the debtor, which, in one form or another, has been under the jurisdiction of this court for about 2½ years. The aggregate amount of the allowances requested is $3,239,828.15, of which $2,841,031.84 is for services and $398,796.31 for expenses. There have been prior allowances in the equity and bankruptcy proceedings amounting to $458,029.99.

The various applications were heard by me in open court on notice to all creditors, stockholders, and persons interested in the proceeding; and I was assisted at the hearings and in the consideration of the different applications by Mr. Joyce, the special master, who has been in charge of the case generally since the commencement of the 77B proceedings.

The debtor was a large company, operating through approximately 500 subsidiary and affiliated corporations, with many outstanding securities distributed widely among the general public. Its business comprised all branches of the motion-picture industry, including production, distribution, and exhibition. Through one group of subsidiaries the company produced motion pictures and distributed them in all parts of the world, and through another it exhibited pictures in theaters in many parts of the United States and Canada, and in some places in England and France. At the time of the appointment of the equity receivers the company held interests of varying character in more than 1,100 theaters in which its motion pictures were exhibited.

On January 26, 1933, equity receivers were appointed in this district. This was followed, on March 14, 1933, by the adjudication of the company as a bankrupt on its own petition; and on April 17, 1933, bankruptcy trustees were appointed. The business remained in their hands until June 16, 1934, when the 77B petitions were approved and the bankruptcy trustees were appointed temporary trustees under 77B. The appointments were made permanent on July 10, 1934.

The reorganization plan, which included also a plan of reorganization of Paramount Broadway Corporation, was formally proposed on December 3, 1934, and, after prolonged hearings before the court, final confirmation was obtained on April 4, 1935; and on July 1, 1935, the debtor became revested with all of its assets.

During the course of the proceedings there were separate reorganizations of many of the subsidiaries, and this necessarily consumed considerable time and effort on the part of the trustees and their attorneys. There are other subsidiaries still in the process of reorganization, on which a large amount of work has been performed. But by and large the work of liquidation, readjustment, and reorganization has been substantially completed, and the business has now been turned back to the reorganized company, with the properties intact and well integrated, the fixed charges greatly reduced, the finances in sound condition, and the good will unimpaired. This is an achievement for which those who have been in positions of responsibility, both in the administration of the estate and the reorganization of the company, are entitled to substantial recognition.

The court, in the order confirming the plan of reorganization, reserved jurisdiction to fix and direct the payment of administrative expenses and to allow reasonable compensation in this proceeding, in the prior equity and bankruptcy proceedings, and in connection with the plan. This provision of the order is in harmony not only with subsection (c), subdivision 9, of section 77B but is a substitute for the alternative procedure indicated by subsection (f), subdivision 5.

The general rule in equity is (1) that a trust estate must bear the expenses of its administration, and (2) that where one of many persons having a common interest in a fund, at his own expense, recovers or preserves the fund, he is entitled to be reimbursed from the fund for his actual and necessary expenses, including reasonable attorneys' fees. *Trustees* v. *Greenough* (105 U. S. 527); *United States* v. *Equitable* (283 U. S. 738); *Nolte* v. *Hudson* (47 Fed. (2d) 166). It is also well settled that action taken adversely to the common interest in an effort to deplete the fund does not give rise to any claim for compensation or reimbursement. *Hobbs* v. *McLean* (117 U. S. 567, 582); *Kimball* v. *Atlantic* (223 Fed. 463). The rule has, however, an important limitation in insolvency proceedings where a receiver or trustee has been appointed and is represented by competent counsel. Ordinarily, there is then no room for independent participation in the administration of the estate and anyone who, without court authorization, performs administrative services, no matter how meritorious, or incurs expense, must look solely to his own clients for payment. *In re New York Investors,* opinion of Circuit Court of Appeals, Second Circuit, July 22, 1935. In bankruptcy proceedings under the general Bankruptcy Act, the limitation is even more stringent than in equity. *In re Eureka* (48 Fed. (2d) 95); *In re Faour* (11 F. Supp. 462), affirmed by Circuit Court of Appeals, Second Circuit, July 1, 1935. The limitation has general application also to proceedings under 77B.

Under the practice prior to the reorganization statute, costs, including compensation of committee members and committee charges, were customarily taken care of outside of the court proceedings. This gave rise to grave abuses, and, in an effort to control such costs, courts frequently resorted to the expedient of making confirmation of the plan, or of the judicial sale, contingent upon the approval by the court of all reorganization expenses. *Bethlehem* v. *International* (66 Fed. (2) 409). In composition proceedings under the general Bankruptcy Act, committees were, however, denied compensation or reimbursement from the estate as not being authorized by the statute. *In re Realty Associates* (69 Fed. (2) 41).

All reorganization expenses are now expressly declared to be proper subjects of judicial scrutiny and determination. Indeed, there can now be no judicial confirmation of a corporate reorganization plan unless the reorganization expenses "have been fully disclosed and are reasonable, or are to be subject to the approval of the judge." Section 77B (f) (5).

Section 77–B (c) provides as follows:

"Upon approving the petition or answer or at any time thereafter, the judge, in addition to the jurisdiction and powers elsewhere in this section conferred upon him * * * (9) may allow a reasonable compensation for the services rendered and reimbursement for the actual and necessary expenses incurred in connection with the proceeding and the plan by officers, parties in

interest, depositaries, reorganization managers and committees, or other representatives of creditors or stockholders, and the attorneys or agents of any of the foregoing and of the debtor."

This language is sufficiently comprehensive to include in the several categories anyone having an interest in the reorganization, provided the services for which an allowance is asked are proper and beneficial, and the expenses are actual and necessary. The term "officers" as used in the subdivision is defined in section 1 of the Bankruptcy Act to include "clerk, marshal, receiver, referee, and trustee"; and the words "parties in interest plainly refer to creditors, stockholders, or other persons having claims against, or interests in, the company or its property, other than those represented by "committees or other representatives of creditors or stockholders." There is nothing in the subdivision which makes formal intervention a prerequisite to the granting of an allowance; for not all of the persons mentioned in the subdivision have sufficient standing even to apply for intervention; and subsection (c) (11) was not intended to qualify persons for applications for allowances.

There is no warrant under the statute for the granting of allowances for unnecessary services or expenses. Committees are essential in cases where vast numbers of bondholders and stockholders are involved, but a multiplicity of committees representing the same general class of security holders only leads to confusion and waste and should not be encouraged. Ordinarily, one fairly representative committee for a particular class is sufficient; and before additional committees for the same class can be justified there should be strong and compelling reasons for their creation and existence. In the present case an independent committee was formed for the debenture holders of the company and another for the certificate holders of its subsidiary, Paramount Broadway Corporation. Both of these committees are asking allowances in the present proceeding. The respective main committees for those classes were selected at the instance of interests which had previously been closely identified with the company; and I think that security holders of those classes were reasonably entitled to independent representation, if for any reason they considered that their rights would not be adequately protected by committees chosen in the manner indicated. I am satisfied, therefore, that there was room in this case for these two independent committees; and, although their activities inevitably resulted in some duplication of effort and expense, I believe they made a real contribution to the reorganization and that they are entitled to allowances.

The statute permits the payment of reasonable compensation to committee members "for services rendered." This necessarily implies loyal and disinterested service in the interest of the persons for whom the committee assumes to act; and a committee member who, during his period of service, purchases and sells or purchases for personal gain securities of the company which he is engaged in trying to reorganize, is not entitled to an allowance for his services as a committee member.

Allowances for reorganization services and expenses are not limited to the period of the 77B proceedings. This is clear from the language of subdivision (c) (9), which provides that allowances may be made for services and expenses "in connection with the proceeding and the plan." The words "proceeding" and "plan", as used in the subdivision, are not coterminous, and services and expenses in connection with the plan may well extend over a considerable period prior to the institution of the proceeding. The statute itself recognizes that the plan may precede the proceeding, and subdivision (e) (1) specifically authorizes the use of acceptances obtained before the filing of the petition. It was held also in *Campbell* v. *Alleghany* (75 Fed. (2) 947) that such acceptances might be used even though they were obtained prior to the enactment of section 77B. The recent decision of the circuit court of appeals for this circuit, in *In re Allied Owners Corporation* (unreported opinion of July 22, 1935), contains nothing to the contrary. That case concerned only allowances for services in a previous bankruptcy proceeding, and it was merely held that the provisions of section 48 (a) of the general Bankruptcy Act were applicable. The allowances had nothing to do with reorganization services under section 77B, and subdivision (c) (9) was in no way involved.

Any creditor or stockholder is entitled as of right to be heard on the question of the permanent appointment of any trustee or trustees, and on the proposed confirmation of any reorganization plan (sec. 77B (c) (11)). But mere participation in the hearings at which these questions are discussed, or offering advice, suggestions, or criticisms regarding the proposed plan, or on matters of procedure, does not give rise to any claim for compensation from the estate. These are services for which attorneys should look to their own clients for payment. Nor can any compensation be awarded to attorneys for opposing petitions for allowances, as it is the duty of the court to protect the estate in that respect (*Matter of the Atty-Gen'l* v. *North*, 91 N. Y. 57).

There are no satisfactory rules or standards which can be applied safely in fixing allowances for services in judicial proceedings, and the principles laid down by the courts with respect to attorneys' compensation generally have only a very limited application. Receivers, trustees, and their attorneys are court officials, acting under court designation, and there is no opportunity for what Chief Justice Taft called "vicarious generosity" in determining what amounts may properly be paid to them (*In re Gilbert*, 276 U. S. 294). They can neither expect nor be paid more than "moderate compensation" (*In re New York Investors, supra*). This is equally true, with respect to committees, depositaries, and others who perform services in connection with the reorganization. They are part of the court's machinery, and should receive no different treatment than that accorded to receivers, trustees and their attorneys. The discretion of the judge in fixing such allowances is judicial, and should be exercised sparingly.

In the discussion which follows, I have undertaken to analyze the different petitions in the order in which they have been presented, and to determine what, if anything, should be allowed on each application.

Nos. 1–4. Charles D. Hilles and Adolph Zukor served as equity receivers from January 26, 1933, until April 17, 1933, when the bankruptcy trustees were appointed. Mr. Hilles and Eugene W. Leake were appointed trustees in bankruptcy; a third trustee was also named, but he resigned and was succeeded on May 19, 1933, by Charles E. Richardson. Messrs. Hilles, Leake, and Richardson became temporary trustees in this proceeding on June 16, 1934, and were made permanent trustees on July 10, 1934, and with the exception of Mr. Richardson, who resigned December 29, 1934, the trustees functioned until the consummation of the plan. They bore a large responsibility during particularly trying times in the operation of a vast enterprise and performed a difficult and important task with thoroughness and signal ability. Messrs. Hilles, Leake, and Richardson were allowed statutory commissions of $32,433.33 each, in full for their services in the bankruptcy proceedings. Mr. Hilles had previously received an ad interim allowance of $20,000 as equity receiver; and I consider that sum adequate for the short period of the equity receivership. I shall, therefore, allow Messrs. Hilles and Leake, who served as trustees throughout the reorganization proceeding, the sum of $60,000 each; and Mr. Richardson, who resigned as trustee on December 29, 1934, $35,000. Mr. Zukor was president of the debtor at the time of his appointment as receiver. His application for compensation as one of the equity receivers was deferred without prejudice, when the order fixing the ad interim allowances in the equity proceeding was signed, and is now renewed. He is a defendant in one or more suits by the trustees which are pending, but, notwithstanding that fact, he is entitled to some compensation for his services as receiver. During the period of his service he received salaries from subsidiaries amounting to $4,502.52. He will be allowed $7,500.

No. 5. Messrs. Root, Clark, Buckner & Ballantine, the attorneys for the receivers and trustees, have acted throughout the three proceedings. The magnitude of the enterprise, the multiplicity of the subsidiaries, and the problems presented, indicate the character of the legal services to which a number of partners, and a larger group of associate attorneys, gave practically their entire time and energy. A large number of reorganizations or adjustments relating to subsidiaries have been concluded or are nearing completion. The aggregate of claims filed has been substantially reduced by litigation or adjustment. Important suits have been instituted; one against the creditor banks was settled as part of the reorganization; and others against officers and directors are being continued by the trustees. A myriad of administrative and legal problems required constant attention and skill. The attorneys state in their petition that during the course of the three proceedings a total of 9,545 hours was spent by partners, and 62,568 hours by associates; and these are factors to be considered in determining the amount of the allowance. In the concerted effort of a large group of lawyers it can hardly be expected that duplication will be entirely avoided; and it may well be that some unnecessary work was performed; but if that was so it was the result of extreme care and thoroughness in handling the many complicated and troublesome problems presented. It is to be borne in mind also that during the whole period of the proceedings the legal department of the debtor and its subsidiaries was maintained and functioned in the performance of routine legal work under the supervision of the trustees' attorneys. As attorneys for the equity receivers, Messrs. Root, Clark, Buckner & Ballantine received an ad-interim allowance of $75,000, and they were paid $175,000 on account of their services in the bankruptcy proceedings. The three proceedings may properly be treated as one continuous employment for the present purpose. I shall, therefore, allow them the further sum of $200,000 for services in all the proceedings, together with disbursements of $7,679.08.

Nos. 6–15. In several instances the trustees were authorized to retain special attorneys, principally for work in other jurisdictions. The most important services were those of Messrs. Choate, Hall & Stewart, of Boston, extending from March 5, 1934, throughout the reorganization, and relating to the subsidiary, Olympia Theatres, Inc., in receivership in Massachusetts. This company and its affiliates controlled or operated an important chain of theaters in New England. The major portion of the task has been concluded. I shall, therefore, allow Messrs. Choate, Hall & Stewart $25,000 for services, together with disbursements of $881.93. The following sums are also allowed to the other attorneys in this group: Messrs. Cobb, Hoke, Benson, Krause & Faegre, of Minneapolis, for services relating to the Minnesota Amusement Co., operating 70 or more theaters in four States, $3,500 for services, with disbursements of $59.31; Messrs. Pillsbury, Madison & Sutro, of San Francisco, for additional services concerning two subsidiaries and related matters, $2,500 and disbursements of $9.83; Messrs. Sonnenschein, Berkson, Lautmann, Levinson & Morse, of Chicago, for additional services in connection with the suits against Marks Bros. and the Continental Bank, $4,000 and disbursements of $80,16, the item of $205 sought for their obligation to Leo Spitz, an attorney, being disallowed; Messrs. Strauss & Hedges, $501.08; Messrs. Kiddle, Margeson & Hornidge, for services in patent litigation, $700 and disbursements of $14; Harry Meyer, of Butte, Mont., $150 and disburse-

ments of $31.50; Messrs. Hornidge & Dowd, for services in patent litigation, $1,980 and disbursements of $26.81; Messrs. Winston, Strawn & Shaw, of Chicago, $1,500 and disbursements of $16.23; and Messrs. Johnston, Tory & Johnston, of Toronto, $750 and disbursements of $6.75.

Nos. 16–17. Price, Waterhouse & Co., accountants for the trustees, received $10,450 for accounting services in the equity and bankruptcy proceedings. For their services in the reorganization proceedings to June 29, 1935, including disbursements, they are allowed $7,500. The application of George W. Myer, Jr., for $1,200, as compensation for work as special accountant is moderate, and that amount is allowed.

No. 18. Joseph P. Day and Peter Grimm, real-estate brokers and agents, were employed by the trustees to aid in connection with some burdensome realty owned by the Seneca Holding Co., a subsidiary, comprising the New York and Criterion theaters and adjacent property in New York, and authorized to conduct negotiations looking to a possible sale, lease, or other disposition of the property. They obtained a delay of foreclosure and a reduction in interest, for which they may be compensated. In the main, their reward was contingent upon a sale or lease of the property, which was never effected, and the property was ultimately abandoned. I shall, therefore, allow Messrs. Day & Grimm, jointly, the sum of $2,000 for their services, which I consider adequate under the circumstances.

No. 19. Messrs. Rosenberg, Goldmark & Colin, former attorneys for the debtor, have received, in addition to a $5,000 retainer, $10,000 on account for services in the equity and part of the bankruptcy proceedings, and $3,500 in full for the remaining portion of the latter period. While mindful of their services in defending the receivership and resisting the attacks on the voluntary bankruptcy petition, the aggregate of the sums received by them is believed to be adequate for all their work in the earlier proceedings. They are allowed $2,500 for their services following the filing of the 77–B petition, with disbursements of $209.75.

No. 20. Messrs. Cook, Nathan & Lehman acted as attorneys for the stockholders' committee throughout the proceedings, and were retained in November 1934 as attorneys and counsel for the debtor in the reorganization proceedings. They have been responsible in large measure for the fact that the stockholders' rights have been preserved. As attorneys for the debtor in the reorganization proceedings, they had the principal responsibility for the successful carrying through of the plan; they conducted the prolonged hearings before the court while the plan was under consideration; they bore the brunt of most of the negotiations which enabled the plan to be offered for confirmation; and they drafted all of the papers and documents in the court proceedings and in the effectuation of the plan. These services required unusual skill and consumed a considerable amount of time. I shall, therefore, allow Messrs. Cook, Nathan & Lehman, as attorneys for the debtor in the 77–B proceedings, $75,000, and as attorneys for the stockholders' committee $40,000, a total of $115,000 for services, together with disbursements of $3,019.18.

No. 21. A committee of stockholders was organized January 27, 1933, and 2,154,000 shares of stock were ultimately deposited under the deposit agreement. Compensation is sought by Barney Balaban, Maurice Newton, and Gerald Brooks, three of the five members of the committee, and by Richard W. Matthews, secretary of the committee. Mr. Balaban is the president of Balaban & Katz Corporation, 96½ percent of the common stock of which is owned by the debtor, and I do not think that one in that position should expect or receive compensation for acting as a member of the committee. While serving on the committee, Mr. Newton purchased and sold debentures, and Hallgarten & Co., of which he is a general partner, bought and sold debentures and stock. Mr. Brooks, prior to joining the committee on June 4, 1934, had traded heavily in the securities of the company; thereafter, he purchased $9,000 of debentures, which he still owns, at a substantial advance above his purchase price. There was nothing objectionable in his purchasing and selling securities of the company before he became a member of the committee, but once he joined the committee, it was his clear duty to the persons he was assuming to represent to refrain from trading in, or purchasing, the securities of the company he was helping to reorganize; and I consider him disqualified from receiving any compensation from the general estate. I make the same ruling with respect to the application of Mr. Newton. In consequence, no allowance is granted to any of the members of the stockholders' committee for services. Richard W. Matthews, who has acted as secretary of the committee since January 27, 1933, is awarded $3,000 for his compensation.

This committee borrowed $60,000 from a banking institution, and disbursed $57,769.31; they incurred other obligations, which they ask to have allowed as expenses. Item (a) represents the committee's actual disbursements of $57,769.31, and consists largely of payments for necessary printing, advertising, postage, stock-exchange listings, and a disbursement of $17,860.92 to Messrs. Coverdale & Colpitts, consulting engineers and accountants, for "out of pocket expenses." The sum of $1,527.92 paid to Messrs. Cook, Nathan & Lehman for typewriting is eliminated, and item (a) is accordingly allowed at $56,241.39.

The following unpaid obligations of the stockholders' committee are also allowed: (b) Commercial National Bank & Trust Co., $150.36; (c) Commercial National Bank & Trust Co., for interest on loan of $60,000 to date of payment, to be computed; (d) American Bank Note Co., $362.40; (e) Messrs. Cook, Nathan & Lehman, $221.78; (h) Bank of America National Trust & Savings Association, Los Angeles, subdepositary, $227.45; (j) Whitney National Bank of New Orleans, a subdepositary, $125.

The charge of First National Bank of Chicago (i), a subdepositary, for $2,978.60, includes an item of $2,238.35 for acceptance of 2,632 stock certificates, which is reduced to 50 cents a certificate; and the total charges of the bank are allowed in the sum of $2,056.25. Mr. Balaban (k), a resident of Chicago, billed to the committee his travel, hotel, and incidental expenses in attending committee meetings, amounting in an aggregate to $2,640.36; he attended 14 meetings of the committee in New York, and should be reimbursed only for his reasonable and necessary expenses, including a moderate allowance for subsistence. I think the present bill is excessive, and it is allowed only at $1,750.

Item (f) is a claim of Coverdale & Colpitts in the sum of $33,116.14, in addition to the $17,860.92 already paid to them by the committee. This includes charges of Mr. Coverdale for all or part of 113 days, at the rate of $250 a full day; Mr. Burpee for part or all of 34 days, at $150 a full day; and Mr. Burgess for all or part of 48 days at the same figure. The fact that a higher rate of compensation was paid to one of these gentlemen by the Government in another case is no criterion of what may properly be allowed in this proceeding. Their charge also includes an item of $7,066.14 for "office overhead to cover general expenses, rent, insurance, etc.", which is measured by 80 percent of their pay roll. This pyramiding of charges in a proceeding of this kind is simply indefensible. I also think the per-diem charges of the various partners are excessive. They will be allowed $10,000, in addition to what they have already received, making a total of $27,860.92 for all services.

Item (g) is an unpaid bill of the Commercial National Bank & Trust Co. for its charges as depositary for the committee, amounting to $73,284.16. While the need of a depositary to receive deposits, issue certificates, maintain safe custody and perform the incidental work in handling securities is recognized, and the charges made are said to be standard, the court will not be bound by any fixed scale employed by banks generally for similar services. The charges as presented include $18,126.88 for receiving for deposit 2,125,377 shares of stock represented by 50,180 certificates from 18,155 depositors; $34,472 for issuing 68,944 certificates of deposit at 50 cents each; $16,614.50 for maintenance of certificates of deposit accounts; and $2,732.07 for custody.

All of these items seem excessive. The first is at the rate of 1 cent a share up to a certain number of shares, and, thereafter, at three-fourths and one-half cent a share. Regardless of what may be the accepted scale, I think that a charge for merely receiving stock certificates should be more related to the number of certificates than the number of shares represented. The charge made amounts to about $1 for each depositor, and about 35 cents for each certificate. When the volume is large, I believe that 10 cents for each stock certificate is ample; and the charge is accordingly reduced to $5,018. Up to a certain point a charge of 50 cents for issuing each certificate of deposit and transfer is not unreasonable, but I think that where the number runs into large figures there should be a scaling down after a specified limit has been reached. For the first 25,000, a charge of 50 cents each will be allowed, and 25 cents for the remaining 43,944, making a total of $23,486. The maintenance item of $16,614.50 is a yearly charge of 50 cents for maintaining each certificate of deposit account. I think that a yearly charge of 25 cents for each account is sufficient, and the item is accordingly reduced to $8,307.25. The custody charge is calculated on a percentage of the value of the deposited securities. This is excessive, if for no other reason than that the values used are entirely out of line with the real value of the security. I think a flat charge of $1,500 for custody during the entire period of the service is adequate. The item of $251 for "cost of supper money account overtime" is disallowed. The other items will not be disturbed. The total charges of the trust company are accordingly reduced to $39,398.96.

No. 22. The Vanderlip committee, representing holders of debentures of the debtor, was organized in January 1933; it has six members; and no compensation is asked by Duncan G. Harris, one member, and none as a committee member by Dr. Julius Klein, who was employed by the committee on a full-time basis at a monthly salary plus his expenses, these being advanced from time to time by Kuhn, Loeb & Co. at the request of the committee. This committee ultimately represented $14,813,000, face amount of debentures, and held 38 meetings; and none of the committee members purchased or sold or otherwise traded in securities of the debtor for his own account, except Messrs. Vanderlip and Stern. Mr. Vanderlip bought in 1934 an aggregate of $175,000, debentures, and sold $99,000 at a substantial profit. He retained the remainder at market levels substantially above the amounts paid. Mr. Stern purchased and sold $30,000 of debentures in 1933 and 1934 and purchased and sold stock certificates of deposit to the extent of 5,700 shares. Lawrence Stern & Co., of which he is a member, purchased and sold in 1934 $25,000 of debentures, on which a profit was realized. The reasons already expressed on this subject require denial of Mr. Vanderlip's request for $50,000 and Mr. Stern's for $7,500. The sum of $2,500 each is allowed to Messrs. Robert R. Cassatt, Morris M. Ernst, and Duncan G. Harris, the remaining members of the committee.

The Vanderlip committee requests (1) reimbursement of $42,077.50 expended for advertising, printing, accounting services, and depositary charges of $18,692.92 by the Chase National Bank,

(2) $48,785.96 for unpaid obligations consisting of charges by the same depositary amounting to $37,716.95, and bills for printing, advertising, and interest on advances by Kuhn, Loeb & Co., and (3) $52,390.15 as the salary and expenses of Dr. Julius Klein, who was employed from July 28, 1933, to April 18, 1935, at $2,000 a month until January 12, 1935, and thereafter at $500 a month, plus his expenses, including the rental of an office in the Paramount Building, and the salaries of assistants.

It is stated that the rates charged by the Chase Bank are no more, and in some instances less, than the scale fixed by the Corporate Fiduciaries Association. The bills paid by the Vanderlip committee include items of (a) $8,439 for receiving for deposit or exchange 8,265 debentures at 50 cents each, and issuing 8,613 certificates of deposit at the same rate; (b) $3,164 for receiving and filing with the referee 1,582 proofs of claim; (c) $3,603.64 for general supervision, which is calculated at 25 percent of the other items in the bills; and (d) overtime items of $273. There is no warrant for any of the last three charges, and they will be disallowed. The charge for receiving debentures should be no greater than 10 cents each, the amount allowed to the depositary for the stockholders' committee. Accordingly, the paid bills of the bank are disapproved to the extent of $10,346.64, and the paid disbursements of the committee are reduced correspondingly and allowed at $31,730.86.

The unpaid bills of the same bank include charges of (a) $15,674.50 for receiving for deposit or exchange 8,388 debentures and issuing 22,961 certificates of deposit, likewise at 50 cents each; (b) $4,810, for receiving and filing with the referee 2,405 proofs of claim; (c) $3,734.87 representing a percentage charge for general supervision, and (d) $213 for overtime. The last three items are disallowed for reasons previously stated. Allowing 10 cents for each debenture received and 50 cents for each certificate issued up to 25,000 and 25 cents thereafter, and giving effect to the number specified in the paid bills, the unpaid charges of the bank are disapproved to the extent of $13,756.57. Among the unpaid obligations of the committee is a bill of $1,942.80 from Lawrence Stern for traveling and incidental expenses. He is apparently a resident of Chicago, and is entitled only to be reimbursed for his necessary and reasonable expenses while engaged in the work of the committee. The bill seems excessive and is allowed only to the extent of $1,750. Giving effect to these reductions, the unpaid bills of the committee are reduced to $34,836.59 and allowed at that sum.

This committee also requests the allowance of the sum of $52,390.15 to cover the amount paid by Kuhn, Loeb & Co. for the account of the committee to Dr. Klein as salary and expenses. The amount includes $2,068.05 paid to the Savoy Plaza Hotel, presumably for living expenses, and $335 for incidental disbursements, for which there is no warrant whatever. The remainder, amounting to $49,987.10, will be allowed to the committee.

No. 23. Messrs. Davis, Polk, Wardwell, Gardiner & Reed have been attorneys for the Vanderlip committee during the entire course of the proceedings, and have had a very large part to play in the reorganization of the company. They have devoted a vast amount of time to the case, and have participated in all of the negotiations leading up to the promulgation of the plan, and in all of the court proceedings. The committee which they represented held $14,813,000 face amount of debentures, and their efforts contributed largely to the successful reorganization of the company. They are allowed $75,000 in full for their services.

No. 24. Twelve creditor banks with claim approximating $14,000,000 were represented by a committee of three. The chairman and secretary, both officers of one of the principal banks, request compensation of $30,000 and $20,000, respectively, in addition to the committee's disbursements, which include $18,500 paid to the attorneys for the committee, Messrs. Beekman, Bogue & Clark. The banks were defendants in a suit brought by the trustees, in which certain transfers to the banks were challenged as preferential, and a large part of the work of the committee was performed in preparing for the defense of this suit; at least to that extent the committee's efforts were adverse to the debtor, and no allowance is justified. I can see no good reason, either, for compensating two of the higher officers of one of the largest bank creditors because they acted for a small committee in which the other banks participated; their services were only such as were required to protect the interests of their own bank; and they should look to it for their compensation. The bank committee has, however, incurred disbursements, which will be allowed to the extent of $20,559.91. This amount includes $18,500 paid to the attorneys for the committee and deducted from their allowance. I have disallowed the item for typewriting, which appears to be nothing more than general typing of papers and reports to the banks; also railroad fares and other items apparently related to the litigation against the banks.

No. 25. Messrs. Beekman, Bogue & Clark, attorneys for the bank committee, were engaged largely in the defense of the bank suit, which was settled as a result of the reorganization; and they should look to their clients for compensation for the services they performed of that nature. They may, however, be compensated for their services in connection with the reorganization proceedings. These services were important, and contributed largely to the result; and I shall, therefore, allow them $35,000, from which the sum of $18,500 already paid by the committee should be deducted.

Nos. 26, 27. I do not think any allowance may properly be made to Kuhn, Loeb & Co., or their attorneys, Messrs. Cravath, De Gersdorff, Swaine & Wood, for services. When the Paramount Co. first went into the hands of receivers, Kuhn, Loeb & Co. immediately brought about the organization of the principal committees preparatory to an early reorganization. They had been the sponsors for most of the company's securities, and it was both natural and proper that they should wish to see a satisfactory reorganization effected. To that end they commenced factual studies and surveys of the company's condition, and with their attorneys participated actively in the preparation and negotiation of a proposed plan of reorganization. In the early stages of these negotiations Kuhn, Loeb & Co. were in effect reorganization managers, and if the situation had remained as it then was they undoubtedly would have appeared in that capacity in the reorganization proceedings, and have qualified for an allowance under the terms of the statute. This, however, was not to be; and when suits were contemplated by the trustees against former directors of the company and members of their own firm they concluded that for the best interests of the company and the good of the entire reorganization they should withdraw from active participation in the proceedings. It was then that Messrs. Cook, Nathan & Lehman were brought into the case and presented the plan as attorneys for and on behalf of the debtor. It was conceded on the hearing that Kuhn, Loeb & Co. could not qualify under the statute as reorganization managers, but it was sought to support the application for allowances on the ground that they were employees of the principal committees; two of these committees even made belated requests that Kuhn, Loeb & Co. be recognized in that capacity. The difficulty, however, with this contention is that they were in no sense performing work which the committees were in any position to delegate, and neither they nor their attorneys are entitled to be paid from the general estate.

Nos. 28–29. Lloyd A. Munger, Harry Mottsman, and James B. Murray acted as an independent committee for the debentures. This committee was formed shortly after the receivership, and represented approximately 750 debenture holders having claims in excess of $1,850,000; it functioned throughout the proceedings, and contributed to some extent in the reorganization. I think there was room in this case for an independent committee, even though some duplication of effort was necessarily involved. The Munger committee is, therefore, allowed $3,000 as compensation, with disbursements of $1,800.72; and Messrs. Szold & Brandwein, attorneys for the committee, are allowed $20,000 for their services, with disbursements of $78.59.

Nos. 30–31. The merchandise creditor's committee have withdrawn their application for compensation, but request reimbursement for their expenses amounting to $1,197.40. The schedule of these expenses contains a number of items which are either unsupported by vouchers or are clearly improper, namely: $217.10 paid to notaries employed on a per-diem basis to solicit proofs of claim and powers of attorney; $75.32 for traveling and local telephones; and items for legal magazines, books, and overtime suppers. I shall, therefore, allow only $784.88 for expenses. Mr. Nathan Burkan, attorney for the committee, is awarded $15,000 for his services.

No. 32. Messrs. Malcolm Sumner and Edwin L. Garvin, representing three holders of debentures, amounting to $15,000, filed a petition under section 77–B. There were already two strong committees representing hundreds of debenture holders then in the field; and these two committees were fully capable of looking after the interests of all debenture holders. The Sumner and Garvin petition was filed the same day that the Vanderlip committee filed a similar petition; and both were refiled on the day following. Clearly, there was no justification whatever for this duplication of effort; the Vanderlip petition was entirely adequate for the purpose of instituting the proceeding, and the other was not only unnecessary but tended to complicate and confuse a perfectly plain and straightforward situation. From then on, Messrs. Sumner and Garvin participated in all of the reorganization proceedings, but they contributed little, if anything, to the work of reorganization; they were in no different position than the other attorneys representing individual creditors and security holders who were heard on the fairness of the plan; and they are not entitled to any allowance from the general estate either for services or disbursements.

Nos. 33–34. Messrs. Sumner and Garvin employed Orrin R. Judd and J. Andrew Crafts as accountants to assist them in the case, and these gentlemen are requesting an allowance of $12,500 for services. Myron Robinson was similarly employed as an expert, and he asks an allowance of $11,000 for services. There was no authority to incur such obligations as these, and make them a charge against the general estate; the work was wholly unnecessary; and the claimants have no standing to ask for allowances. Both applications are denied.

Nos. 35–36. The Chase National Bank was trustee under the two indentures of the debtor, and continued during the proceedings to perform services as trustee and as registrar of indentures. It requests compensation of $1,975.22 for all its services after June 16, 1934, which is granted. The sum of $1,000 is allowed to Messrs. Milbank, Tweed, Hope & Webb, attorneys for the Chase Bank, for their services.

No. 37. The Paramount Broadway Corporation, a subsidiary of the debtor, was reorganized in conjunction with the latter. That company owned the Paramount Building at Broadway and Forty-third Street, which housed the main Paramount Theater in New York City and the principal office of the debtor; the building also had available for leasing to outsiders a large amount of commercial and office space. There was a mortgage on the property, under which certificates amounting in the aggregate to $8,875,000 were outstanding, and two committees were organized to look after the interests of the certificate holders. These committees, after prolonged negotiations with the debtor's trustees, agreed upon a

plan of reorganization, which later was incorporated in and became a part of the plan of reorganization of the debtor.

The committee headed by Peter Grimm was the larger and more important of the two committees, and the petition states that 42 meetings of the committee were held. I shall allow $1,500 each to Messrs. Grimm, Smith, Forgan, and McAneny. Mr. Dowling did not become a member of the committee until January 1934, or a year after the committee was formed, and his compensation is fixed at $1,000. Mr. Goelet purchased certificates of the company while he was a member of the committee, and, for the reasons already stated, will be denied compensation.

The Grimm committee also asks that its expenses, amounting to $15,714.39, be allowed. These expenses include (a) $6,807.50 for printing and advertising; (b) $4,975 paid to Lloyd W. Georgeson for services in procuring assents; and (c) $2,892.41 paid to Messrs. Stroock & Stroock, attorneys for the committee, for their disbursements. The item of $6,807.50 (a) is supported by vouchers, and is allowed at that figure. With respect to the payment to Georgeson, it appears that he was employed on March 19, 1935, under a written contract at specified rates to procure assents to the plan, which were required by April 3, 1935; and, although the amount seems large for the services rendered, I do not think the payment was unwarranted. The item of $2,892.41 (c), stated to have been paid to Messrs. Stroock & Stroock for their disbursements, is allowed at $2,512.41, the charge of $380 for "typing" being disallowed. The total obligations of the committee are allowed as $15,334.39.

No. 38. Messrs. Stroock & Stroock were the attorneys for the Grimm committee during the entire course of the proceedings; they participated in all of the negotiations and court proceedings in connection with the reorganization; and they were for a period of over 2 years in constant touch with the operation and management of the building. These services were important, and consumed a considerable amount of time; and I am accordingly allowing $40,000, inclusive of the services of Mr. Deitch as secretary of the committee.

Nos. 39–40. The Schenk committee represented about 200 of the Paramount-Broadway certificate holders, with claims aggregating about $550,000. This committee is in much the same position as the Munger committee acting for debenture holders of the debtor, and I think an independent committee for such certificate holders was justified. The committee will be allowed a total of $2,000 as compensation, and disbursements of $297.14; and the attorneys for the committee, Messrs. Weiss, Pels & Grant, are allowed $7,500 for services, together with disbursements of $84.33.

Nos. 41–42. The Chemical Bank & Trust Co., as trustee under the Paramount-Broadway indenture, asks $6,100 for ordinary services, including registration of certificates, and for extraordinary services occasioned by these proceedings. A further sum of $15,324 is sought for depositary charges. The indenture provided that the trustee should be entitled to reasonable compensation and reimbursement for expenditures, including the employment of agents and attorneys. For its services as trustee the bank is allowed $1,250. Several of the charges for depositary services are subject to the views already expressed. The item of $2,655.90 for receiving bonds is accordingly reduced to $557.40; the custody item of $2,038, based on a charge for each year at a percentage value, is reduced to $1,000; and the general supervision charge of $3,064, which represents 25 percent of all other charges, is disallowed entirely. The remaining items are allowed, making a total of $10,372.70 for all services, with disbursemnts of $307.15. Messrs. Cotton, Franklin, Wright & Gordon, attorneys for the bank, are allowed $3,500, which is to be inclusive of disbursements.

No. 43. The New York Trust Co. was appointed agent of the special master to receive assents to the plan and old securities for exchange; and its work is not yet completed. It is allowed $3,297.50 for its services to July 1, 1935, together with disbursements of $415.20.

No. 44. A. J. Schanfarber, A. M. Frumberg, Edgar J. Schoen, and Samuel Zirn request an allowance for services and disbursements in the prosecution of a suit by one Levy in the State court. This suit was representative in its nature, and was brought in December 1932 against the debtor and others; and it is now asserted broadly that by reason of the litigation important assets were conserved for the benefit of the debtor. The suit was ultimately dismissed, and under no possible theory are the attorneys entitled to recognition in the present proceeding.

No. 45. Samuel Zirn acted as attorney for several debenture holders in the three proceedings, and asks a separate allowance for his services and disbursements. He challenged the equity receivership and urged administration in bankruptcy, opposed the voluntary petition, intervened on an application for a writ of prohibition, challenged the qualifications and election of the bankruptcy trustees, conducted extensive 21–A examinations, opposed applications for allowances, and participated in the court proceedings. He was entirely unsuccessful in most of his contentions, and is entitled to no allowance from the general estate. He did not recover any property, accomplished nothing by his attacks upon the jurisdiction and against the trustees, and should look to his own clients for his compensation for services and disbursements in connection with the various court proceedings.

Nos. 46, 49. Adolph Feldblum, as substituted attorney for the petitioning creditors, and Messrs. Bibb, Dederick & Osbourne, attorneys for an intervenor in the involuntary bankruptcy proceeding, are obviously in no position to look to the general estate for compensation.

Nos. 47–48; 50–53. The several applications of Saul E. Rogers, Louis M. Levy, Archibald Palmer, Jacob J. Lesser, Samuel Spring, and Louis Boehm are disallowed. These attorneys represented various creditors and stockholders, and Mr. Palmer also appeared for security holders of Allied Owners Corporation, a creditor of the debtor. The services consisted largely in attendance at the court proceedings, participation in the examination of witnesses, and arguments during the consideration of the plan of reorganization. These services, although helpful to the court in the determination of the different issues presented, are not of such a character as to entitle any of the applicants to an allowance from the general estate.

I am appending hereto a schedule of all amounts allowed.

ALFRED C. COXE,
United States District Judge.

Dated October 23, 1935.

Schedule of allowances

No.	Petitioner	Allowances requested		Allowed	
		Services	Expenses	Services	Expenses
1	Charles D. Hilles	$128,000.00		$60,000.00	
2	Eugene W. Leake	118,000.00		60,000.00	
3	Charles E. Richardson	87,000.00		35,000.00	
4	Adolph Zukor	18,545.04		7,500.00	
5	Root, Clark, Buckner & Ballantine	700,000.00	$7,679.08	200,000.00	$7,679.08
6	Choate, Hall & Stewart	35,000.00	881.93	25,000.00	881.93
7	Cobb, Hoke, Benson, Krause & Faegre	4,500.00	59.31	3,500.00	59.31
8	Pillsbury, Madison & Sutro	3,525.00	9.83	2,500.00	9.83
9	Sonnenschein, Berkson, Lautmann, Levinson & Morse	5,750.00	285.16	4,000.00	80.16
10	Strauss & Hedges	501.08		501.08	
11	Kiddle, Margeson & Hornidge	700.00	14.00	700.00	14.00
12	Harry Meyer	150.00	31.50	150.00	31.50
13	Hornidge & Dowd	1,980.00	26.81	1,980.00	26.81
14	Winston, Strawn & Shaw	1,500.00	16.23	1,500.00	16.23
15	Johnston, Tory & Johnston	750.00	6.75	750.00	6.75
16	Price, Waterhouse & Co	10,484.00		7,500.00	
17	George W. Myer, Jr	1,200.00		1,200.00	
18	Joseph P. Day and Peter Grimm	10,000.00		2,000.00	
19	Rosenberg, Goldmark & Colin	18,500.00	228.70	2,500.00	209.75
20	Cook, Nathan & Lehman	250,000.00	3,759.10	115,000.00	3,019.18
21	Stockholders' committee	70,000.00	170,875.56		110,533.59
	Richard W. Matthews, secretary	5,000.00		3,000.00	
22	Vanderlip committee	80,000.00	143,253.61	7,500.00	116,554.55
23	Davis, Polk, Wardwell, Gardiner & Reed	150,000.00		75,000.00	
24	Bank committee	50,000.00	25,728.95		20,559.91
25	Beekman, Bogue & Clark	75,000.00		35,000.00	
26	Kuhn, Loeb & Co	100,000.00	14,287.29		
27	Cravath, DeGersdorff, Swaine & Wood	150,000.00	812.15		
28	Munger committee	6,000.00	1,945.72	3,000.00	1,800.72
29	Szold & Brandwen	75,000.00	78.59	20,000.00	78.59
30	General (merchandise) creditors, committee	13,500.00	1,197.40		784.88
31	Nathan Burkan	50,000.00		15,000.00	
32	Malcolm Sumner and Edwin L. Garvin	150,000.00	431.59		
33	Orrin R. Judd and J. Andrew Crafts	11,000.00			
34	Myron Robinson	12,500.00			
35	The Chase National Bank of New York	1,975.22		1,975.22	
36	Milbank, Tweed, Hope & Webb	1,000.00		1,000.00	
37	Grimm committee	40,000.00	16,914.39	7,000.00	15,334.39
38	Stroock & Stroock	100,000.00		40,000.00	
39	Schenk committee	2,500.00	297.14	2,000.00	297.14
40	Weiss, Pels & Grant	10,000.00	84.33	7,500.00	84.33
41	Chemical Bank & Trust Co	21,424.00	307.15	10,372.70	307.15
42	Cotton, Franklin, Wright & Gordon	8,000.00	48.61	3,500.00	
43	The New York Trust Co	3,297.50	415.20	3,297.50	415.20
44	A. J. Schanfarber, A. M. Frumberg, Edgar J. Schoen, and Samuel Zirn	75,000.00	7,868.40		
45	Samuel Zirn	75,000.00	1,207.09		
46	Adolph Feldblum	3,000.00	20.00		
47	Saul E. Rogers	10,000.00			
48	Louis Martin Levy	750.00			
49	Bibb, Dederick & Osbourne	25,000.00			
50	Archibald Palmer	15,000.00			
51	Jacob J. Lesser	37,500.00	12.00		
52	Samuel Spring	7,500.00			
53	Louis Boehm	10,000.00	12.74		
	Total	2,841,031.84	398,796.31	766,426.50	278,784.98
	Less deduction for Beekman Bogue & Clark payment				18,500.00
	Total				260,284.98

Mr. ASHURST. Mr. President, before concluding let me say that I commend the chairman of the committee, the Senator from California [Mr. McADOO], who succeeded me, and I commend likewise the members of the committee for the work they are doing. I ask Senators to examine some of these cases, and to examine the report made by the special committee, and they will be astounded at the large amount of the fees demanded.

Mr. KING. Mr. President, may I ask the Senator whether the special committee is still prosecuting its labors; and if so, when we may expect a final report?

Mr. ASHURST. My labors as chairman of the Senate Committee on the Judiciary grew so great that I was unable to serve further as chairman of that special committee; and I repeat that the Senator from California [Mr. McADOO] is chairman of the special committee. I have had occasion, however, because of the fact that I once served as chairman, to review their work. Their work has been proceeding with courage and with remarkable assiduity. I do not assume that they have finished their task; but, so far as they have gone, they have done well.

Mr. McADOO. Mr. President, I desire to thank the able Senator from Arizona [Mr. ASHURST] for his remarks about the special committee which is now investigating the Federal judiciary in the United States. I regret very much that the Senator from Arizona resigned the chairmanship of the committee, and that the duties of the chairmanship had to devolve upon me.

I may say that last fall the committee made a second investigation of the Federal courts in Los Angeles. We had made a previous investigation when the Senator from Arizona was chairman in 1933. I had hoped that as a result of the first investigation some of the unsatisfactory practices in those courts would have been corrected by this time; but we found that the conditions were practically the same, and that serious abuses continue to exist in those courts.

I wish to make this statement merely in order that the Senate may be informed that the committee has not ceased its labors, and that it now has under consideration its report upon the conditions which it found in the Federal courts of southern California.

INVESTIGATION AND COORDINATION OF EXECUTIVE AGENCIES

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate, I report back favorably Senate Resolution 217, with an amendment in addition to those previously reported, and ask unanimous consent for the present consideration of the resolution.

The VICE PRESIDENT. Is there objection to the request of the Senator from South Carolina?

There being no objection, the Senate proceeded to consider the resolution (S. Res. 217) submitted by Mr. BYRD on January 9, 1936, referred to the Committee on Rules, reported from the Committee on Rules on the 11th instant with amendments, and referred to the Committee to Audit and Control the Contingent expenses of the Senate.

The VICE PRESIDENT. The committee amendments will be stated.

The amendments of the Committee on Rules were, on page 1, line 13, after the word "agencies", to strike out "or any officials and employees thereof"; on page 2, line 1, after the word "abolished", to insert a comma and "or the personnel thereof reduced"; in line 3, after the words "of the", to strike out "session of 1937" and insert "Seventy-fifth Congress, and from time to time thereafter", and on the same page, line 11, after the word "Senate" and the comma, to insert "in the Seventy-fourth and succeeding Congresses."

The additional amendment of the Committee to Audit and Control the Contingent Expenses of the Senate was, on page 2, line 20, after the word "exceed", to strike out "$50,000" and insert "$20,000."

The amendments were agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That there is hereby established a Senate committee to be composed of five Senators, of whom three shall be from the majority political party and two shall be from the minority political party, to be appointed by the President of the Senate. The committee is authorized and directed to make a full and complete study of all the activities of the departments, bureaus, boards, commissions, independent agencies, and all other agencies of the executive branch of the Government, with a view to determining whether the activities of any such agency conflict with or overlap the activities of any other such agency and whether, in the interest of simplification, efficiency, and economy, any of such agencies should be coordinated with other agencies or abolished, or the personnel thereof reduced. The committee shall report to the Senate at the beginning of the Seventy-fifth Congress, and from time to time thereafter, the results of its investigations, together with its recommendations, if any, for necessary legislation.

SEC. 2. 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, recesses, and adjourned periods of the Senate, in the Seventy-fourth and succeeding Congresses, to employ such experts and clerical, stenographic, and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony and 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 100 words. The expenses of the committee, which shall not exceed $20,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDRESS BY PRESIDENT ROOSEVELT ON BROTHERHOOD DAY OBSERVANCE

Mr. KING. Mr. President, I desire to invite the attention of the Senate to a notable address delivered yesterday by the President of the United States on the occasion of the Brotherhood Day observance.

It is a message needed in this day of agnosticism and, as many believe, crass materialism. It is an appeal for unity and a renaissance of those spiritual forces important to world progress and world unity.

I think it has been demonstrated that the finite mind of man is inadequate to meet and solve the problems with which the world is confronted. The wisdom and the philosophies of men fail to bring humanity into that kingdom of love, peace, and brotherhood which ultimately is to prevail throughout the world. In my opinion, humanity is not to be condemned forever, as Sisyphus of old, to roll the stone toward the summit of justice, righteousness, and peace, only to have it slip from their hands and crash to the depths below.

The world is torn with racial prejudices and animosities resulting from conflicting views concerning religious, political, and economic questions. There must be some force that will dissipate these prejudices and animosities and set the world upon the pathway to nobler thinking, higher resolves, and enlarged spiritual concepts. Morality and religion were emphasized in the immortal address of George Washington, and President Roosevelt's address is an appeal for religious faith, "which is being confronted with irreligion", and for the development of our "faiths which are being challenged."

A prophet of old said that "without vision the people perish"; and the President of this great Nation pleads for wider vision, for a revival of the spirit of religion that "would sweep through the hearts of men and women of all faiths to a reassertion of their belief in God and their dedication to His will for themselves and for the world."

The address of the President is more than a sermon—it is a message of great spiritual force and power, and challenges the people of this Nation, as well as other lands, to search their hearts and to exorcise from their souls the spirit of unbelief, selfishness, and hatred, and to unite together for the promotion of justice, liberty, and world peace.

Mr. President, I ask that this great address of the President of the United States be placed in the RECORD of this day.

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

The address is as follows:

I am happy to speak to you from my own home on the evening of a Sabbath day which has been observed in so many of your home communities as Brotherhood Day. The national conference of Jews and Christians has set aside a day on which we can meet not primarily as Protestants or Catholics or Jews but as believing Americans; a day on which we can dedicate ourselves not to the things which divide but to the things which unite us. I hope that we have begun to see how many and how important are the things on which we are united. Now, of all times, we require that kind of thinking.

There are honest differences of religious belief among the citizens of your town as there are among the citizens of mine. It is a part of the spirit of Brotherhood Day, as it is a part of our American heritage, to respect those differences. And it is well for us to remember that this America of ours is the product of no single race or creed or class. Men and women—your fathers and mine—came here from the far corners of the earth with beliefs

that widely varied. And yet, each in his own way laid his own special gift upon our national altar to enrich our national life. From the gift that each has given, all have gained.

TIME FOR UNDERSTANDING

This is no time to make capital out of religious disagreement, however honest. It is a time, rather, to make capital out of religious understanding. We, who have faith, cannot afford to fall out among ourselves. The very state of the world is a summons to us to stand together. For, as I see it, the chief religious issue is not between our various beliefs. It is between belief and unbelief. It is not your specific faith or mine that is being called into question—but all faith. Religion in wide areas of the earth is being confronted with irreligion; our faiths are being challenged. It is because of that threat that you and I must reach across the lines between our creeds, clasp hands, and make common cause.

To do that will do credit to the best of our religious tradition. It will do credit, also, to the best in our American tradition. The spiritual resources of our forbears have brought us a long way toward the goal which was set before the Nation at its founding as a nation.

Yet I do not look upon these United States as a finished product. We are still in the making. The vision of the early days still requires the same qualities of faith in God and man for its fulfillment.

No greater thing could come to our land today than a revival of the spirit of religion—a revival that would sweep through the hearts of men and women of all faiths to a reassertion of their belief in God and their dedication to His will for themselves and for their world. I doubt if there is any problem—social, political, or economic—that would not melt away before the fire of such a spiritual awakening.

I know of no better way to kindle such a fire than through the fellowship that an occasion like this makes possible. For Brotherhood Day, after all, is an experiment in understanding; a venture in neighborliness.

WELFARE OF ALL AFFECTED

I like to think of our country as one home in which the interests of each member are bound up with the happiness of all. We ought to know, by now, that the welfare of your family or mine cannot be bought at the sacrifice of our neighbor's family; that our well-being depends, in the long run, upon the well-being of our neighbors. The good-neighbor idea—as we are trying to practice it in international relationships—needs to be put into practice in our community relationships. When it is we may discover that the road to understanding and fellowship is also the road to spiritual awakening. At our neighbor's fireside we may find new fuel for the fires of faith at our own hearthside.

It would be a fitting thing for an organization such as the National Conference of Jews and Christians to undertake this kind of a project in neighborliness. I should like to see associations of good neighbors in every town and city and in every rural community of our land. Such associations of sincere citizens like-minded as to the underlying principles and ideals would reach across the lines of creed or of economic status. It would bring together men and women of all stations to share their problems and their hopes and to discover ways of mutual and neighborly helpfulness. Here, perhaps, is a way to pool our spiritual resources; to find common ground on which all of us of all faith can stand; and thence to move forward as men and women concerned for the things of the spirit.

COMMODITY CREDIT CORPORATION

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Senate bill 3998, to enable the Commodity Credit Corporation to better serve the farmers in orderly marketing, and to provide credit and facilities for carrying surpluses from season to season.

Mr. McNARY. Mr. President, I have no objection to the motion if we can come to an agreement not to take up the bill this afternoon.

Mr. BARKLEY. I will say to the Senator from Oregon that we do not intend to proceed with the bill this afternoon. I wish to make the bill the unfinished business. It is the measure which authorizes the increase in the capital stock of the Commodity Credit Corporation. It is not desired to proceed this afternoon; but I do desire to have the bill made the unfinished business.

Mr. McNARY. It may be a very worthy proposal, but I think we should wait until tomorrow before taking up the bill.

Mr. BARKLEY. That is entirely agreeable, and that is our intention.

Mr. NORRIS. Mr. President, is this the other bill coming from the Banking and Currency Committee about which we had an understanding?

Mr. BARKLEY. Yes; it is.

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

The motion was agreed to; and the Senate proceeded to consider the bill (S. 3998) to enable the Commodity Credit Corporation to better serve the farmers in orderly marketing and to provide credit and facilities for carrying surpluses from season to season.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate 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 COMMITTEES

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

Mr. O'MAHONEY, from the Committee on the Judiciary, reported favorably the nomination of Robert H. Jackson, of New York, to be an Assistant Attorney General, vice Frank J. Wideman, resigned.

Mr. JOHNSON, from the Committee on Commerce, reported favorably the nomination of Lt. Comdr. Henry Coyle to be commander in the Coast Guard, to rank as such from January 1, 1936.

Mr. TRAMMELL, from the Committee on Naval Affairs, reported favorably the nominations of several officers in the Marine Corps.

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

If there be no further reports of committees, the clerk will state the first business in order on the calendar.

IN THE ARMY

The legislative clerk proceeded to read sundry nominations heretofore passed over in the Army.

Mr. SHEPPARD. Mr. President, I ask to have the Army nominations go over until the return of the Senator from Massachusetts [Mr. WALSH].

The VICE PRESIDENT. Without objection, the Army nominations will be passed over.

THE JUDICIARY

The legislative clerk read the nomination of Ralph L. Emmons to be United States Attorney, northern district of New York.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

PUBLIC WORKS ADMINISTRATION

The legislative clerk read the nomination of George D. Andrews, of Pennsylvania, to be State director of the Public Works Administration in Pennsylvania.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Kenneth W. Markwell, of Tennessee, to be State director of the Public Works Administration in Tennessee.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

COAST GUARD

The legislative clerk proceeded to read sundry nominations in the Coast Guard.

Mr. ROBINSON. I ask unanimous consent that the Coast Guard nominations on the Calendar be confirmed en bloc.

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

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the Calendar be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

That completes the Calendar.

RECESS

The Senate resumed legislative session.

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 20 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, February 25, 1936, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 24, 1936

PUBLIC WORKS ADMINISTRATION

Leo J. Voell, of Wisconsin, to be State director of the Public Works Administration in Wisconsin.

UNITED STATES MARSHAL

George E. Miller, of Iowa, to be United States marshal, southern district of Iowa, vice Fred S. Hird, term expired.

APPOINTMENT IN THE REGULAR ARMY

MEDICAL CORPS

To be first lieutenant with rank from date of appointment

First Lt. Bryan Coleman Thomas Fenton, Medical Corps Reserve.

APPOINTMENTS BY TRANSFER IN THE REGULAR ARMY

TO QUARTERMASTER CORPS

Maj. Philip Blaine Fryer, Cavalry, with rank from November 1, 1933.

TO CAVALRY

Maj. Vennard Wilson, Ordnance Department, with rank from August 1, 1935, effective June 20, 1936.

TO FIELD ARTILLERY

First Lt. Randolph Bolling Hubard, Infantry, with rank from December 1, 1934.

PROMOTIONS IN THE REGULAR ARMY

CHAPLAINS

To be chaplain with the rank of captain

Chaplain (First Lt.) William John Walsh, United States Army, from February 13, 1936.

Chaplain (First Lt.) James Gordon De La Vergne, United States Army, from February 13, 1936.

APPOINTMENT IN THE NATIONAL GUARD OF THE UNITED STATES

GENERAL OFFICER

To be brigadier general, Adjutant General's Department, National Guard of the United States, from February 21, 1936, under the provisions of section 38 of the National Defense Act as amended

Brig. Gen. John Aloysius O'Keefe, Adjutant General's Department, Mississippi National Guard.

CONFIRMATIONS

Executive nominations confirmed by the Senate, February 24, 1936

PUBLIC WORKS ADMINISTRATION

George D. Andrews to be State director of the Public Works Administration in Pennsylvania.

Kenneth W. Markwell to be State director of the Public Works Administration in Tennessee.

UNITED STATES ATTORNEY

Ralph L. Emmons to be United States attorney, northern district of New York.

PROMOTIONS IN THE COAST GUARD

James L. Ahern to be captain.
Carl C. von Paulsen to be commander.
Fletcher W. Brown to be commander.
John E. Whitbeck to be commander.
Donald G. Jacobs to lieutenant commander.
Chester L. Harding to be lieutenant (junior grade).
Roy E. Stockstill to be lieutenant (junior grade).
Harold B. Roberts to be lieutenant (junior grade).
James R. Hinnant to be lieutenant (junior grade).
Richard C. Foutter to be lieutenant (junior grade).
Charles O. Ashley to be lieutenant (junior grade).
Quentin McK. Greeley to be lieutenant (junior grade).
Randolph Ridgely, III, to be lieutenant (junior grade).
Arthur M. Root, Jr., to be lieutenant (junior grade).
John T. Stanley to be lieutenant (junior grade).

POSTMASTERS

GEORGIA

Marcus Watson Miller, Colquitt.
Carl M. Simonton, Franklin.

HOUSE OF REPRESENTATIVES

MONDAY, FEBRUARY 24, 1936

The House met at 12 o'clock meridian.

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

Lord of life, below, above, let us keep silence before Thee. We thank Thee that each new day is a fresh witness of Thy loving kindness. At its threshold inspire us to rise out of our incomplete selves into conscious kinship with Thee. Animated by Thy spirit, give us sympathetic words to cheer and willing minds to minister. Walk with us through the untried paths of duty and service, guarding our country's honor as our own. Heavenly Father, we pray for Thy guidance; do Thou keep us from temptation as we meet the tests of personal responsibility; bless us with the inward spiritual triumph. We beseech Thee, blessed Lord, that our honored and beloved Speaker, with the entire Congress, may solve real problems and escape from real perplexities. Strengthen all of us with inner steadiness and serene minds. Bless us with new revelations of victorious living. Through Christ, our Redeemer. Amen.

The Journal of the proceedings of Saturday, February 22, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 11138. An act to extinguish tax liabilities and tax liens arising out of the Tobacco, Cotton, and Potato Acts.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3780) entitled "An act to promote the conservation and profitable use of agricultural land resources by temporary Federal aid to farmers and by providing for a permanent policy of Federal aid to States for such purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH, Mr. MURPHY, Mr. POPE, Mr. CAPPER, and Mr. FRAZIER to be the conferees on the part of the Senate.

The message also announced that the Senate had ordered that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 3521) to authorize an exchange of land between the Waianae Co. and the Navy Department.

JUSTICE WILLIAM W. POTTER, OF MICHIGAN

The SPEAKER. Under the special order of the House, the Chair recognizes the gentleman from Michigan [Mr. HOOK] for 10 minutes.

Mr. HOOK. Mr. Speaker and Members of the House of Representatives, it is with great reluctance that I rise today to speak to you on the subject which I shall discuss. I represent the Twelfth Congressional District of Michigan. I am proud of my district, and I am proud of my State, and so it is with reluctance that I call to the attention of the people of the Nation and to the attention, particularly, of the citi-

zens of Michigan the activities of one William W. Potter, justice of the Supreme Court of the State of Michigan.

In preface to my remarks I might state that I have been a member in good standing of the bar of Michigan for a number of years past. I have had the honor to practice before the supreme court in Michigan, and I have high regard for the supreme bench in Michigan as a judicial body. I expect to try additional cases before our supreme court, but I cannot let that fact deter me from what appears to me my clear duty as a citizen of Michigan and Representative in Congress of a part of her people.

The courts in our democracy have traditionally been regarded as the one great branch of our Government that is and should be free from the taint of politics and partisanship. It is in the very spirit of the Constitution of the United States and of the Constitution of Michigan that our judicial branch of Government must be untrammeled and that our judges must remain free from entanglement in partisan political strife. Any condition other than this is unthinkable in a free democracy. This, I believe, is fully understood.

We in upper Michigan have been treated during the past 10 days to a most amazing spectacle. Justice William W. Potter, of our supreme court, has made a tour of the Twelfth District, a tour for the purpose of delivering a series of the most brazen and ill-considered partisan political speeches that have ever come to my attention.

I have no objection to a judge from any bench speaking to any group. I admit that our judges will have definite political philosophies, but I contend again that there is no judge of any court worthy of the name who will enter the political arena and openly champion the cause of a particular political party.

Lest I be accused of exaggeration as to the activities of Justice Potter, allow me to quote to you from press reports of his speeches. A headline appears in the Marquette Mining Journal, of Marquette, Mich., for February 12, 1936: "New Deal 'Incompetent dictatorship', Justice Potter charges at Ishpeming." "Sound sense is G. O. P. goal, he declares." In the Evening Copper Journal of Hancock, Mich., for February 14, the headline reads: "Potter lashes New Deal in address here." In the Houghton Mining Gazette, of Houghton, Mich., the report of the justice's address was labeled "Potter assails regimentation."

One might well inquire what organization or organizations sponsored this intemperate, political speech-making justice. Or, perhaps you can guess. In Marquette County the honor belongs to the Lincoln Republican Club. In Houghton County the young Republicans take the responsibility.

The eminent Justice Potter placed no restraints upon himself. The New Deal, he said, was a raw deal. The Democratic administration was accused of repressive planning, subversive policies, soviet regimentation, and carried the menace of irresponsible dictatorship. The "brain trust", according to the justice, was made up of perverted intellects.

I need not quote further. Full reports on the justice's speeches are available in my office to anyone who wishes the entire account of his degradation. Justice Potter has violated one of the cardinal, ethical principles of judicial activity. He has stooped to the last resort of an unprincipled politician. Mud slinger, rather than Justice Potter will be his title to every citizen in Michigan who respects our judiciary. Justice Potter has lowered himself to crawl with the vermin which inhabit the mud which he has slung. The headlines of his addresses should have read, "Justice of supreme court descends to demagoguery", or "Michigan Supreme Court fouled by Justice Potter."

In his speeches, Justice Potter had the temerity to speak of constitutional government and the necessity for its protection from the communistic members of the Democratic Party. I submit that the justice lacks an intelligent understanding of constitutional government. Justice Potter's political activity is, in itself, a more flagrant violation of the principles of constitutional government than any action called to my attention in recent times. When the body of a politician hides behind the dignity of a judicial robe, and when the mouth of a politician speaks from the mask of judicial nonpartisanship, then it is time to rise in protection of our democratic institutions. That this should have happened in Michigan brings shame to the cheek of every loyal citizen of our State.

Justice Potter is not alone responsible for the degradation of our judiciary. Those Republican organizations who invited Justice Potter to deliver his political diatribes, are also to be held accountable. The scorn of public opinion is also to be directed against them and their unscrupulous attempts to use a member of our supreme court to bolster up the declining fortunes of their party. If conservatism has indeed entrenched itself in our judiciary, it is well that we are made aware of that fact. When such a situation exists, who can say that our courts are not open to criticism? When State supreme court justices deliver political stump speeches, criticism is not only justified, but absolutely essential. Entrenched greed working through the Republican Party will stoop to any means to regain a privileged position in our Government. The case of Justice Potter is ample proof of this.

Not only did Justice Potter defile his position by openly taking part in partisan political activity, but his statements lead one to question either his intelligence or his veracity. Many of his utterances are so patently fallacious that they would be humorous if the precedent he has established were not so fraught with danger to our liberty and justice. Mr. Potter—he should not be called justice—charged the Democratic administration with buying German steel for use in Federal-construction projects in New York. The justice failed to acquaint himself with the facts. The Government, itself, never entered into any contract with a German steel company. And the only reason any consideration was given to the foreign product at all by the borrowing agencies in New York was because no American steel company produced the steel piling required for the job—and the reason that United States Steel and the rest of them did not make this piling was because there was not enough profit in it for them. Since the controversy over the case of the German steel, it might be called to Justice Potter's attention, the American mills have started to roll this type of steel.

The justice stated, too, that the United States now has the greatest deficit of any nation in the world. He might be corrected by having pointed out to him that the per-capita debt in England is, roughly, three times that in the United States.

Mr. MAPES. Will the gentleman yield?

Mr. HOOK. I yield.

Mr. MAPES. The gentleman has made a very severe criticism of Judge Potter, who stands very high in the State of Michigan. In the last analysis I wonder if the gentleman's only complaint against Judge Potter is that he did not make Democratic speeches at these Republican meetings to which the gentleman has referred?

Mr. HOOK. My criticism of him is that any justice who will defile the bench should not enter politics. These are simply examples of the misinformation in Justice Potter's speeches.

I have spoken of Justice Potter in this manner out of respect to the good citizens of Michigan and of the United States. The honest and decent citizens of our State will be shocked at Justice Potter's action; they will understand also, from which party the inspiration came; they will correct the evil caused by Justice Potter's action. I leave the case in their hands.

CONSERVATION OF NATURAL LAND RESOURCES

Mr. JONES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3780) to promote the conservation and profitable use of agricultural land resources by temporary Federal aid to farmers and by providing for a permanent policy of Federal aid to States for such purposes, insist on the House amendments and agree to the conference asked for.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MAPES. Reserving the right to object, the gentleman from Michigan [Mr. HOOK] has made a rather unexpected criticism of one of the justices of the Supreme Court of Michigan who stands very high in that State.

The SPEAKER. Does the gentleman from Michigan object to the request of the gentleman from Texas?

Mr. MAPES. No.

Mr. RICH. Reserving the right to object, the only question I should like to ask the gentleman from Texas is, Where are you going to get the $500,000,000 if the conferees agree?

Mr. JONES. I have answered that question.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. JONES, Mr. FULMER, Mr. DOXEY, Mr. HOPE, and Mr. KINZER.

TAXATION OF STOCKS, NOTES, ETC., OWNED BY RECONSTRUCTION FINANCE CORPORATION

Mr. GREENWOOD, from the Committee on Rules, reported the following resolution, which was referred to the House Calendar and ordered printed:

House Resolution 427

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 11047, a bill relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by Reconstruction Finance Corporation and reaffirming their immunity. That after general debate, which shall be confined to the bill and continue not to exceed 2½ hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit, with or without instructions.

AGRICULTURE DEPARTMENT APPROPRIATION BILL, 1937

Mr. TAYLOR of Colorado, from the Committee on Appropriations, reported the bill (H. R. 11418, Rept. No. 2061) making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937, and for other purposes, which was read a first and second time, and, with the accompanying papers, referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. THURSTON. Mr. Speaker, I reserve all points of order.

JUSTICE WILLIAM W. POTTER, OF MICHIGAN

Mr. MAPES. Mr. Speaker, I ask unanimous consent that my colleague, Mr. HOFFMAN, may have 5 minutes in which to address the House.

The SPEAKER. Is there objection?

There was no objection.

Mr. HOFFMAN. Mr. Speaker, under no circumstances would I impose upon the Members of the House in this manner were it not for the fact that the gentleman from Michigan [Mr. HOOK] has seen fit to make a very uncalled for attack upon one of the justices of the Supreme Court of the State of Michigan, and, with all due respect, I noticed that much of the applause at the end of his statement came from those gentlemen who have been most free in criticizing members of the Supreme Court of the United States.

Apparently, from what has taken place here in recent months, it is not only proper and according to the rules for Members of this House to take the hide off the fine old gentlemen who sit over here in the United States Supreme Court Building so near to us, but it seems to be a favorite indoor sport of some of the Members of this House.

Not content with criticizing the members of the United States Supreme Court whenever the opinions of that body do not suit the individual whims of a Member, the practice is now to be extended to the judges of the State courts. Hence, because a justice of the Michigan Supreme Court expressed an opinion which was not acceptable to the Democratic Member from Michigan [Mr. HOOK], that justice must be accused of a lack of intelligence and veracity. The accusation will receive absolutely no consideration in Michigan, where all of the members of our supreme court are so well known, that no reply to his charges is necessary, but an explanation of the local situation should be made, in fairness not only to Judge Potter, but to the other judges of that court.

The Michigan delegation should not remain silent while so unjust a criticism is made of a man whose character and actions are above question. Our justices are not appointed; they are elected, and, in fairness to the members of the supreme court of our State, you should all know that each holds his position by virtue of the fact that his name appeared either upon the Democratic or the Republican Party ballot.

Being selected by political conventions, elected by a party vote, they are in no sense barred from political discussions and, necessarily, they take part in political campaigns, and no one, so far as I know, has ever questioned their right so to do nor the propriety of such action.

It is true that Democratic members of that court have had but little to say during the last few years in the way of political discussions. The reason has been that there were no such members upon the court. Unfortunately, perhaps, they were all Republicans; but not so long ago we elected two Democrats, Justices Bushnell and Sharp, and both of those gentlemen, if my memory serves me correctly, have made political campaign speeches, but no one has criticized them for it. That is their own business.

Mr. HOOK. And if I recall correctly, the speeches they made were not political.

Mr. HOFFMAN. Then the gentleman's memory is not good, nor is his understanding of the speeches that they made correct. They were political speeches, and of the highest order, and with the fact they were made we have no criticism to make. That is a part of our way of transacting business up there. And for the information of the gentleman let me state that in Michigan we elect justices of the supreme court, both Democrats and Republicans, whose characters and whose ability are so far above reproach or criticism that we do not become critical when they express their honest, candid, and sincere opinions. When they speak we listen with attention, with respect; we accept or reject their statements as our judgment decides, for their political pronouncements we do not consider binding. Perhaps the fact that 16 members of the gentleman's party, including the State Democratic chairman, have been sentenced for fraud in stealing an election has something to do with this criticism that we have heard today.

Mr. HOOK. Mr. Speaker, will the gentleman yield?

Mr. HOFFMAN. No; the gentleman must excuse me. I have no criticism to make of any judge who honestly and sincerely expresses his political opinions; nor is such criticism common in our State. There is no reason why we should not hear our judges. We are not bound by what they say on political questions; their opinions are not judicial decisions.

Further, let me call the attention of the gentleman from Michigan [Mr. HOOK] to something received this morning in the mail. Here it is:

Announcing Twin City Townsend meetings. Edward J. Jeffries, judge of Recorder's Court, Detroit, Mich., Friday, February 28, 1936, 7:30 p. m., Peace Temple, Benton Harbor, Mich.

* * * * * * *

What's this $200 per month?

I find no fault with that. Let him talk. If his philosophy be true, let it succeed. We can meet those things by argument, not by the gag.

Mr. Speaker, that is all I desire to say, not by way of defense, for under our system the action needs no defense, but that the statement of the gentleman from Michigan [Mr. HOOK] may not go unchallenged. [Applause.]

SURVEY OF MARSHY HOPE CREEK

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 10975) authorizing a preliminary examination and survey of Marshy Hope Creek, a tributary of the Nanticoke River, at

and within a few miles of Federalsburg, Caroline County, Md., with a view to the controlling of floods.

The SPEAKER. The gentleman from Maryland asks unanimous consent for the present consideration of the bill H. R. 10975, which the Clerk will report by title.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Maryland [Mr. GOLDSBOROUGH]?

Mr. WOLCOTT. Mr. Speaker, reserving the right to object, it is the custom to take these bills up on the Consent Calendar. I wonder if the gentleman can explain why this is being taken up out of its regular order?

Mr. GOLDSBOROUGH. Yes. The people of Federalsburg had a serious flood last September, and since then they have had floods of smaller proportion, and they are very much afraid of another one at any time. I get daily telephone messages to try to get some legislation. The first thing I have to do is to get this preliminary examination. That is all this bill provides for.

Mr. WOLCOTT. Is this in anticipation of a flood which you expect this spring?

Mr. GOLDSBOROUGH. Yes; absolutely.

Mr. WOLCOTT. I might say to the gentleman that although I am not opposed to his bill, as he undoubtedly should know, this preliminary survey, even if a favorable report is made by the district engineer, will not give them any immediate relief. It is impossible to give the gentleman's constituency any relief this spring with this preliminary examination. It takes at least a year for relief to be given after the examination is made.

Mr. GOLDSBOROUGH. But I have to get along as fast as I can. Of course, if this bill passes the district engineer tells me he will make an examination very shortly and report to the Board of Engineers in Washington.

Mr. WOLCOTT. I might say to the gentleman I have been given definitely to understand by the Board of Engineers that these surveys are merely to determine the necessity for relief.

Mr. GOLDSBOROUGH. No. It is a flood-control bill. It can come us as an independent measure.

Mr. WOLCOTT. But it is handled in the same way as a river and harbor bill.

Mr. GOLDSBOROUGH. The Flood Control Committee does not usually report omnibus bills.

Mr. WOLCOTT. No. I misspoke myself, but nevertheless action must be had by the Board of Engineers. I am given to understand, in connection with a like situation in the State of Michigan, where at the present time the people are very much concerned about their situation, because every year for the last 4 or 5 years their village has been flooded, that there cannot be any relief, even if a favorable report was made, for a year. So although I have no objection to the gentleman's bill, I wonder if we should consent to take it up out of its regular order when there is no possibility of their getting relief this spring.

Mr. GOLDSBOROUGH. I do not have the same information that my colleague has.

Mr. SNELL. Will the gentleman yield for a question?

Mr. GOLDSBOROUGH. I yield.

Mr. SNELL. When the gentleman spoke to me about this bill I understood him to say that this had the unanimous approval of the Flood Control Committee of the House?

Mr. GOLDSBOROUGH. That is correct.

Mr. SNELL. I have been informed that the Flood Control Committee intended, if they did not do so, to strike out the "survey", which will cost $5,000. They are willing to have an examination made, but any complete survey will cost $5,000.

Mr. GOLDSBOROUGH. Well, I do not know anything about $5,000. This is the first time I have heard of it. It was a unanimous report by the committee.

Mr. SNELL. Is the chairman of the Committee on Flood Control present?

Mr. GOLDSBOROUGH. I do not see him now. The gentleman from Mississippi [Mr. WHITTINGTON] is acting chairman.

Mr. ZIONCHECK. Will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. ZIONCHECK. When did the gentleman introduce this bill?

Mr. GOLDSBOROUGH. About 2 weeks ago.

Mr. ZIONCHECK. And the hearings have just been completed?

Mr. GOLDSBOROUGH. Yes.

Mr. ZIONCHECK. And there is a full committee report on it, or is it just by a subcommittee?

Mr. GOLDSBOROUGH. No; it is the full committee.

Mr. ZIONCHECK. And the gentleman knows nothing about the $5,000?

Mr. GOLDSBOROUGH. I never heard of it before this minute.

Mr. SNELL. Will the gentleman yield further?

Mr. GOLDSBOROUGH. I yield.

Mr. SNELL. I am informed they have cut the survey out of all bills of this character. If I am correct, I do not think this ought to go through by unanimous consent, although on the information I had from the gentleman from Maryland I said that I had no objection, but I think there is a misunderstanding somewhere. I do not know just exactly where it is.

Mr. RICH. Will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. RICH. We only had one meeting of the Committee on Flood Control this year, and that was last Friday, and I happened to be attending another committee meeting, so I do not know whether this bill was reported or not, but this bill is coming up in an irregular way, and if the majority leader is going to permit the gentleman from Maryland to bring up this bill out of order, why would he not permit every other Member of Congress to do likewise?

Mr. BANKHEAD. Well, now, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. BANKHEAD. I do not think it is entirely fair for the gentleman from Pennsylvania [Mr. RICH] to undertake to put the responsibility upon the majority leader for a proposition of this sort when it has been clearly stated that it was in the nature of an emergency proposition and the author of the bill conferred with the minority leader and with the Speaker. As a matter of fact, he did not confer with me about it, although it meets with my approval, and I hope there will be no objection to it.

Mr. SNELL. As far as that is concerned, I am willing to take my responsibility that if it was an emergency proposition I was not going to object, but if it is a fact that the Flood Control Committee have cut the survey out of these bills of similar character I do not think we ought to let that go in in this bill.

Mr. GOLDSBOROUGH. It was a unanimous report by the commmittee.

Mr. SNELL. Is there not any Member on the floor of the House who is a member of the Flood Control Committee?

Mr. WOLCOTT. Will the gentleman yield to me for a moment?

Mr. GOLDSBOROUGH. I yield.

Mr. WOLCOTT. I may say that I have just examined this bill, and where it reads "examination and survey" a committee amendment has stricken out the words "and survey." So I call the gentleman's attention to the fact that after a preliminary examination is made, then, if a favorable report is made, the Board of Engineers must make a survey before any relief can be given.

Mr. GOLDSBOROUGH. The authorization must be granted first; there has to be a beginning.

Mr. WOLCOTT. The only objection we have is to its being taken up out of regular order to the prejudice of all the other flood-control bills on the Consent Calendar. I have no objection to the merits of the gentleman's bill, but we over here charged with the responsibility of examining bills on the Consent Calendar cannot stay on this floor every minute watching bills on this calendar; I cannot do it; and, of course, the others interested cannot either. I do not think it is fair for us to let these bills go through in this

manner to the prejudice of other Members who assume their bills will go through in regular order.

Mr. GOLDSBOROUGH. If the gentleman understood the condition of fear which has existed in Federalsburg since the 1st of last September he would not object to this bill. It does not involve any expense.

Mr. WOLCOTT. I have said that I have no objection to the merits of the bill.

Mr. FERGUSON. Mr. Speaker, if the gentleman will yield, the bill came before the full committee and was reported out with that section calling for a survey stricken out. It calls only for a preliminary examination, and the fact that there was an emergency justified the committee in reporting it out at this time.

Mr. SNELL. The survey provision was eliminated from the bill?

Mr. FERGUSON. It is out of the bill entirely.

Mr. SNELL. If it is an emergency proposition I do not think anybody should object.

The regular order was called for.

Mr. ZIONCHECK. If the regular order is demanded, Mr. Speaker, then I object.

SESQUICENTENNIAL, COLUMBIA, S. C.

Mr. FULMER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8886) to authorize the coinage of 50-cent pieces in commemoration of the sesquicentennial anniversary of the founding of the city of Columbia, S. C., for immediate consideration.

Mr. SNELL. Mr. Speaker, reserving the right to object, what committee did this come from, the Committee on Coinage, Weights, and Measures?

Mr. FULMER. Yes; and I would like to say to the gentleman from New York that the reason I am making this request now is that the sesquicentennial is to be held during the last part of March, and unless the House passes the bill promptly so it may be passed by the Senate and signed by the President, it will be too late.

Mr. SNELL. Some time ago I tried to get a measure of this kind passed for some people in my section, but the Treasury Department told me it was against their policy.

Mr. FULMER. I may say to the gentleman from New York that there has been some complaining in the Treasury Department about coining these commemorative half dollars, but it is a regular procedure every session. During this session already there have been reported several bills. As I say, the only reason I am asking consideration at this time is because the celebration will be held the last of March, and that is not very far away.

Mr. THURSTON. Mr. Speaker, reserving the right to object, and I shall not object, I wish to say in fairness to the gentleman from South Carolina that several other bills of a similar character were favorably reported by the Committee on Coinage, Weights, and Measures, and I take it they will be called up in due course.

Mr. SNELL. Why not bring them all up at one time and see if we are able to pass them or not?

Mr. FULMER. That would be satisfactory to me, except if this bill is not passed promptly it will be too late.

Mr. SNELL. It is my understanding that the Treasury Department would not favorably recommend any more of these bills. If they have changed their policy, I have no objection.

Mr. WOLCOTT. Mr. Speaker, will the gentleman yield?

Mr. FULMER. I yield.

Mr. WOLCOTT. I may say, in addition to what the minority leader has said, that last year an application was made by certain members of the Michigan Delegation to have 50-cent pieces struck off in commemoration of the centennial of the admission of the State of Michigan into the Union, and we were turned down flat.

We were informed that it was not the policy of the Treasury Department to issue any more of these commemorative 50-cent pieces, that they would not approve them; and that the President would veto the bill if it was passed. For these reasons, and these reasons only, we did not press the matter.

Mr. O'BRIEN. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is, Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, in commemoration of the one hundred and fiftieth anniversary of the founding of the city of Columbia, S. C., there shall be coined by the Director of the Mint 10,000 silver 50-cent pieces, such coins to be of standard size, weight, and fineness of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the model for master dies or other preparations for this coinage.

SEC. 2. Coins commemorating the founding of the city of Columbia, S. C., shall be issued at par, and only upon the request of the committee, person, or persons duly authorized by the mayor of the city of Columbia, S. C.

SEC. 3. Such coins may be disposed of at par or at a premium by the committee, person, or persons duly authorized in section 2, and all proceeds shall be used in furtherance of the commemoration of the founding of the city of Columbia, S. C.

SEC. 4. All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same; regulating and guarding the process of coinage; providing for the purchase of material, and for the transportation, distribution, and redemption of the coins; for the prevention of debasement or counterfeiting; for the security of the coin; or for any other purposes, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein directed.

SEC. 5. The coins authorized herein shall be issued in such numbers, and at such times as they may be requested by the committee, person, or persons duly authorized by said mayor of Columbia, S. C., only upon payment to the United States of the face value of such coins.

With the following committee amendments:

Page 1, line 6, strike out the word "ten" and insert in lieu thereof the word "twenty-five."

Page 2, line 5, strike out the words "the committee, person, or persons" and insert in lieu thereof the words "a committee of not less than three persons."

Page 2, line 9, strike out the words "person, or persons."

Page 2, line 24, strike out the words "person, or persons."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXCHANGE OF LAND BETWEEN THE WAIANAE CO. AND NAVY DEPARTMENT

The SPEAKER laid before the House the following request of the Senate:

JANUARY 16 (calendar day, Feb. 22), 1936.

Ordered, That the secretary be directed to request the House of Representatives to return to the Senate the bill (S. 3521) to authorize an exchange of land between the Waianae Co. and the Navy Department.

The SPEAKER. Without objection the request of the Senate will be granted.

AURORA DAM AND T. V. A.

Mr. PEARSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. PEARSON. Mr. Speaker, last July we had under consideration H. R. 8632, a bill to amend in many material respects the act creating the Tennessee Valley Authority. It will be recalled that only a few months prior thereto a United States district judge in Alabama had declared that the Authority was without the legal or constitutional right to sell power or energy created at Wilson Dam. One of the principal objects of the bill under consideration was to meet the alleged defects set out in the opinion rendered by this district judge, and vest in the Tennessee Valley Authority full power and authority to proceed with its program.

When this measure was under discussion many of us who favored its enactment with certain broadening amendments took the floor and urged its passage, undertaking to point out the advantages which the activities of the Authority brought not only to the trade area of the Tennessee Valley but to all the people of the Nation. There was ample evidence of stubborn opposition to the bill in its original and amended form, and only after prolonged debate was the opposition overcome and the bill passed.

A few days ago the Supreme Court of the United States by an 8-to-1 decision upheld the right of the Tennessee Valley Authority as an arm of the Government to manufacture at Wilson Dam electrical energy and to sell the energy so generated either at the dam or by transmission lines where a market existed. Under the express language of the opinion of Chief Justice Hughes rural electrification is an immediate possibility, and there is no further obstacle to farm owners in the valley having electrical power for their every need. It has long been a dream and will soon be a reality. It will mean that much of the drudgery of farm life will be a thing of the past and that the practical use of a great natural resource will bring to the doors of some of its joint owners luxuries which they had never hoped to enjoy. I cannot adequately express the personal satisfaction which this brings to me. I know thousands of homes where hearts will be made happier and burdens lighter as a result. I expect to assist every community in my district and every home therein to avail itself of the privilege of power at a reasonable rate. They have waited long and patiently for it, and their patience is now to be rewarded.

I happen to represent a district that lies wholly within the trade area known as the Tennessee Valley. In fact, the Tennessee River touches as many counties and affects as much, if not more, territory in my district than it does of any other Member of this Congress. The Tennessee River is the eastern boundary line of my district from the southern border of Kentucky to the northern boundary of Mississippi, across the full width of the State of Tennessee.

I know something of the history of this river and the Tennessee Valley, something of the hardships which the people who love that region and who have spent their lives there trying to earn a living have suffered, and I share with them the dream of hope which the creation of the Tennessee Valley Authority 2 years ago brought to them, and the fruition of which is not far distant if we can command a sympathetic ear from each of you who is in a position to assist in the completion and consummation of the ambitious program which lies ahead. Every Member of this Congress who is interested in the conservation, the utilization, and development of the natural water power in this Nation should be interested in the continuance of the Tennessee Valley Authority and in giving it unhampered and unrestricted power and authority to exploit and harness the hitherto sleeping potential power of Tennessee. It is blazing a trail and charting a course for future conservation of the natural water powers of America, and every section of our Nation will some day enjoy the blessings and benefits which will naturally follow from such experimental activities.

There is one phase of the future activities of the Tennessee Valley Authority that I am particularly interested in, namely, the construction of Aurora Dam at a point on or near the Tennessee-Kentucky line. It will be recalled that one of the primary purposes of the Authority is to make the entire Tennessee River navigable and to establish and maintain a 9-foot channel. It has always been classed as a navigable stream, and the Supreme Court in the opinion referred to holds that it is navigable but not adequately improved for commercial navigation. In order to convert it into a stream suitable for commercial navigation 12 months in the year a series of locks and dams are necessary. Some of these have been started and others are being planned. Among these is the one identified by the Authority as Aurora Dam. For some reason the directors of the Authority have never asked for an authorization for its construction, despite the fact that its construction will ultimately be necessary and despite the fact that the chairman of the board of directors of the Authority has promised to construct it.

During the debate on the T. V. A. amendment last July it was suggested by the opposition that no one could determine just what the Authority's plans were and that a definite program should be outlined and made a part of directory legislation. I agree with this criticism to some extent and think that in the next appropriation bill the Authority should be required to start Aurora Dam and provision made for its construction.

This dam is estimated to cost $40,000,000, and I noticed recently in a newspaper article that the chairman of the Board was suggesting abandoning Aurora Dam and in lieu thereof building a dam across the Tennessee and Ohio Rivers at Paducah, Ky., costing $200,000,000.

The Authority has no right to build a dam across the Ohio River, in the first place, without amending the basic act, and I know Congress is not going to give it $200,000,000 for any such purpose, in the second place. The quicker Aurora Dam is authorized and started, just so much quicker will full navigation for the entire river be accomplished, and I sincerely hope that Congress during this session will definitely direct the starting of Aurora Dam and thereby eliminate forever the possibility of a $200,000,000 expenditure in furtherance of a fantastic and impractical plan.

I intend to work to this end so long as I represent the Seventh District of Tennessee.

A KANSAS FARM WOMAN'S GRATITUDE

Mr. HOUSTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a letter.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. HOUSTON. Mr. Speaker, under leave to extend my remarks in the RECORD, I desire to have printed in the RECORD the following letter from a Kansas farm woman, expressing her gratitude for having been saved from foreclosure and ruin by the humanitarian policies of this administration, and my reply thereto:

VALLEY FALLS, KANS., *Route 4, February 17, 1936.*

DEAR CONGRESSMAN HOUSTON: Words cannot express my gratitude to all of you, regardless of politics, who have stood by President Roosevelt.

There are some who are clamoring loud and long about the unbalanced Budget. These people are warmly clad and well fed and they give little thought to suffering humanity—to the thousands of men, women, and children who are cold and hungry.

Who, may I ask, left the Budget unbalanced? And how long was this precious Budget unbalanced before this administration took office? If I remember right, very little was said about the Budget prior to 1932.

I am not for, nor against, any certain political party; but I am for the man who has had a heart and has been square enough to remember that the little fellow—farmer and town homeowner—loved his home and his wife and children, the same as other groups loved theirs, and wanted a chance to keep them together and to give his children the chance in life that is due every American citizen.

I was reared in northern Kentucky and in a strict Republican home; but this year I'm going to stick to the party which stuck to me; the party which was honest enough to give me a square deal—a chance to keep my home. I am voting for Franklin D. Roosevelt, the squarest man who ever sat in the White House.

Gratefully yours,

MRS. C. M. NORTHRUP.

WASHINGTON, D. C., *February 21, 1936.*

MRS. C. M. NORTHRUP,
Route 4, Valley Falls, Kans.

DEAR MRS. NORTHRUP: This is to acknowledge receipt of your very kind letter of February 17 and to convey my appreciation.

It is a noteworthy fact that as long as President Roosevelt has the loyal and outspoken support of the grateful and liberty-loving people of every party whom he has helped through his tireless and humanitarian efforts there can be no doubt as to the result of the coming election. Mr. Roosevelt has won the hearts of millions of our people and restored hope where fear and discouragement formerly held sway.

May you and all others whom he has so ably defended against oppression continue to prosper and enjoy to the fullest extent the advantages accrued under his noble leadership.

Thanking you for your expression of gratitude, believe me to be,

Sincerely yours,

JOHN M. HOUSTON,
Member of Congress.

SHIPPING AND POLITICS

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a quotation which will not be in excess of one-eighth of a page of the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAVERICK. Mr. Speaker, it begins to look like all we are going to do this session is to pass appropriation bills, do a little parliamentary shadow-boxing, and go home. In the last session the ship-subsidy bill was, in my opinion, very properly defeated because of the form in which it was presented.

I have just read an editorial in the Washington Daily News of today, February 24, entitled "Shipping and Politics", which I shall include in my remarks; but I am hoping that if ship-subsidy legislation comes before us, that Congress will not gag itself, as we did on the neutrality legislation, and pass just any kind of bill. The editorial is as follows:

SHIPPING AND POLITICS

It is reported that some of the President's advisers are reluctant to take up ship-subsidy legislation at this session of Congress. Fear of controversy in an election year is given as the reason.

If complete reformation of the American merchant marine is not undertaken promptly there will be little left to reform. With administration backing a good bill could be passed quickly. The President could then carry into his campaign a valuable accomplishment. He would not be open to attack for ignoring conditions that have forced the American merchant fleet in foreign trade to bottom place in respect to modern ships.

Failure to face the issue extends a long series of deplorable abuses which the President himself has condemned.

It is said that a good bill has now been prepared; if that is the case, I hope it receives consideration, and in receiving consideration I hope that it will be of sufficient time, upon open rule and reasonable parliamentary practices, and not under the gag as on the neutrality legislation.

The editorial continues:

A bill approved by competent authorities has been drafted at the Capitol. Its nominal sponsor is Senator GUFFEY, Democrat, of Pennsylvania. It apparently will not be introduced, however, until approved by the President.

This new measure is unlike previous subsidy legislation in that it was not conceived as a means of bailing out the shipowners. It is designed to give the United States a merchant fleet necessary to carry a good proportion of American exports and imports, and to serve as an efficient naval auxiliary.

It sets up a five-man board to handle all merchant-marine matters except regulation, which would be placed under the Interstate Commerce Commission.

The board would lay down a long-time construction program. Private operators would be asked to build the necessary ships. If they could finance one-third of the initial investment, the Government would supply the balance under strict controls to prevent excess profits and abuse of the subsidies.

If the operator could not put up the money, and most mail contractors cannot, the Government would do the building itself in private shipyards. If no private operator would charter the new vessels, the Government would operate them on essential trade routes.

That, in substance, is the new bill. It faces honestly conditions as they exist in this feeble industry.

MUNICIPAL PUBLIC WORKS, SKAGWAY, ALASKA

Mr. DIMOND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 9130) to authorize the incorporated city of Skagway, Alaska, to undertake certain municipal public works, and for such purpose to issue bonds in any sum not exceeding $12,000, and for other purposes, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read the Senate amendment as follows:

Page 1, line 10, after "$12,000" insert: ": *Provided*, That the total amount of bonds issued and outstanding at any time under authority of this act and under authority of Public Law No. 174, Seventy-third Congress, approved April 25, 1934 (48 Stat. 611), shall not exceed the sum of $40,000."

The Senate amendment was agreed to.

ARKANSAS CENTENNIAL COMMISSION

Mr. FULLER. Mr. Speaker, I ask unanimous consent for the consideration of a short resolution, authorizing the Clerk of the House to lend to the Arkansas Centennial Commission a lounge in his office upon which Augustus Garland died.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. SNELL. Mr. Speaker, reserving the right to object, I would like to know if that man was a Democrat?

Mr. FULLER. Yes.

Mr. SNELL. If he is dead, all right.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There being no objection, the Clerk read the resolution, as follows:

House Resolution 428

Resolved, That the Clerk of the House be, and is hereby, authorized and directed to loan to the Arkansas Centennial Commission, for use during the celebration of 1936, a lounge in his office upon which Augustus Garland died. The Clerk shall see that the Government is placed to no expense on account of this loan and return of the property and is authorized to exact such surety and regulations as he deems proper for the return of the lounge in good condition.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SURVEY OF MARSHY HOPE CREEK, MD.

Mr. GOLDSBOROUGH. Mr. Speaker, I renew my request for the immediate consideration of the bill (H. R. 10975) authorizing a preliminary examination and survey of Marshy Hope Creek, a tributary of the Nanticoke River, at and within a few miles of Federalsburg, Caroline County, Md., with a view to the controlling of floods.

I think there will be no objection to its consideration at this time.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. ZIONCHECK. Mr. Speaker, reserving the right to object, my only purpose in rising at this time is to ask the majority leader and minority leader if the objectors to bills on the Consent Calendar are going to be protected in the future, because last year we would object to certain bills, then the majority leader or the acting majority leader would let them slip through at the tail end of a session by unanimous consent.

The regular order was demanded.

The SPEAKER. Is there objection to the consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War is authorized and directed to cause a preliminary examination and survey to be made of Marshy Hope Creek, a tributary of the Nanticoke River, at and within a few miles of Federalsburg, Caroline County, Md., with a view to the control of floods, in accordance with the provisions of section 3 of an act entitled "An act to provide for control of floods of the Mississippi River, and of the Sacramento River, Calif., and for other purposes", approved March 1, 1917, the cost thereof to be paid from appropriations heretofore or hereafter made for examinations, surveys, and contingencies of rivers and harbors.

With the following committee amendment:

On page 1, line 4, after the word "examination", strike out "and survey."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

The title was amended to read as follows: "A bill authorizing a preliminary examination of Marshy Hope Creek, a tributary of the Nanticoke River, at and within a few miles of Federalsburg, Caroline County, Md., with a view to the controlling of floods."

PERMISSION TO ADDRESS THE HOUSE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent that on tomorrow immediately after the reading of the Journal and disposition of matters on the Speaker's desk I may be permitted to address the House for 20 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. RICH. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Mississippi if he is going to show us, as he claims, how electricity can be generated with coal as cheaply as with water?

Mr. PARKS. The gentleman is going to talk about the prosperity in the gentleman's district.

Mr. RANKIN. Mr. Speaker, in reply to the gentleman from Pennsylvania [Mr. RICH] I desire to say that I want to speak on the cost of electric power. Among other things, I am going to answer the statement made by the president of the Commonwealth & Southern, to the effect that his company could sell power cheaper than it is now being sold in the Tennessee Valley area if it could buy it at T. V. A. wholesale rates.

Mr. RICH. And the gentleman will try to give us some information showing that we can generate power with coal as cheaply as we can with water.

Mr. RANKIN. I will say to the gentleman from Pennsylvania that I can show him where every human being in his district who turns an electric switch is overcharged around three or four hundred percent for his electricity, except perhaps the favored few who buy it in bulk. I have already shown that the people of the State of Pennsylvania are overcharged $75,000,000 a year for electric lights and power.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. GREEN. Mr. Speaker, I ask unanimous consent that on next Thursday, immediately after the reading of the Journal and the disposition of matters on the Speaker's table, I may address the House for 20 minutes.

Mr. RICH. Mr. Speaker, reserving the right to object, I would like to know whether the gentleman from Florida is going to tell us where he is going to get the money to build that canal in his State.

Mr. O'CONNOR. Mr. Speaker, reserving the right to object, we have an appropriation bill coming in here which will take practically the entire week and on which there will be ample general debate. Could not the gentleman get this time in general debate on the appropriation bill?

Mr. GREEN. I possibly could, I will say to the distinguished gentleman from New York, but I find it very difficult to get much time, because the time is usually consumed by the members of the committee; and if I did get the time in this way it would not take up any more time of the House.

Mr. SNELL. We will see that the gentleman gets 20 minutes from this side this afternoon.

Mr. GREEN. I hope the gentleman will not object.

Mr. O'CONNOR. The gentleman has been assured time from that side of the House if he does not get it here.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. O'BRIEN. I object, Mr. Speaker.

THE CONSTITUTION AND THE SUPREME COURT

Mr. DITTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a radio broadcast by our colleague the gentleman from Pennsylvania [Mr. WILSON] on Saturday last.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DITTER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following radio address of the gentleman from Pennsylvania [Mr. WILSON], Saturday, February 22, 1936:

The experimentation in which we have been indulging in the past few years is something new to this country and closely follows the line of thought expressed in governmental activities in some European countries today.

Its object is the centralization of power in one individual and his delegated agents, in direct conflict with American habits, American traditions, and American law.

It contemptuously disregards the fact that ours is basically a Government by the people under an American Constitution formulated upon the belief that these United States form a federation of 48 States and guaranteeing to the individual certain rights which cannot be abrogated by the Government.

Under such a Constitution and its bill of rights, the New Deal and the supreme law of the land cannot exist together. Either we must abandon the idea of embarking our nation upon the high seas of socialistic thought with its fallacies inimical to individual effort, saying to our citizenry that you live and have your being only in a centralized government and that you have no rights which that government is obligated to support and respect, or we must revere and uphold the Constitution, the supreme law of the land, and refuse to surrender or undermine those guarantees which the Constitution gives to our people which would of necessity carry with it that great American ideal, so different from society's conception of the courts in other countries, that before American courts the citizens and the Government occupy an equal position.

I do not believe that the people of these United States are prepared to abandon a government of law. I do not believe they are ready to cast into oblivion the checks and counterchecks our forefathers so wisely imposed upon the functions of government.

A vast majority of our people not only are in favor of and support the Supreme Court, but are in entire sympathy with and understand the many good and basic reasons for doing so.

It is true that our Constitution did not specifically provide for a judicial review of legislative acts, but everyone must agree that its framers were familiar with such a review and plainly intended the courts to be a check on the legislative and executive branches.

John Adams wrote:

"It is by balancing one of these three powers against the other two that the efforts of human nature toward tyranny can alone be checked and restrained and any degree of freedom preserved."

Washington, in his Farewell Address, said:

"The spirit of encroachment tends to consolidate the powers of all the departments in one, and this creates, whatever the form of government, a real despotism. The necessity of reciprocal checks in the exercise of political power by dividing and distributing it into different depositories and constituting each the guardians of the public weal against invasion by the others has been evinced by experience, ancient and modern. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good it is the customary weapon by which free governments are destroyed."

The value of such a check on hastily conceived and ill-digested drastic governmental changes as those made in recent years becomes more evident in the face of experience.

When powers exercised by a Federal government lead to the annihilation of a federal system which has withstood the test of time and formed the keystone of a great nation, our people as a whole will be whole-heartedly glad that we have at least one branch of the Government—the judiciary—to supply the brakes.

As James Madison said—

"The jurisdiction claimed for the Federal judiciary is truly the only defensive armor of the Federal Government, or rather the Constitution and the laws of the United States. Strip it of that armor and the door is wide open for nullification, anarchy, and convulsion."

When national experience confirms the value of acting within constitutional lines, we are reminded that there is also a constitutional method provided by that great document to meet the need for adjusting principles, gradually and constitutionally, and in an orderly fashion to fit changing economic conditions of the Nation.

Some, without thought or reason, are prone to look upon courts of last resort as the mouthpieces of political emotions or the servants of prejudice instead of nonpartisan judges of the basic and fundamental law.

In the quiet realm of sober thought we can truly be filled with gratitude in the possession of a consciousness that in all this turmoil and striving, in all the bitterness engendered by the disappointment of a selfish interest or the sting of defeat there still remains, untarnished and impregnable, this lasting bulwark of human liberty. In this branch of the Government lies a continuing power and authority uninfluenced by partisan bias or political or sectional ambitions; notwithstanding the chameleon desire or prejudice of those creating them.

Changing political and economic conditions affecting the whole people are sure to have weight in the formulating of judgment and are often reflected in opinion, but it would be a sorry day for our country when the whims and fancies of mortal likes and dislikes and partisan selfishness and desires are to become the motivating thoughts behind official acts.

Our courts must be maintained upon a high plane of integrity and must unquestionably remain far removed from partisan bias and, like Caesar's wife, be above suspicion.

The administration's idea of a single simple republic in which the states are mere counties and are subject to one common law is in direct opposition to the thought of the founders of our Republic.

Critics are seeking to deprive the Court of the right to nullify legislation enacted by Congress. Some are of the opinion that this could be accomplished through the adoption of a broad amendment to the Constitution under which Congress would be specifically authorized to enact legislation dealing with questions of social and economic welfare without regard to State lines and State sovereignty.

Such an amendment would be revolutionary and most certainly result in wiping out the independence of each individual State and constituting the United States "a central Government exercising uncontrolled police powers in every State of the Union, superseding all local control or regulation of the affairs or concerns of the States."

Many think that questions arising under the Constitution are abstruse and of little interest to the average individual. Nothing can be further from the truth. The man in the street is vitally

interested in having a job, and it is a well-known fact that jobs depend upon industrial and commercial activity. It is self-evident that we cannot have that sort of activity unless we are governed according to law which is the outgrowth of a clear, careful, conscientious deliberation instead of having foisted upon us rules, regulations, and codes which emanate from hasty action based upon hysteria and emotions.

All fair-minded thinkers, I submit, will agree that national confidence and industrial recovery markedly improved after the famous N. R. A. decision in May last.

In that decision a courageous Court definitely and positively checked a dangerous attempt to pyramid Executive powers, but likewise checkmated what was intended to be a permanent change in a national policy by declaring that if and when our form of government is to be altered, it must be done after due and careful deliberation, according to the rules laid down by the people themselves and only after a proper submission of the questions to a vote of the people and not in a moment of pique, passion, or lust for power.

The Constitution can be changed basically and fast enough by the people after conscientious reflection. To do it otherwise is to abandon reason and become the tool of prejudice and ruthless ambition.

Norman Thomas, former Socialist candidate for President, contended that the Supreme Court presented a stumbling block to prosperity.

No contention could be more in keeping with the apparent un-American trend of thought in the present national administration. It is in entire keeping with the policies of the bureaucratic Government now dominating the lives of our people.

The real problem is shall law alone or arbitrary will rule.

Only law can give that essential protection to individual rights, be they personal or property, no matter what may be the character of the Government or the kind of social or economic questions involved.

History is replete with its examples of the eternal struggle between human rights and arbitrary power, and the world is not without its examples today of the destruction of the rights of the common people where a legislative body is subservient to a dominant political party or the orders of a dictator.

There can be but one offset to despotism, and that is constitutionalism.

To discard the Constitution and adopt despotism with the prayer that that despotism may be benevolent is placing too much faith in human frailties.

People are sometimes disturbed when plans for social betterment are destroyed by the application of sound legal principles, and they fail to consider the abyss into which they may be cast by a failure to apply those principles.

No government can exist without law and no result is worthy of achievement, no matter what benevolent motive may actuate it, if it is accomplished without law.

Such despotism may be the subtle outgrowth of a concentration of power in an administrative hand prone to use its vast influence in forcing legislative action inimical to individual rights. To avert this possible situation, none are better fitted to determine the bounds within which one may go than those technically qualified and lawfully ordained to interpret the law.

The great danger to be avoided is the undermining of the law even, as has been said, under the guise of "healthy public sentiment." Such a theory is an insidious poison which, if not checked, will in time destroy our whole organic system, and our best method of overcoming it is the same today as it has always been, "a fearless and impartial interpretation of law by a free and independent judiciary."

We must eliminate the friction which has been breeding bitterness.

The policy of imposing upon the Government the functions of a nurse to humanity is a mistaken one. When that policy is based upon the nefarious machinations of party politics and personal ambition it becomes abominable.

Grover Cleveland said:

"Federal aid * * * encourages the expectation of paternal care on the part of the Government and weakens the sturdiness of our national character."

Woodrow Wilson said:

"Interpreting the Constitution is a judicial function and deserves the best judicial talent available. Wise interpretation can best be made by those removed from the pressure of politics and the motive of possible personal aggrandizement of power."

And as has been well said—

"Our Government is necessarily a government of laws and not men."

This assurance can only be well founded when it is entrusted to a judiciary not under the control of the electorate nor subject to the whims and passions of the mob.

There is nothing in the Constitution that I have been able to find which gives the Congress the right to interpret its own acts.

If we had no arbiter, no referee, to pass upon the constitutionality of an act of Congress, we would be met with the anomaly of a Congress presuming to act under a constitution and yet with full power to do ought that it saw fit in direct violation of its very provisions.

In this respect the Supreme Court is the last resort of its humblest citizens.

Under the safe and sound principles enunciated in the Constitution we have weathered more than one economic storm, and under those same provisions we will withstand the present one. In constitutional matters the Court only restrains attempted invasions of rights guaranteed to the citizens by the Constitution. It legislates nothing.

Under all circumstances it would seem clear that the Congress ought not to be the judge of its own powers over the States. If that were the case then each State would be at the mercy of an ever-changing political majority in the legislative branch. Neither can it be assumed that the States should be the judges, for in that event it would spell the dissolution of the Union. When these questions do arise there must be some power to settle them, and under our form of Government that power rightfully belongs to the judiciary, not whether the act of Congress is in itself wise, but whether the power itself is properly placed.

No sane person would argue that the framers of the Constitution, with a vision that was prophetic, could to the minutest detail, define and allocate every power of Government. This of necessity gives rise to honest differences of opinion. This difference of opinion exists as well in the legislative as in the judicial branch of the Government. Whenever differences of opinion arise which are insurmountable, the only safe method is that which has always existed under our system of Government—that the will of the majority shall prevail.

PROPERTY CLERK OF THE DISTRICT OF COLUMBIA

Mrs. NORTON. Mr. Speaker, I call up the bill (S. 399) to amend sections 416 and 417 of the Revised Statutes relating to the District of Columbia and ask unanimous consent that it may be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

There being no objection, the Clerk read the bill as follows:

Be it enacted, etc., That section 416 of the Revised Statutes relating to the District of Columbia be amended by striking out the word "fifty" where it occurs in said section, and inserting in lieu thereof the words "one hundred."

SEC. 2. That section 417 of the Revised Statutes relating to the District of Columbia be amended so as to read as follows:

"SEC. 417. All property, except perishable property and animals, that shall remain in the custody of the property clerk for the period of 6 months, with the exception of motor vehicles which shall be held for a period of 3 months, without any lawful claimant thereto after having been three times advertised in some daily newspaper of general circulation published in the District of Columbia, shall be sold at public auction, and the proceeds of such sale shall be paid into the policemen's fund; and all money that shall remain in his hands for said period of 6 months shall be so advertised, and if no lawful claimant appear shall be likewise paid into the policemen's fund."

With the following committee amendments:

Page 2, line 7, after the word "sale" insert "having been retained by the said property clerk for a period of 3 months without a lawful claimant;"

In line 8, after the word "shall" insert the word "then."

The committee amendments were agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SALE OF REAL ESTATE FOR TAXES

Mrs. NORTON. Mr. Speaker, I call up the bill (S. 3035) to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes, and ask unanimous consent that it may be considered in the House as in Committee of the Whole.

The clerk read the title of the bill.

The SPEAKER pro tempore (Mr. O'CONNOR). Is there objection to the request of the gentlewoman from New Jersey?

Mr. ZIONCHECK. Mr. Speaker, reserving the right to object, I make this reservation only to ask the gentlewoman from New Jersey a few questions on the tax bill. Is this the tax bill that provides for the collection of back taxes upon personal property that has not been paid over a period of years?

Mrs. NORTON. No; this bill simply provides that the District Commissioners shall have the right to sell property that they have bought at delinquent tax sales after serving notice on the last owner of record, and also publishing such notice in the newspapers of the District for 3 successive weeks. There is nothing else involved in the measure.

Mr. ZIONCHECK. May I ask whether the gentlewoman's committee is considering some legislation to provide a method for collecting some of the back taxes that have not

been collected for a period of years, such as the Wardman Park Hotel, the Carlton Hotel, and others that have been dodging their taxes and refusing to pay. I understand there is not adequate legislation to compel them to pay.

Mrs. NORTON. I may say to the gentleman that just at this time we are not considering such legislation.

Mr. ZIONCHECK. Does the committee contemplate considering such a bill?

Mrs. NORTON. We may.

Mr. ZIONCHECK. Soon?

Mrs. NORTON. Possibly.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That whenever any real estate in the District of Columbia has been, or shall hereafter be, offered for sale for nonpayment of taxes or assessments of any kind whatsoever, and shall have been bid off in the name of the District of Columbia, and more than 2 years shall have elapsed since such property was bid off as aforesaid and the same has not been redeemed as provided by law, the Commissioners of said District may, in the name of the District aforesaid, petition the Supreme Court of the District of Columbia, sitting in equity, to enforce the lien of said District for taxes or other assessments on the aforesaid property by decreeing a sale thereof; and up to the time of the sale hereinafter provided for such property may be redeemed by the owner or other person having an interest therein by the payment of all taxes or assessments due the District of Columbia upon said property and all legal penalties and costs thereon, together with such other expenses as may have been incurred by said District prior to, and as a result of, the filing of the action herein provided for.

SEC. 2. That before any such action shall be instituted the aforesaid Commissioners shall cause notice to be given in the name appearing upon the records of the assessor as the owner of such property, by registered mail directed to the last known address of such person, and by publication once a week for 3 successive weeks in some daily newspaper published and circulated generally in the District of Columbia, against said person and all other persons having or claiming to have any right, title, or interest in or to the real estate proposed to be proceeded against, their heirs, devisees, executors, administrators, and assigns, by such designation, to appear before them on a day certain, which day shall be at least 10 days after the last publication of said notice, and show cause, if any they have, why the said real estate should not be proceeded against. For the purpose of the proceedings herein provided for, the person appearing by the assessor's records, at the time of the first publication of notice, as the owner of such property, and any other persons who may appear in response to the publication aforesaid and claim to have an interest in such property, shall be deemed proper parties defendant in any such proceedings. Upon the filing of the petition aforesaid, the court shall pass an order directed to the person or persons named as defendants therein and to all other persons having or claiming to have any right, title, or interest in the real estate proposed to be sold, their heirs, devisees, executors, administrators, and assigns, by such designation, directing them to appear on a day certain, which day shall be not less than 30 days after the date of the last publication of said order, and show cause, if any they have, why said real estate should not be proceeded against and sold. The said order shall be published once a week for 3 successive weeks in some daily newspaper published and circulated generally in the District of Columbia, and such publication shall be considered as sufficient service upon such person or persons as cannot be found by the marshal within the District of Columbia or who are nonresident or unknown, their heirs, devices, executors, administrators, and assigns; and the proceedings or sale of such real estate shall not be rendered invalid if the true owner or owners or any other person or persons having any right, title, or interest in said real estate shall not be included as a party to the suit, if it shall appear that the publication herein provided for shall have been duly made.

SEC. 3. Upon proof in said suit of the failure of the owner of any such property to redeem the same as provided by law, the court shall, without unreasonable delay, decree a sale of the property to satisfy the lien of the District of Columbia for taxes, assessments, penalties, interest, and costs, and any other costs or expenses that have been incurred by said District prior to or after the institution of suit and in connection therewith, which said costs shall include court costs, but in no such case shall there be any allowance by court of a docket fee, attorney's fee, or trustee's commission. All such sales shall be conducted by the collector of taxes or his deputy, by public auction, either in the office of said collector or in front of the premises to be sold, as the court may determine, after advertisement for 10 consecutive days in some daily newspaper published and circulated generally in the District of Columbia: *Provided*, That if it shall appear that there were any substantial defects in any tax sale, no part of the penalties and charges incidental to such sales shall be collectible; but nothing herein contained shall in any wise affect any costs incurred by the District of Columbia in the institution and prosecution of the suit.

SEC. 4. Every such sale shall be reported to and confirmed by said equity court, and no sale shall be made for an amount less than such aggregate taxes, interest, and costs incurred in the institution of suit, including advertising and sale, unless by express order of the court. Any surplus remaining from sales made under this act shall be paid by the collector of taxes into the registry of the court, to abide its further order for payment to the person or persons entitled thereto; and any such moneys remaining unclaimed for a period of 5 years after confirmation of any such sale shall be paid into the Treasury of the United States and credited to the revenues of the District of Columbia. Upon confirmation of such sale by order of court and payment of the purchase price, and upon full compliance with all of the terms of sale, the clerk of the court shall execute and deliver to the purchaser a deed to the property so sold, which deed shall convey to said purchaser all of the right, title, and estate of all persons whether named in such suit or not.

SEC. 5. That all acts or parts of acts inconsistent herewith are hereby repealed.

With the following committee amendments:

Page 3, line 11, strike out the word "pass" and insert "enter."
On page 4, line 2, strike out "devices" and insert "devisees."
On page 4, line 18, after the word "by", insert the word "the."

The committee amendments were agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mrs. NORTON. Mr. Speaker, that finishes the business of the District of Columbia for the day.

TO EXEMPT CERTAIN SMALL FIREARMS FROM THE PROVISIONS OF THE NATIONAL FIREARMS ACT

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 3254) to exempt certain small firearms from the provisions of the National Firearms Act.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill as follows:

Be it enacted, etc., That subsection (a) of section 1 of the National Firearms Act relating to the definition of "firearms" is amended by inserting after "definition" a comma and the following: "but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is 16 inches or more in length."

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

AGRICULTURAL DEPARTMENT APPROPRIATION BILL

Mr. CANNON of Missouri. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of H. R. 11418, making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937, and for other purposes, and pending that, I should like to ask the gentleman from Iowa if we can agree on time for general debate?

Mr. THURSTON. I have requests for 2½ hours.

Mr. CANNON of Missouri. I have no requests on this side, and as far as I am concerned, we can begin reading the bill now.

Mr. THURSTON. I do not know whether to congratulate or commiserate the gentleman. I supposed there would be requests on that side, and we might continue for 2 days or more. If we can go along for the remainder of the day we can take care of it tomorrow.

Mr. CANNON of Missouri. We can conclude debate today, or if it goes over tomorrow, debate will be confined to the bill.

Mr. THURSTON. That is satisfactory to me.

Mr. CANNON of Missouri. Mr. Speaker, I ask unanimous consent that the time for general debate today be divided, one half to be controlled by the gentleman from Iowa [Mr. THURSTON] and the other half by myself.

The SPEAKER. Is there objection?

There was no objection.

The motion of Mr. CANNON of Missouri was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. MCREYNOLDS in the chair.

The Clerk read the title of the bill.

Mr. CANNON of Missouri. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON of Missouri. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia [Mr. RANDOLPH].

Mr. RANDOLPH. Mr. Chairman and members of the Committee, I want to thank the gentleman from Missouri [Mr. CANNON] for giving me 5 minutes, in which I should like, not to bring my remarks to bear upon the legislation now before the House for discussion, but simply that I may call the attention of the House to a joint resolution which I have introduced this afternoon, calling upon the Secretary of the Interior to erect an appropriate memorial to the memory of Dr. Samuel Alexander Mudd, who was a physician in Charles County, Md., at the time of the assassination of President Lincoln.

Dr. Mudd was charged with and convicted by a United States military commission for having given aid to John Wilkes Booth on the night following the assassination of the President of the United States. He was sent to what was known in those days as the "Devils Island" of America, off the coast of Florida, on the Dry Tortugas, and at Fort Jefferson incarcerated for a period of 4 years. He knew that he was there unjustly and that he was not guilty of having assisted John Wilkes Booth after the assassination of President Lincoln.

Yet this good doctor, having within himself an embodiment of what we think of always as unselfish service to his fellow men, on that shark-surrounded island off the Florida coast, gave of his medical talent and the real heart of his profession to curing a scourge of yellow fever which swept through officers and prisoners at that time. Because of his heroic and unselfish service, the case was called to the attention of President Johnson that he had been unjustly sentenced by the military commission for a crime which he did not commit. Men had been thinking, unfortunately, in terms of shock from Lincoln's death and the heat and passion following the War between the States remained. One of the last official acts of President Johnson, upon careful review of the case, was to grant an unconditional pardon to Dr. Mudd, this country doctor from Charles County, Md. Dr. Mudd then returned to his home and practiced in that section for many years afterward. One night while on an errand of mercy in the discharge of his profession he contracted pneumonia and died.

The reason I have introduced this resolution is because I have learned these facts in my study of certain authentic articles and historical data and because it was also called to my attention by my friend, the well-known historian, Matthew Page Andrews, of Harpers Ferry, W. Va., and Baltimore; and I realize that while the pardon of this man, of course, struck from the records the guilt previously attached, in that fine act there was that done that was passive, and, now that we remember that Dr. Mudd had nothing to do with the assassination of President Lincoln, it is fitting, after these long years have passed, for the Congress of the United States, through this resolution, to see to it that something positive is done in behalf of this man who embodied all the splendid attributes of the medical profession.

If it had not been for Dr. Mudd, it is doubtful that more than four or five men would have lived to tell the tale of what happened on that vermin-ridden, shark-surrounded key of the Dry Tortugas off the Florida coast. He played no favorites. Even though a prisoner who knew he was not guilty, he never forgot that he was, first, last, and always, a physician administering to mankind. It is impossible to think that any God-fearing, ethical country doctor of the type to which I have been accustomed—if he did not know who John Wilkes Booth was and what he had done—would act any differently today.

I have introduced this short but significant resolution calling for an appropriate memorial to be placed upon the ruins of old Fort Jefferson, that there a tablet will remain setting out the services which this man rendered while unjustly incarcerated in behalf of his suffering fellow men. I trust the Congress of the United States will see to it that the resolution becomes a law, because we realize today that we look at history not through the eyes of prejudice but through the eyes of truth. [Applause.]

Mr. CANNON of Missouri. Mr. Chairman, I am glad to support the resolution offered by the gentleman from West Virginia [Mr. RANDOLPH] providing for the vindication of Dr. Samuel A. Mudd at this late date and the erection of a memorial commemorating the distinguished service rendered by him while a prisoner of war. I have often heard the story of his heroism and his sacrifices from the lips of his kinsman, Dr. Joseph A. Mudd, who was a noted historian and editor and the author of two histories of my own county. Members of the Mudd family emigrated from Maryland, where they had resided since its colonization by Lord Baltimore, and settled in Lincoln County, Mo., where their descendants reside today firm in the faith of their fathers and loyal to the highest ideals of their American citizenship. Dr. Joseph A. Mudd, long a resident of my county, spent the later years of his life in Washington, where he was an intimate friend of Speaker Champ Clark and where he occupied high positions both in the service of the Government and the orders of his church. His accounts of the events leading up to Dr. Samuel Mudd's arrest and incarceration corroborate the statements made by the gentleman from West Virginia [Mr. RANDOLPH] and more than justify the eloquent tribute paid by Mr. RANDOLPH to the life, character, and loyalty of this faithful physician.

I shall support the gentleman's resolution providing for an appropriate memorial to be erected at old Fort Jefferson recalling the great injustice suffered by Dr. Mudd, the nobility of character with which he bore it, and especially his services to suffering humanity and the maintenance of the ethical standards of his profession under such tragic conditions. [Applause.]

Mr. THURSTON. Mr. Chairman, I yield 20 minutes to the gentleman from Michigan [Mr. HOFFMAN].

Mr. HOFFMAN. Mr. Chairman, disregarding for the moment all political considerations, let us consider the state of the Union in connection with the legislation now before us. Nothing can here be said by me which will in any way enlighten any Member of the House upon the present situation. Nevertheless, in view of a letter received last week, it may be well to again call to mind the situation now confronting us and to suggest what may be termed "constructive measures" which will tend to bring about a betterment in our condition.

It has been the custom for Members addressing the House to call attention to their disinterestedness, their desire to serve the country as a whole, and their sincerity of purpose. To me such statements seem superfluous, and we may assume that the Members of this body, despite the frequent comments to the contrary, possess as much of honesty, ability, and willingness to serve as does the average citizen, no matter in what labor, business, or profession he may be engaged.

Let us refer to the President's statement of a principle as old as the Nation, as old as the family. This is what he said:

> Now, the credit of the family depends chiefly on whether that family is living within its income. And this is so of the Nation. If the Nation is living within its income, its credit is good.
>
> Revenues must cover expenditures. Any government, like any family, can for a year spend a little more than it earns. But you and I know that a continuation of that habit means the poorhouse.
>
> But if, like a spendthrift, it throws discretion to the winds, is willing to make no sacrifice at all in spending, extends its taxing to the limit of the people's power to pay, and continues to pile up deficits, it is on the road to bankruptcy.

In his message to this Congress on March 10, 1933, he said:

> For 3 long years the Federal Government has been on the road toward bankruptcy.

Today we are confronted with a situation, not with a theory. As the President so well and so truthfully said:

> Remember well that attitude and method—the way we do things, not just the way we say things, is nearly always the measure of our sincerity.

After 3 long years of unheard-of appropriations, and a few Republicans, as well as many Democrats, voted for these appropriations, the country finds itself, so far as unemployment is involved, practically in no better position than when the spending began.

True, there are signs—yes, evidence—of a return of prosperity, but the degree of prosperity can in no way be compared with our recovery from other panics, other depressions.

Again let me quote the President:

> This depression is today's problem. We cannot, and must not, borrow against the future to meet it.

So here we are. If criticism be made of this situation or of the methods which brought it about, the answer always is, What have you to offer? This is a fair question, and frequently it has been answered, although the answer seems to be disregarded.

For myself I can only agree with the President that continued borrowing has but one end; that continued spending of amounts far beyond the income of the Nation, as admittedly has been the course during the past 3 years, can end only in national bankruptcy.

The answer to this course is obvious. It is plain to everyone. One of two things must happen. Either the income must be increased or the expenditures must be reduced.

It is evident that the income, other than by way of taxation, cannot, under the present method, equal or exceed the expenditures.

Then we have two courses, and this, in all humility, may it be said, is a constructive suggestion—either increase the taxes or reduce the expenditures until a balance is reached, or employ a combination of both; increase the rate of taxation and reduce the expenditures until we are living within our income and the Budget is balanced.

We either must increase our taxes, which none of us, seeking reelection—and the gentleman agrees with me, I am sure—wishes to do at this particular time; or we must reduce our appropriations, and that, too, would cost us votes. We are in for one or the other, or we may have a combination of the two. We may increase taxes a little but not enough to balance the Budget, or we may reduce our appropriations but not enough to accomplish that. Perhaps we should take a little of each.

Mr. ANDRESEN. Will the gentleman yield?

Mr. HOFFMAN. I yield for a question.

Mr. ANDRESEN. What does the gentleman think about placing a high excise tax upon the main necessities of life?

Mr. HOFFMAN. Well, I do not know anything about the different kinds of taxes. I only know that, under whatever name or in whatever form they come, they always fall upon the fellow who produces. As the coauthor of the Frazier-Lemke bill so often tells us, all the wealth is in the earth, and somewhere someone must labor to get it out, either in the form of ore, forest products, or in the form of crops. If the President is correct—and I think he is—he told us how that comes about. He said:

> Taxes are paid in the sweat of every man who labors. If they are excessive, they are reflected in idle factories, tax-sold farms, and hence in hordes of hungry tramping the streets and seeking jobs in vain. Our people and our business cannot carry this excessive burden of taxation.

So my thought was, regardless of the political aspect of the thing, that sooner or later, and probably sooner, unless we are to have repudiation, unless we are to have bankruptcy, we must lessen our expenditures. The only thought we should have is as to how we are to reduce our expenditures and where. Nobody wants to reduce expenses when those expenses affect his district or his particular group. But we will have to commence somewhere, regardless of our personal desires.

Mr. McCORMACK. Will the gentleman yield?

Mr. HOFFMAN. I yield briefly.

Mr. McCORMACK. Is the gentleman in favor of cutting out relief expenditures?

Mr. HOFFMAN. That all depends on what you call relief expenditures. As I understand this $4,880,000,000 was for relief. I suppose the gentleman's question is, Would I favor cutting that out? Am I wrong?

Mr. McCORMACK. As I understood, there were $880,000,000 in connection with the C. C. C. Of course, a substantial portion of the balance was directly or indirectly allocated for public works and Federal grants. The direct relief, or what we call the E. R. A. or the W. P. A., would, of course, be a considerable proportion, but much less than $4,000,000,000. But brushing aside many of the projects with which I am not in agreement on the basic question of relief, having in mind the fact that millions are out of work, what is the gentleman's reaction? I am not asking a question just to ask a question, but I should like to get the gentleman's reaction.

Mr. HOFFMAN. In common with every other Member of the House, I assume, no one believes we should let anyone starve or that we should let anyone freeze; but this thought comes to me, that somewhere, sometime along the line we must quit extending relief, because if we do not, finally we will take from the group that is producing, those who have a little capital to enable men to start business, we will take from that group to support this ever-increasing number. In the end we will all be on relief. It reminds me of a cartoon I saw in the Chicago Tribune 2 or 3 years ago of a wagon being drawn with all the officeholders sitting in it and one or two little taxpayers out in front pulling the wagon, and finally they got an idea and they went back and crawled up on the wagon. Now, that is where we will all go in the end if relief and made work continue.

But, you say, all these people are on relief. They cannot be permitted to starve. True, but some must take less and some must contribute more. I am opposed to the kind of relief we are getting and the method of administration.

Beyond question you cannot continually take from those who are employed and from those who have property and give at an ever-increasing rate to an ever-increasing number who are unemployed and who are in want. If you do, then, in the end, all are reduced to poverty, for there must be some who can furnish the capital, the resources, to build the factories, to furnish the machinery, to restock the farms, to purchase the necessary tools to carry on industries and agriculture and business as well. The individual, no matter how willing, cannot engage in any one of these occupations or businesses if he depends only upon his own individual physical or mental efforts. He must have capital.

There is no question but that expenditures can be reduced, and my purpose this morning is to point out some of the foolish ways in which we have been spending money and, as they are foolish, discontinue them.

If poverty is as widespread, if hunger is as common, if need of clothing and of shelter is as universal as we have been told many, many times in the past months, in the last few years, then certainly we can do without those things which are not essential to the relief of hunger, of cold, of suffering.

Tell me, if you will, why it is that this Government should spend—and I cite but one or two of the instances, for they are illustrative of the whole—$3,993 at Richford, Wis., to improve a trout stream and increase insect life while at the same time it is spending $18,590 at East Bridgewater, Mass., to drain swamps and ponds to eliminate insect life?

Why after the killing of 6,000,000 pigs should the Government spend $9,478 to drain a piggery on Winter Street in Waltham, Mass.?

With all of the unemployed on our roll, why should it spend $40,000 to train 500 girls to act as servants?

If people are hungry, if they are going unclothed, why spend $4,265 to improve race tracks at Dayton, Ohio, when the sponsors of that project put up just $45?

Why spend $500,000—a half million dollars—to make the bridle paths in the borough of Queens, N. Y., more attractive?

Why spend $81,611 to connect the little village of Skull Valley, with 80 people, with the town of Yava, 75 people, in the State of Arizona?

Why spend at Meridian, Pa., $12,589 on tennis courts, handball, and baseball grounds?

Why spend at Duluth for tennis courts and a ball field $117,429 when the sponsors only kicked in $4,494.

Why spend in the city of Chicago $723,853 for amusement and to put vaudeville troupes on the road?

Why appropriate $3,000,000 for a national theater project plan?

Why give to Monroe County, in the State of New York, $10,440 to make a survey of the deaf children of pre-school age when there are only 14 such children in the county?

Let us go over a moment to the State of Wisconsin, where, the New York Sun says, in the town of Ojibwa, with a population of 293, the President has approved a project calling for the creation of navigation pools at an expense of $16,760, an expenditure amounting to more than $57 for each man, woman, and child in the village.

The purpose of a navigation pool, as announced by the W. P. A., is to provide facilities for canoeing, rowing, and fishing. The Sun continues:

> In this way the inhabitants may receive enough to buy the necessary canoes, rowboats, and fishing tackle in addition to enjoying, presumably, the free use of the pool. The New Deal is spending nearly $75,000 more on similar navigation pools in three other Wisconsin towns that are so small that even the Rand-McNally atlas fails to list them.

Oh, the list might be indefinitely extended, but take a look, if you will, at the other side of the picture. Here is a quotation from a letter received last week from the Humane Society of Kalamazoo, a nonpolitical society in the Third District of Michigan, its president, the officers and members of that society having but one thought in mind—to relieve suffering, to aid the unfortunate.

The president of that organization writes that the city of Kalamazoo—a city of 54,786—had available for the original purpose of caring for the unemployable cases some $32,000 per month, and then states:

> But today this $32,000 is spread over so many relief cases that, were ordinary family relief budgets adhered to, it would amount to a relief expenditure of from $50,000 to $60,000 a month. * * *
>
> So thin has relief been spread that, over the case load as a whole, less than 5 cents per meal per person is available in food budgets. Local conditions have been made worse by the extreme weather that has descended upon this region for several weeks. Private-agency funds are taxed to the limit to meet needs which are not being met by the E. R. A. The largest of these private agencies, the Family Welfare Associates (Civic League) is already in the red $2,000 for this month, with the month only half gone. * * *
>
> We are asking you to use your influence to the utmost to bring about some reallocation of Federal funds sufficient so that local E. R. A. administrations may again be able to take care adequately of the employable cases which it seems they now must carry on their rolls, so that this may not be done at the expense of the unemployables, as is now the case; and, second, that W. P. A. checks be paid promptly.

I know the gentleman [Mr. McCORMACK] does not agree with all these propositions. Then why, after killing off 6,000,000 pigs, should the Government spend $9,478 to drain a piggery on Winter Street in Waltham, Mass.? With all the unemployed on the rolls, why should the Government spend $40,000 to train 500 girls to act as servants? Over on the Passamaquoddy project they are putting in an electric dishwasher. After they get those girls trained, at $40,000, why not send them up there and let the electric dishwasher have a vacation? If people are hungry, if they are to go unclothed, why spend $4,265 to improve race tracks? Race tracks! These people over in Kalamazoo, Mich., are living on 5 cents a meal and here we are spending about $5,000 to improve race tracks at Dayton, Ohio.

What was the gentleman's question?

Mr. THOM. What became of the 6,000,000 pigs that were slaughtered?

Mr. HOFFMAN. I do not know.

Mr. THOM. I did not think the gentleman did.

Mr. HOFFMAN. I can tell the gentleman where some of them went.

Mr. THOM. Does the gentleman know officially?

Mr. HOFFMAN. If the gentleman means by "officially" what is shown by the record of the Department, no; and I doubt if anybody else knows. I do know what the papers in Chicago said as to their being dumped along the Illinois Central Railroad tracks.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. HOFFMAN. I yield.

Mr. SHORT. Being from Missouri, and the gentleman having to be shown, I can inform the gentleman that I saw with my own eyes a thousand of them dumped in the Mississippi River.

Mr. THOM. That is untrue according to the Department of Agriculture.

Mr. SHORT. That is not untrue.

Mr. THOM. Mr. Chairman, will the gentleman yield to me to clear this up?

Mr. HOFFMAN. No; I think I will not yield further.

Mr. THOM. No; I do not think the gentleman wants to have it cleared up.

Mr. HOFFMAN. I hate to see a Democrat and a Republican indulge in acrimonious discussion.

Mr. THOM. The gentleman from Missouri [Mr. SHORT] made a statement which he cannot back up.

Mr. HOFFMAN. I am not talking politics now.

Mr. THOM. No; that is all the gentleman talks.

Mr. HOFFMAN. Mr. Chairman, let the gentleman think this over and tell me the answer tomorrow—not today.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield, not for a controversial question at all?

Mr. HOFFMAN. Yes.

Mr. McCORMACK. Let me state the program as I understand it, and make the observation in passing that none of us know which is the better, a straight dole or relief work. The idea of work relief is that the millions benefited may retain their self-respect. Whether this will be best in the long run time alone will tell. The gentleman from Michigan is fair. Brushing aside particular projects, because I have my own opinion, too, of the value of some of them, would there not be grave danger with a body of people numbering 1,000,000, 3,000,000, or 3,500,000 on the dole of a break-down of their individual morale, and that this would have a serious effect on government in the future? So the basic question of relief was linked up with work, as I understand it, first, in order that the individual could retain his self-respect, and, second, that in the future after the depression is over this group would not have a disintegrating effect upon government itself. Specific projects, or some of them, I criticize; but I think work is a necessary part of relief for the reasons I have set forth; I would like to hear the gentleman's reaction, whether or not he believes a straight dole less expensive over a long period of time, having in mind the next generation, or whether he believes relief should be coupled with some kind of work.

Mr. HOFFMAN. That is a fair question, but it is one that cannot be answered correctly, decisively, satisfactorily, probably because it is purely a matter of opinion. Whether the dole or so-called made work has the greater tendency to break down the morale of the person on relief I cannot say. I believe their morale is being impaired.

On the whole, if relief must be extended to those who are able-bodied, capable of working, then by all means they should work according to their ability to work, but, in my judgment, the work should be not purely made work, in the sense of giving them something to do, for those working at such projects realize full well they are receiving only a dole, but they should be given work on worth-while permanent projects that are self-liquidating and that are necessary.

What can we do about it? There is a limit, as before stated, to the help which can be given. In view of this dire need, is it not time that we take more thought as to the amounts which we are now appropriating?

Permit me to call your attention to the bill now before us. Can we not cut the appropriations in this bill, so that relief may be extended to those in such desperate situations as that just indicated?

Look at this Passamaquoddy proposition. Here is a great project of extremely doubtful value. It is my understanding that, in the beginning, there was an adverse report as to whether it was a self-liquidating proposition. But, if it is to

be built, why should it not be constructed in the ordinary way?

But what is the Government attempting to do at the present time? Among other items is a dormitory of 87 rooms for the accommodation of 145 persons who are to work on the project, with mess arrangements for approximately twice that number.

The furnishings of this dormitory are to cost $33,000—this for 145 persons. It matters not that these dormitories are to be rented and that a profit may be returned to the Government. In the end, the dormitory will be dismantled, will serve no useful purpose.

Why should not the workers be housed as such workers usually are? While people are hungry, while people are cold, while children are going to school in Kalamazoo and vicinity without sufficient covering for their feet and their bodies, the Government is asking for 217 ash receivers for the use of 145 persons who are to work on the Passamaquoddy and these receivers, be it known, are to be furnished with or without design, in white, black, green, blue, and yellow. Two hundred and seventeen ash receivers for 145 workers!

Then there is silverware. The ordinary knives, forks, and spoons will not do. It must be silverware. There must be bath mats. There must be 248 dozen bath and other towels. There must be 10 dozen linen scarfs. There are upholstered chairs. There are love seats. There are pictures, 120 of them for 90 rooms. There are candlesticks of northern maple, of colonial style. There are pewter plates, oval shape, to be used with these candlesticks—I quote, "for ornamental purposes."

There are electric dishwashers. What becomes of those 500 young ladies who were trained for domestic service? If the object of the appropriations is relief and employment, why use an electric dishwasher?

There are two radios, presumably to bring in the speeches of statesmen. Clocks, grandfather type, two of them, walnut, mahogany, or maple, colonial style, 8-day spring driven, with pendulum movement, Westminster chimes, so that the tired and weary souls may be musically told the hour, and the clocks, be it known, must be of a standard make, manufactured in the year in which they are to be purchased.

Let me get a little nearer to Kalamazoo, to that city which sends out the information that it is attempting to feed some of its people on 5 cents a meal—to my home town of Allegan, where, on the 25th day of February 1935, there appeared in the Allegan Gazette and the Allegan News an announcement by the local E. R. A. supervisor that classes for the teaching of basketball, dramatics, chorus, sewing, dancing, bridge playing, and orchestral training would be made available to the women of Allegan who were more than 16 years of age.

Money for the teaching of dancing, bridge playing, when down at Kalamazoo, 23 miles away, the unfortunate ones are limited to 5 cents per meal. Where is the sense to all this?

Note this editorial from the Allegan News of February 21, 1936—Allegan is a town of less than 4,000:

> Is it any wonder that the people are getting heartily sick of the present administration and its program of spending billions of dollars in order to place men and women at a job, any job, especially, when we review the kind of projects through which millions of dollars of the taxpayers' money is being wasted?
>
> In this city we have W. P. A. workers in charge of ice skating, and we even have come to the point where we have W. P. A. employees holding ping-pong schools and conducting checker tournaments or games.

In this little village of mine of less than 4,000 people, is there a boy or a girl in that town old enough to strap on a pair of skates who does not know how to skate, who cannot go on the river, the lakes, the ponds, in the winter, skate, and in the summer swim like a fish?

Mr. Chairman, I am not mentioning these items for political purposes. I am mentioning them to see if we cannot get together as ordinary fellows and cut out what we might term this "monkey business." Think of teaching our boys and girls to skate and how to play hockey, while down in Kalamazoo they only have 5 cents a meal to furnish food for some of their people.

The question may be asked, What are you going to do about it? The President has made the statement that taxes come from the sweat of man's brow and labor. What should we do? I know this statement is not popular, but why should we not now be honest with ourselves? Why should we not be honest with our folks at home? Why should we not take the position that for every bill appropriating $1 or $100 we also bring in a provision levying the tax to pay that bill? [Applause.] Why not let the tax bill follow the appropriation bill? I have faith enough in my people at home to believe they are willing to accept this situation. They are willing to pass judgment on these things.

Mr. KNUTSON. Will the gentleman yield?

Mr. HOFFMAN. I yield to the gentleman from Minnesota.

Mr. KNUTSON. Is it the gentleman's thought that we should levy taxes sufficient to pay the current operating expenses of the Government?

Mr. HOFFMAN. Why certainly.

Mr. KNUTSON. It would bankrupt industry in this country if we were to levy taxes sufficient to accomplish that purpose.

Mr. HOFFMAN. What difference does it make if we bankrupt the Government now or at some other time by piling up an unpayable debt?

Mr. KNUTSON. It would cause chaos.

Mr. HOFFMAN. There appears to be just the one course for us to follow. Let me repeat it for it is constructive. Beset as we are on all sides with continual demands for more cash, for more appropriations, realizing as we must that these debts must some time be paid, unless the Nation is to become a bankrupt, we should have the courage to do the thing which the President once advocated, the only thing which will stop this course which leads only to disaster. As we make appropriations, impose taxes to meet those appropriations and soon the roar from the forgotten man—the taxpayer—will convince us that spending for any except absolutely necessary purposes must end. That is the way a man who is thrifty and wise runs his business, maintains his family; it is the way, and the only way, by and through which we can come out of this depression.

If those who are demanding appropriations understand that they are to be paid "in the sweat of every man who labors", many, yes, most, of the demands will cease and many of our troubles—practically all of them—will be over.

[Applause.]

[Here the gavel fell.]

Mr. THURSTON. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Chairman, we now have up for consideration the agricultural appropriation bill.

Mr. KELLER. Where are we going to get the money?

Mr. RICH. If the gentleman wants me to answer the question, which is somewhat irregular at this time, may I say that I do not think there is a Member of the House of Representatives who can answer the question, because I have asked it over and over for the past year. If there is any Member here who has the ingenuity, the initiative, and brains enough to get up here and answer the question I will yield him my time right now; and the gentleman from Illinois is the man I should like to have try to answer the question.

Mr. KELLER. I can do it.

Mr. RICH. All right. I yield to the gentleman for that purpose.

Mr. KELLER. Mr. Chairman, we have heard much about this question, Where are you going to get the money?—that I interjected the question for the purpose of answering it. It is a simple matter to get the money we need, and it always has been a simple matter. There has been much talk about balancing of the Budget, but there has not been a definition given as to what we mean by the "Budget." Somebody ought

to get up here and tell us something about it. I am going to do just that, modest as I am in making the statement.

Mr. Chairman, 4 years ago when the question of balancing the Budget came up, I went to the trouble to look up the subject with the greatest of care from the beginning of our Government to the present moment.

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. KELLER. I yield to the gentleman from Massachusetts.

Mr. MARTIN of Massachusetts. Is the gentleman going to make the official answer now as to where his party is going to get the money? In other words, is he speaking officially? I mean, does the gentleman represent the Democratic Party?

Mr. KELLER. I am representing KENT E. KELLER only and that is sufficient for this time.

Since we started in we have been out of debt once in our lifetime as a Nation, and then only for a short time. That was under "Old Hickory" Jackson. That was the only time we have ever been out of debt.

On the average, every 2 years and 11 months from the beginning of our history to the present time, a full year has been a deficit year; a year in which we did not get money enough to pay our bills for that year—that is, to balance the Budget. I want you to get this, because when we go to discussing balancing the Budget and where we are going to get the money and how we are going to get the money, we ought to see what we have done in the past, because that is going to show us whether we can or whether we cannot get the money.

If we have in the past, we can in the future. Our Treasury report shows that in the 144 years of our constitutional Government from 1789 to 1933, both inclusive, there have been 49 annual deficits—a little more than one-third of the years of our national existence have been years of unbalanced Budgets. Thirteen of those years, at most, were war years. Thirty-six years of unbalanced Budgets were peacetime years. All the war years were years with unbalanced Budgets. Of the 131 years of peace, 1 year out of each 3 years and 8 months showed a deficit—that is, we did not take in as much as we spent. The whole 144-year period taken together shows that on the average 1 year out of every 2 years and 11 months has been a deficit year with its unbalanced Budget. Did all these years of unbalanced Budgets ruin our credit? Did we ever fail to pay? Certainly not.

Mr. KNUTSON. Tell us how to get the money first.

Mr. KELLAR. Wait just a minute. I am going to tell you how to get the money.

Following the Civil War, this country owed a Federal indebtedness of 17½ percent of our total national wealth. Now, get that. At the close of the Civil War the United States Government owed 17½ percent of our total national wealth, and no less than that. Did it cause us to go broke in paying it? Certainly, not. We nearly paid it off before we came to the last war. We could have paid it out long ago if we had tried to, or if we had been more interested in paying off our indebtedness than in reducing the taxes of the rich people and prosperous corporations.

What next? From that time until this, or, from the close of the Civil War to the present war, we have learned how to produce about three and a half times as much wealth, man for man, as we could have done or as we did at that period. This simply shows that if we could pay 17½ percent of our national wealth at the end of the Civil War that we could, if necessary, pay three and a half times that proportion of our national wealth reckoned on our most prosperous years, if we needed to.

This is the first thing I want to get clear to you. I want you to see that this question of balancing the Budget is not only not vital but it is a piece of nonsense, in my judgment, to bring it out every time we get up here and talk about it, unless we know what we are talking about.

Now, if we have done these things in the past, we can do them in the future. I say to you, frankly, that our necessities at the present time are as great or greater than at any period in our history, even includes our periods of war. We are under as great obligation to pay whatever taxes are necessary to take us out of these conditions, and keep us out, as we have been at any time in our entire history.

Now, you ask how are we going to pay. I want to call your attention to one more thing which I have heretofore called to the attention of this House when I was a great deal newer here than I am now, and that is this: Following the World War, if we had continued the taxes on the tax books at that time, inside of the first 10-year period we would have paid every penny we owed. If you want to verify this, get the tables prepared on this subject by the Joint Committee on Internal Revenue Taxes that serves the House and Senate together. All you have got to do is to go back to the speech delivered by my colleague from an adjoining district, the gentleman from Illinois [Mr. PARSONS], who submitted these facts to this body.

What did we do? I will tell you what we did. Instead of paying it when we had it to pay, we turned around in 1921 and reduced the income tax shamefully, and only a few men had the vision and the understanding to see where it was leading us. We could have paid the whole thing inside the first 10 years. We could have paid the soldiers' adjusted compensation at that time and never missed the money if Congress had desired to do that. But did they desire to? Oh, no. The Congress considered it much more desirable to serve the very rich people and the very prosperous corporations than to pay the soldiers their compensation. So they completely wiped out the excess-profits tax in 1921, because the income and excess-profits taxes alone had brought in $4,000,000,000 for the fiscal year of 1920, making a total national revenue income of $6,694,000,000 for 1 year's taxes, actually collected in cash. But the tender-hearted Congress could not stand such cruelty to the war profiteers. So, to protect these friends of theirs, they put the soldiers off without a penny. Again, in 1924, the Congress reduced the income tax and gave the soldiers a rain check, good after 20 years. I am proud of the fact that this Congress has provided for cashing these rain checks 9 years before that income-tax-reducing Congress intended it should be done. Not only this, but if we had known enough to do this, we might also have known enough to prevent the panic that succeeded in 1929.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Certainly. We could have had money enough in our Treasury so that as men fell out of employment for technological reasons, we could have reemployed them in the service of this Government and there need not have been a single, solitary unemployed man in America.

Mr. KNUTSON. Where are you going to get the money?

Mr. KELLER. In just a moment I am coming to that.

There need not have been a single idle man in America, because there are at the present time, and there have been for the last 100 years, a sufficient number of national projects of permanent value to have taken up every solitary man who fell into idleness through no fault of his own.

Mr. SNELL. Mr. Chairman, will the gentleman yield for a question?

Mr. KELLER. Surely.

Mr. SNELL. I understood the gentleman to say that he objected to the fact that they reduced the income-tax rates?

Mr. KELLER. I certainly said that.

Mr. SNELL. If I recall correctly, the reduced income-tax rates brought in more income to the Government than the former rates.

Mr. KELLER. The gentleman ought to go back and look up the record on that.

Mr. SNELL. I think that statement is correct.

Mr. KELLER. The gentleman is wrong about that.

Mr. SNELL. I think that is right.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield.

Mr. SNELL. Is not that statement so?

Mr. KELLER. No; it is not so. The fiscal year of 1920 brought in from income and excess-profits taxes $4,000,000,000 in cash. After the Congress reduced the income taxes in 1921, the income from that source fell to just half that

amount in 1922 and never again reached even that figure. The gentleman will find this statement literally true from the Treasury receipts, and no statement even by Mr. Mellon can change the fact I here state.

Mr. McCORMACK. I do not undertake to say that I know everything or know anything, but I simply express my own opinion——

Mr. RICH. Let Mr. Keller talk—he knows everything.

Mr. KELLER. Sure, I do—for your benefit. I am giving you what you need if you will only heed it.

Mr. McCORMACK. I am very sorry for my friend from Pennsylvania, who has to ask the gentleman from Illinois [Mr. KELLER] to yield to him in the time of the gentleman from Pennsylvania. It is very unfortunate, but the gentleman from Illinois has yielded to me.

We had a depression in 1920 and 1921, and, of course, the amount of income taxes was reduced during that depression. Naturally, when business came back the returns in revenue from existing law increased, and I think my distinguished friend from New York realizes that the depression of 1920–21 sharply reduced the national income, but the national income came back very rapidly because we whipped out of that depression very quickly.

Mr. SNELL. Every time the income tax has been reduced it has returned more income to the National Government.

Mr. KELLER. The gentleman from New York is mistaken, completely and entirely mistaken. I am rather suspecting my friend from New York believes the statements he hears made in the stump speeches of his party.

Mr. GIFFORD. Will the gentleman yield?

Mr. KELLER. I yield with pleasure to my friend from Massachusetts.

Mr. GIFFORD. From what the gentleman has said, he is going to get the money from taxation.

Mr. KELLER. Certainly. That is where all money for carrying on government comes from, always has, always will, always ought to.

Mr. GIFFORD. Is the gentleman ready to vote for those taxes?

Mr. KELLER. Certainly. When a proper tax bill is presented I will vote for it and work for it all the way down the line. Now I want to follow this up. In 1924 we again reduced the income taxes, and again we gave back by a general resolution taxes that were due, that already belonged to the people of this country. In 1926 we reduced the income tax and again gave back by joint resolution a year's taxes that belonged to the people.

Mr. SNELL. The conditions throughout the country in 1924 and 1928 were about the same.

Mr. KELLER. No.

Mr. SNELL. When we reduced the taxes in 1924 it produced more income for the National Government.

Mr. KELLER. Of course, the gentleman from New York has a perfect right to be wrong if he insists on it. But the Treasury receipts show the personal income taxes for 1924 to have been $704,265,390 and the corporation income tax to have been $881,549,546—a total income-tax receipts of $1,585,814,936—the lowest receipts for any year over a 10-year period prior to 1931.

Mr. KNUTSON. Will the gentleman yield?

Mr. KELLER. Yes; I yield.

Mr. KNUTSON. The gentleman is an expert on taxation. Has he given any consideration to the cutting down of governmental expenses?

Mr. KELLER. Yes; that has been my work for many years. [Laughter.]

Mr. MILLARD. Will the gentleman yield?

Mr. KELLER. I yield to the gentleman from New York.

Mr. MILLARD. Does not the gentleman think that he has gotten this time under false pretenses? [Laughter.] The gentleman said he was going to tell us how to get the money, and he has not started yet, and his time is almost up.

Mr. KELLER. I have answered the gentleman's question already.

Mr. RICH. Will the gentleman yield?

Mr. KELLER. Certainly.

Mr. RICH. Will the gentleman name one bill where he has voted to cut down governmental expenses?

Mr KELLER. Yes; I voted for one of your bills. [Laughter.]

Mr. RICH. Will the gentleman name it.

Mr. KELLER. Well, I will look it up and get the name and the number [Laughter.]

Mr. HOFFMAN. The gentleman says he has been engaged in cutting down governmental expenses for years—does not the gentleman think that that was love's labor lost? [Laughter.]

Mr. KELLER. I do not think so. Now, to get back to this reduction of income tax. In 1928, you reduced the income tax and gave back certain taxes. In 1929, in December, when Congress met, when every man who knew anything about economic history knew that we were facing a national panic—knew that every time we have had a major stock crash on the stock market we have had a national panic, followed by a national depression. Of that there can be no doubt and is none. Yet in 1929, under those conditions, facing a panic, with men falling out of jobs every day, this Congress voted to again reduce the income taxes and give back supposedly $160,000,000 to the successful corporations and to the successful income-tax gatherers—those who had incomes.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes; certainly.

Mr. SNELL. How can you give back something you never have had?

Mr. KELLER. I will tell the gentleman how to give back something you never have had. Just vote as you did in 1929, when the money was due, and you voted to give it back, before it was paid. You did that in 1929, in 1928, in 1926, in 1924, and 1921.

Mr. SNELL. But I still maintain that you cannot give back something that you never have had, and I also maintain that those tax measures produced more than the others did, and I would ask the gentleman from North Carolina [Mr. DOUGHTON], to confirm that.

Mr. KELLER. And I will bring that back to the gentleman and quote what your Secretary of the Treasury said, that whenever you put too high an income tax, the rich man will not pay. I quote from a letter from Mr. Mellon to the chairman of the Ways and Means Committee dated November 10, 1923:

> Ways will always be found to avoid taxes so destructive in their nature, and the only way to save the situation is to put the taxes on a reasonable basis that will permit business to go on and industry develop.

Mr. SNELL. The gentleman obtained his time to tell us where they are going to get the money.

Mr. KELLER. But I have answered that question a few moments back. Through taxes, of course.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. KELLER. Mr. Chairman, I ask the gentleman to grant me 5 minutes more.

Mr. TARVER. Mr. Chairman, I believe the gentleman obtained his time from the other side.

Mr. RICH. Give him some time, so that he can answer the question, because he has not said anything yet.

Mr. TARVER. Mr. Chairman, I yield 5 minutes more to the gentleman.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. KELLER. Yes, to my friend from Idaho.

Mr. WHITE. Is it not a fact that during that very period, huge income-tax refunds, and one item of $45,000,000 refunded to the Steel Trust in 1927, which was collected in 1917?

Mr. KELLER. And is it not a fact that during that period this body voted a law that originally provided that unless when you paid the income tax you protested, you had no right to go back and ask for a rebate? This body revoked that law in 1924, and they went back, and my recollection is they paid out of the Treasury of this country about $4,000,000,000.

Mr. GIFFORD. And having reimposed all of the income taxes last year, all that we could get revenue from, if the gentleman is now going to get his money from taxes, will he tell us what kind of taxes?

Mr. KELLER. I shall be glad to do that though I by no means agree we have reimposed all the income taxes that we could get revenue from. We are going to get some more from income taxes, in my judgment.

Mr. GIFFORD. But we are getting all we can.

Mr. KELLER. Oh, no; we are not. We are going to go, in my judgment, to as low exemptions as will pay for the collection. In England they are down to as low as $600 a year, and we will come to that right here. We are going to come to it, and we are going to take it all the way up through, and if the sixteenth amendment has not been nullified by the Court, since we are talking about the Constitution, we will enforce the law and we can get all the money that we need without hurting anybody.

We are going to take it and do not think we are not. We are not only going to take whatever tax money we need, but we are going to accept the responsibility of coming here as a government and saying to every American man and woman, "There is a job ready for every man and woman who wants to work", and we are going to see to it that they have that job, and when we do that we will produce so much wealth that there will be no longer any excuse for poverty in this country of ours. And when we guarantee a job to every man and woman who wants to work, no man now out of a job, nor who has been out of a job, nor whose job has ever been endangered, as they all have been, not a one of them will object to paying a small income tax to insure himself a job and his children after him. It will be the cheapest possible job insurance; the very greatest security to men, to business, to governmental institutions. That is the only solution for unemployment—the guaranty of an opportunity to earn a living—a competency, in fact.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. KELLER. To my colleague from Massachusetts, surely, with pleasure.

Mr. TREADWAY. To ask the gentleman whether he thinks the program of taxation to which he has referred, going to the very lowest salaried people, to the point where it will simply be paying for the collections, will be a very popular tax with those in control of the Democratic Party, just before election?

Mr. KELLER. Let me suggest to the gentleman that he take that home to his own party and see what it says about it.

Mr. TREADWAY. I am asking the gentleman. He has stated in an authoritative way——

Mr. KELLER. Oh, no.

Mr. TREADWAY. What the majority party here are going to do.

Mr. KELLER. No; I am not stating any such thing.

Mr. TREADWAY. I would like to know whether he thinks that will make votes for his party at the coming election and if that theory will not make votes then I prophesy just as strongly that the theory that the gentleman is proposing will not be carried out by the Democratic majority.

Mr. KELLER. The gentleman may be entirely right as to that. But I beg the gentleman's pardon. I did not say that I was speaking officially. I said that I was speaking for KENT E. KELLER, and nobody else.

Mr. TREADWAY. But we respect Mr. KENT KELLER'S position as one of the leaders of the Democratic Party.

Mr. KELLER. I have never been so accused before. I thank the gentleman.

Mr. DOUGHTON. Will the gentleman yield?

Mr. KELLER. I yield.

Mr. DOUGHTON. The suggestion of the gentleman from Massachusetts, a member of the Ways and Means Committee, indicates that he judges the Democratic Party by the standards of the Republican Party. He knows that they approach a question of that kind, especially matters of taxation, with a view to the welfare of the Republican Party and to political benefits, rather than the welfare of the country. That is the viewpoint of his party, and he just naturally assumes that the Democratic Party proceeds on the same basis as the Republican Party. That is a false assumption.

Mr. TREADWAY. I would like to ask the gentleman whether he disputes the accuracy of the statement I made?

Mr. KELLER. I do not yield, Mr. Chairman.

Mr. TREADWAY. I said that the Democratic Party would not make this kind of taxes to which the gentleman from Illinois has referred. I stand by it, and I ask the gentleman from North Carolina [Mr. DOUGHTON] whether he disputes that or not?

Mr. BURDICK. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BURDICK. The gentleman from Illinois has been given the floor to explain where we are going to get the money. If about 40 of these curious ones would leave him alone long enough, perhaps he can tell us.

Mr. WEARIN. Will the gentleman yield?

Mr. KELLER. I yield.

Mr. WEARIN. If I remember correctly, we have had about $7,000,000,000 in emergency appropriations since the Democratic Party came into power. I believe it is true that there has been an increase of approximately $67,000,000,000, or thereabouts, in bank deposits, national income, and things of that character since President Roosevelt came into power. That might be one way in which we could pay that debt of $7,000,000,000.

Mr. KELLER. Certainly.

Mr. LAMBETH. Will the gentleman yield?

Mr. KELLER. I yield.

Mr. LAMBETH. Does not the gentleman think that the best progress we could make toward balancing the Budget is to get the national income returned to normal, and has that not been gradually, steadily, and appreciably increasing ever since the present administration went into power on March 4, 1933?

Mr. KELLER. The gentleman has anticipated exactly what I am coming to, and I thank him for doing so. In 1928 and 1929 our national income was about $90,000,000,000 a year.

Mr. McCORMACK. Will the gentleman yield?

Mr. KELLER. I will in just a moment. Our income fell to under $40,000,000,000; about thirty-seven and a half billion, as I recall. We have returned it, through some method or other, to about fifty-five billion. But what I want to put to every one of you, not as a partisan matter but as a matter of common sense, is this, that the minute we return our national income we will have no trouble in paying whatever amount of taxes we may require.

Mr. CRAWFORD. And relief goes out?

Mr. KELLER. And relief goes out. The gentleman from Michigan makes a suggestion, and it is a splendid suggestion, that just as soon as we return the national income, relief goes out, naturally and properly.

Mr. CHRISTIANSON. Will the gentleman yield?

Mr. KELLER. I yield.

Mr. CHRISTIANSON. Has the gentleman any figures to show whether or not the drop in national income from 1929 to 1932, and the increase from 1932 to 1936, bear any relationship to the drop and increase, respectively, of the national income in other countries, and of world income?

Mr. KELLER. Oh, yes; I have a great deal.

Mr. CHRISTIANSON. Will the gentleman put those figures in the RECORD, please?

Mr. KELLER. Yes; I will. I make this suggestion to the gentleman, that the proof of the fall of national income, the proof of panic, the proof of depression, lies in one thing, that is, the percentage of unemployment in the country. I want to call this to your attention. I am going to give you facts. The fact is that at the present time all of Europe, with its 550,000,000 people, has about six and one-quarter million unemployed. The United States, with its 127,000,000 people, has more than 10,000,000 unemployed. Can the gentleman tell us why this is true?

Mr. CHRISTIANSON. Despite the resourceful and beneficent administration we have had during the last 3 years?

Mr. KELLER. Oh, I beg the gentleman's pardon. You cannot parallel them to save your soul.

Mr. CHRISTIANSON. But we still have actually 11,400,000 unemployed.

Mr. KELLER. The parallel is not there.

Mr. RICH. Will the gentleman yield?

Mr. KELLER. I yield to the gentleman from Pennsylvania.

Mr. RICH. Mr. Green last week said there were 11,400,000 out of employment. Harry Hopkins says we are going to have more on relief now than we had a year ago. If we are getting better, why the unemployment and why the greater amount of relief?

Mr. KELLER. I do not say we are getting better on unemployment. I did not say I accepted Mr. Green's figures. I gave the figure I consider conservative, although I think Mr. Green is practically right.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield.

Mr. McCORMACK. I think the gentleman has made a very powerful argument and a complete answer. The answer was so complete that they now have to ask the gentleman about unemployment. I think the gentleman has made a powerful and compelling answer. [Applause and laughter]. I might make the observation that when we get back to 1929 levels with the present tax laws on the statute books, it is conservatively estimated that the Government will receive a revenue of $8,000,000,000 a year.

Mr. KELLER. And that, of course, will enable us to do what we have to do.

Mr. LAMBETH. Mr. Chairman, if the gentleman will yield, I think the gentleman is the best pinch hitter in the House of Representatives. [Applause.]

Mr. KELLER. I thank the gentleman.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. KENNEY].

Mr. KENNEY. Mr. Chairman, the gentleman from Illinois [Mr. KELLER] was interrupted at considerable length by the gentleman from Massachusetts [Mr. TREADWAY]. The gentleman from Massachusetts comes from the western part of the State, a splendid region, rich in history and great men. He seems to be worried about the new tax plan that is coming into being.

Mr. TREADWAY. Mr. Chairman, will the gentleman permit an interruption?

Mr. KENNEY. I do not know whether the gentleman still reads that fine paper published in his part of the State; but if he does, he will find a suggestion which I believe up to now has gone in one ear and out the other. There is a great Republican newspaper printed in Springfield, Mass. It is the Springfield Republican; and the ranking minority member of the Ways and Means Committee ought perhaps to have his attention directed to what the Springfield Republican has to say.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. KENNEY. Mr. Chairman, it reads as follows:

THE KENNEY IDEA

Representative KENNEY hails from New Jersey, and he has a bill that fits more snugly day by day into the present fiscal stringency in the United States Treasury. Mr. Kenney's message is, "Let us establish a national lottery."

Everything moves Mr. KENNEY's way. The Government lost the processing taxes. Congress passed the bonus over a veto, and that calls for over two billions. Mr. PATMAN, of Texas, and Senator THOMAS of Oklahoma would start the printing presses and make paper money to fill the void. Mr. KENNEY's idea would avoid inflation and follow an orthodox method of finance.

Yes; orthodox. France today has a national lottery which figures in the French budget as a revenue source for the Government. The French Government fails to balance its budget even with the aid of the national lottery, for the French people feel too poor to buy so many tickets as they did once upon a time. National lotteries are also sanctified by age at least, and their orthodoxy cannot be successfully challenged. Representative KENNEY scores heavily at this point.

Lottery bills are pending in our Massachusetts Legislature. Is a collision imminent, with the issue States' rights? If a national lottery were to enjoy maximum productiveness, it should enjoy a monopoly. Has Mr. KENNEY provided for one? What would the Supreme Court's decision be, if the Federal Government undertook to tax State lotteries out of existence in order to get all the lottery revenue for itself?

There is a prolottery organization somewhere; its headquarters may be in New York. People will gamble, is its great argument. The Government needs money. Keep your eye on KENNEY, of New Jersey.

Mr. TREADWAY. Mr. Chairman, will the gentleman permit an interruption now? Will the gentleman yield?

Mr. KENNEY. Mr. Chairman, I yield back the balance of my time.

Mr. TREADWAY. Will not the gentleman yield to me in view of the fact he mentioned my name in the very beginning of his remarks? He has time remaining, and it would seem that he should yield out of courtesy.

Mr. THURSTON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Chairman, on Friday last I introduced a resolution requiring the Secretary of Agriculture to furnish the House of Representatives with the names and addresses and the amount paid to each producer exceeding $2,000 in each calendar year pursuant to the A. A. A. I did this for the purpose of getting information which it is absolutely necessary for this House to have in order intelligently to appreciate the racketeering that has been going on under the A. A. A.

Mr. CHRISTIANSON. Mr. Chairman, will the gentleman yield?

Mr. TABER. I yield.

Mr. CHRISTIANSON. Is the gentleman aware of the fact that 3 or 4 weeks ago Barron's Weekly carried a statement to the effect that a certain citizen of Jersey City, N. J., feeding pigs on the slops of New York, was awarded $48,752 of Federal money as an inducement for reducing his production of pigs from 13,118 to 9,838?

Mr. TABER. I have heard of that instance, and I have heard of other instances running more than that. I have heard of many instances running as much as $50,000 or $75,000.

Mr. CHRISTIANSON. Does the gentleman believe that it was the purpose of Congress in passing the Agricultural Adjustment Act to give the Secretary of Agriculture power to use the proceeds of processing taxes, wrung from the hungry, in a way that does not help a single bona-fide farmer but helps slop feeders who are not farmers, who produce pigs in competition with farmers?

Mr. TABER. It was represented that the Agricultural Adjustment Act would help the real farmer and not the fellow who owned great big plantations, and men of tremendous wealth. It has been used as a racketeering proposition right along, and it is absolutely ridiculous to let it go on this way.

I hope the Committee on Agriculture will report this resolution favorably that we may have this information in detail so we may know exactly how bad it is. We know that there are hundreds and hundreds of cases. When it was put up to the House the other day the millionaire plantation owners were able to control the majority on the Democratic side of the House.

Mr. CHRISTIANSON. Mr. Chairman, will the gentleman yield for another question?

Mr. TABER. I yield.

Mr. CHRISTIANSON. I hope the gentleman's resolution passes because I am convinced it is the only way in which we can exact from the Department of Agriculture information as to what has become of the people's money. I may say to the gentleman from New York that I wrote the A. A. A. upon receiving the information I have just given to the House, asking for a confirmation or denial and for data showing what other similar amounts had been awarded persons in different parts of the country. I was refused this information, the specious reason being given that it would entail too much labor in the Department to supply it; and then the significant statement was added that, in any event, even if the information were readily available, it would not be

given to me, although I am a Member of Congress, unless the Secretary of Agriculture gave his approval.

Mr. TABER. That shows the dictatorial power that the Secretary of Agriculture has attained.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. THOM].

Mr. THOM. Mr. Chairman, a few moments ago the gentleman from Missouri [Mr. SHORT] said that he saw with his own eyes a thousand Government hogs dumped into the Mississippi River. This is an oft-repeated statement, and it deserves investigation.

Hogs, of course, are supposed to have been in that allotment bought by the Government under the emergency action of a year or two ago.

Before the subcommittee on the agricultural appropriation bill last year there appeared Dr. Mohler, head of the Bureau of Animal Industry, Department of Agriculture. Dr. Mohler is not a politician. He is the responsible head of an important bureau of the Department of Agriculture, and he testified as to these widely circulated reports. I want to produce the testimony of Dr. Mohler.

The Bureau of Animal Industry, may I say, supervised the slaughter of 6,000,000 hogs bought by the Government. Eighty-eight million pounds of pork resulting from the slaughter of these hogs were distributed to relief agencies throughout the country. The smaller pigs were used for fertilizer purposes and for grease.

Mr. Chairman, I want to read just a few excerpts from Dr. Mohler's testimony:

Mr. CANNON (the acting chairman of the committee today). Now, right here, doctor, if I may interrupt you, the charge has sometimes been made in connection with the A. A. A. hog reduction program that these hogs to which you refer, instead of being duly processed, either for meat products or for fertilizer, were thrown into the Mississippi River. What is your information on that subject, doctor?

Dr. MOHLER. We have heard reports and seen publications of that kind in the newspapers of the country, and in each case where such a claim was brought to our attention we have had an investigation made, but in no case have we found where such an occurrence has taken place.

Mr. CANNON. You can state, then, positively that any reports to the effect that hogs bought under the program and delivered to St. Louis and East St. Louis plants were thrown into the river are without any foundation whatever?

Dr. MOHLER. Absolutely; without any foundation.

The report of the gentleman from Missouri, Mr. SHORT, has apparently never been submitted to the Department of Agriculture. I now call upon him, in the interest of accuracy, and in the interest of clearing up this problem, to produce the evidence as to the time and the place where he saw these hogs cast into the river, how he knew they were Government hogs, whether they were privately owned hogs or not, to the end that the Bureau of Animal Industry may investigate and report to this body with reference to the truth of the report. Having said he was an eyewitness to this affair, I should like to have my colleague now furnish the complete and exact data.

Mr. WHITE. Will the gentleman yield?

Mr. THOM. I yield to the gentleman from Idaho.

Mr. WHITE. Would not the fact that this vast amount of pork was cast into the river cause pollution and be a violation of the State law?

Mr. THOM. I should think so, but I am not advised.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. SHORT. Will the gentleman yield?

Mr. THOM. I yield to the gentleman from Missouri.

Mr. SHORT. May I say, Mr. Chairman, it is such common knowledge out in my State and in Illinois the Government did this that everyone takes judicial knowledge of the fact. These reports were printed in both the St. Louis Post Dispatch and the St. Louis Globe Democrat, and if I had time I think I could secure affidavits from people who live in that vicinity to corroborate the statement that I made. It is my understanding that the Government did not slaughter any pigs for pork purposes unless they weighed over 80 pounds. The smaller pigs, of course, were slaughtered for use for soap and fertilizer. Members of this House will testify that this occurred in their respective districts, just as it did in connection with the dairy cattle purchased in Wisconsin at $10 a head, which were worth $100 a head. Down in my county, at Hurley, Mo., they canned cattle. Much of it spoiled, and they gave the canned meat to the farmers to feed to the pigs in order to raise more pigs to knock in the head. I have repeatedly driven from my home to Chicago during both years of the exposition, and in going through St. Louis and East St. Louis, Ill., I saw truck load after truck load going down there. I do not know whether the employees will testify for fear of losing their jobs.

Mr. THOM. The gentleman said he saw them dumped into the river. Will he repeat that statement?

Mr. SHORT. I said I saw them with my own eyes being hauled down to the river.

Mr. THOM. Did the gentleman see them dumped into the river?

Mr. SHORT. I did not see them actually dumped into the river.

Mr. THOM. That is what the gentleman said just recently?

Mr. SHORT. The gentleman would not allow me time enough to go into the matter. I think everybody knows it. The gentleman will not deny that more than six and a half million pigs were slaughtered under that program.

Mr. THOM. No.

Mr. SHORT. He will not deny that 400,000 brood sows were likewise slaughtered under that program?

Mr. THOM. Mr. Chairman, I decline to yield further. The gentleman from Missouri made a definite, precise statement in this House, and he is not going to wiggle out of it. I repeat his statement: "I can inform the gentleman", meaning myself, "I saw with my own eyes a thousand of them dumped into the Mississippi River."

Is that rhetoric, is it exaggeration, or is it inspiration? Will the gentleman answer?

Mr. SHORT. It is information.

Mr. THOM. Does the gentleman now say "yes" or "no"?

Mr. SHORT. I saw them being hauled in trucks down there.

Mr. THOM. Did the gentleman see them dumped into the river?

Mr. SHORT. I did not see them actually poured into the river.

Mr. THOM. All right; then the gentleman withdraws the statement?

Mr. SHORT. It makes no difference whether they were poured into the river or buried. They were destroyed. That is the significant point.

Mr. THOM. Did the gentleman see them destroyed?

Mr SHORT. Where did they go? What became of them?

Mr. THOM. The gentleman made the charge.

Mr. SHORT. I want to ask the gentleman what became of them.

Mr. THOM. You made the charge.

Mr. SHORT. Do you deny they were destroyed?

Mr. THOM. I do not know anything about it.

Mr. SHORT. Oh, complete ignorance is bliss.

Mr. THOM. I am asking you to prove your statement.

Mr. SHORT. No; but they were slaughtered, and God only knows where they went.

Mr. THOM. In conclusion, Mr. Chairman, I do not want to lecture this House, but I am tired, sick, and weary of unfortified statements going into this RECORD. Let us keep to the truth, and when a Member of this House comes in here and testifies about what he has seen and states of his own knowledge that he saw 1,000 pigs dumped into the river, and then backs down as the gentleman from Missouri has done, it is time to call a halt out of respect for the integrity of this RECORD. [Applause.]

Mr. THURSTON. Mr. Chairman, I yield 20 minutes to the gentleman from Michigan [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD and include therein a por-

tion of the second McGroarty bill, page 2, lines 1 to 25, inclusive.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ENGEL. Mr. Chairman, on January 27 I discussed the Townsend plan upon the floor of this House. I gave the cost of that plan on a per-capita basis to the townships, cities, and counties of my district; to my district as a whole, to the city of Detroit, and to the State of Michigan. I compared that cost with the population and the assessed valuation of each township, city, and county, and with my district as a whole. These figures show that the annual cost of the Townsend plan ranges from 21.3 percent to 39.6 percent of the assessed valuation of such counties. These figures further show that this plan would cost Michigan each year upon a per-capita basis $944,253,375, or approximately $144,000,000 more each year than the total debt of my State, including the debt of every political subdivision within that State. I pointed out that this plan would cost the city of Detroit more than $305,000,000 each year, or approximately three-fourths of its entire bonded indebtedness. Many of these municipalities have been unable to pay these bonds in 20 or 25 annual installments. I gave my reasons for figuring the cost upon a per-capita basis. Some organizers and some Townsend papers have criticized my method of computation. I now ask them in all fairness to answer these questions. If this tax cannot be figured fairly upon a per-capita basis, or upon the basis that the consumer pays, what is the fair basis upon which it can be figured so the average workingman, farmer, or taxpayer can learn just how much it is going to cost him each year? If it is not going to cost the State of Michigan $944,000,000 each year, just how much is it going to cost that State annually? If it is not going to cost the city of Detroit $305,000,000 each year, and if it is not going to cost the Ninth Congressional District of Michigan $41,000,000 each year, just how much is it going to cost the city of Detroit or the Ninth District annually if we pass this law? Surely, if the proponents of the Townsend plan ask the people of my district to accept a law and to pay a tax levied under that law, the people are entitled to know how much it will cost and how they are going to pay that cost before they support that law.

In my speech of January 27, 1936—see CONGRESSIONAL RECORD, page 1064—I discussed the Townsend plan as advocated by Dr. Townsend in his weekly and in his testimony before the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate. I stated specifically that I was not discussing the McGroarty bills.

I now desire to discuss the second McGroarty bill, H. R. 7154, which was introduced on April 1, 1935. This is the only bill receiving any support in the House by any Member, including Dr. Townsend's own friends and supporters.

Section 2 of this bill reads in part as follows:

> There is hereby levied a tax of 2 percent on the fair gross dollar value of each transaction done within the United States and Territories.

Section 1 reads in part as follows:

DEFINITIONS

> SECTION 1. The term "transaction" for the purposes of this act shall be defined so as to include the sale, barter, and/or exchange of either or both real or personal property, including any right, interest, easement, or privilege of commercial value therein or related thereto, whether actually made at the time or only then agreed to be made and whether under executed or executory contract or otherwise; also including all charges for interest, rent commissions, fees, and any other pecuniary benefit of any kind directly or indirectly derived from or for any loan, deposit, rental, lease, pledge, or any other use or forbearance of money or property; and also including the rendering or performance of any service for monetary or other commercially valuable consideration, whether by a person or otherwise, including all personal service, also transportation by any means, and telephone, telegraph, radio, amusement, recreation, education, art, advertising, any public utility, any water rights, and/or any and all other service of any and every kind whatsoever, but excepting and excluding therefrom any single isolated transfer of property of fair value less than $100 which does not arise or occur in the usual course of an established commercial business and excluding any loan, deposit, withdrawal from deposit, hypothecation, or pledge of property or money.

Section 2 requires each citizen or legal entity who comes under the act to make a return not later than 10 days after the expiration of each calendar month, and that all taxes levied for each month must be paid before the expiration of the succeeding month. I have tried to analyze this bill to determine just how it would affect the various interests in my district and in my State. Many of the aged people writing me have been informed that in some vague way the cost of this plan will be paid by Wall Street, by the bankers, the stock exchange, and by men of wealth. In fact they are informed that only a small part of the tremendous cost of this plan would be paid by the farmer and wage-earner. I want to disabuse their mind of this idea. An analysis shows that the major part of this cost will be paid by the farmer, wage earner, and small business man.

Let us consider first, just how does this transaction tax operate? Let us take a concrete example. The farmer sells his wheat to the elevator. A 2-percent tax is levied. The elevator sells it to the miller. Another 2-percent tax is levied. The miller grinds it into flour and sells the flour to the wholesaler. Another 2 percent is levied. The wholesaler sells it to the retailer. Another 2 percent tax is levied. The retailer sells that flour back to the farmer and he pays another 2 percent plus all the taxes levied (a total of 10 percent) from the time it left his hands as wheat until it gets back to his hands as flour. In addition a 2-percent tax is levied on all pay rolls, freight, and other charges for service or material, all of which, except the pay-roll tax, is added to the cost the farmer pays. The same is true when he sells a cow hide or wool and later buys it back manufactured into shoes, harness, or clothing. The wage earner, merchant, or other citizen will pay, of course, the same pyramided tax under this bill that the farmer pays.

Dr. Robert L. Doane, Dr. Townsend's economist and statistician, in testifying before the Ways and Means Committee of the House—page 1109—stated that:

> The findings of the biennial census of manufacturers indicate a turn-over of approximately three times once the raw materials get into the manufacturing process. Of course, it varies. Sometimes it may be 12 or 16 times; in other cases only once.

In other words, Dr. Doane states that there may be from 1 to 16 transactions while the raw material is going through the manufacturing process, each carrying with it a 2-percent tax. He further states that the turn-over after manufacturing is about three times and the average number of transactions six. This means that the consumer pays a 12-percent tax on each article purchased. It does not take into consideration the tax paid on freight, telephone, and electric light bills, a pyramided tax paid on materials, and so forth, nor the 2-percent tax levied against the pay roll which is paid by the wage earner.

HOW THE TRANSACTION TAX WOULD AFFECT THE FARMER

With these facts in mind, let us assume that I want to start farming. Just how would that tax affect me, first, in getting started and, second in operating my farm. Let us assume that I bought an 80-acre farm for $8,000 on terms of $3,000 cash, the balance secured by a $5,000 mortgage; that this mortgage is payable $500 and interest each year. The tax bill on this farm would read something like this:

Original transaction, 2 percent on $8,000 purchase price, $160; 10 payments of interest at 6 percent, totaling $1,650, at a 2-percent tax, $33.

I would also have to pay a 2-percent tax on the real-estate tax I paid on the farm. Assuming that the tax was $150 a year, or $1,500 for the 10 years, another $30 tax on tax would be levied, $30.

I also have to purchase a team, stock, and equipment. That tax bill would read something like this: One team, $300; six cows, $300 (purchased direct from other farmers). Total, $600, at 2-percent tax, $12.

Tools, binder, mower, wagon, and so forth, $1,000, at a pyramided tax of 12 percent, $120. Grand total, $355.

This would make a total tax paid on the farm and equipment of $355.

Next, how will this tax affect the operation of my farm?

First. I pay from 2 to 12 percent tax on all the seed I buy, depending on whether I buy direct or through a retailer.

Second. I deduct and pay 2 percent on all wages I pay my hired help.

Third. I pay from 2 to 12 percent on all groceries, clothing, and so forth.

Fourth. I pay 12 percent on all additional farm machinery, replacements, or repairs.

Fifth. I pay from 2 to 12 percent on all fertilizer.

Sixth. I pay 2 percent on my telephone, telegraph, freight, and electric-light bills.

Seventh. I pay at least 6 percent on my coal bill, plus a 2-percent tax on the freight charges.

Eighth. If I buy an auto or truck, I have to pay a pyramided tax of 12 percent on the purchase price, on all repairs, equipment, gas, oil, and grease. This in addition to taxes I now pay, upon which I pay another 2-percent tax.

Ninth. If I rent land for cash or on shares, I pay a 2-percent tax on the cash rent paid or on the value of the crop rent.

Tenth. When I pay my life, fire, auto, or windstorm insurance premiums, I must add a 2-percent tax. If I take out a new policy, I pay 2-percent tax on face of the policy.

Eleventh. If my family is sick, I pay a 2-percent tax on the doctor's services, medicine, and nurse's bill.

In addition to this, I pay from 2 to 12 percent on everything I buy, of whatever nature not herein specified.

Now, what else do I have to do? Under the McGroarty bill I must make a report before the tenth day of each and every month of everything I sell, whether retail or wholesale. I must add 2 percent to the selling price of everything, including butter, eggs, cream, wheat, rye, hay, pork, beef, cotton, beans, and so forth. If I swap horses, I pay a 2-percent tax on the horse I swap.

If anyone owes me money, I pay a 2-percent tax on any interest he pays me.

How would you like to go back at the end of the session and explain a "yes" vote on this bill to the farmer after he had been operating under it for 6 months?

HOW THE TRANSACTION TAX WILL AFFECT THE WAGE EARNER

First. His employer deducts 2 percent transaction tax each pay day from his wages. This is in addition to the 3 percent the employer will deduct from those wages when the social security bill is in full force for unemployment insurance.

Second. He pays a pyramided tax of approximately 12 percent on each article of food, clothing, fuel, and so forth, he buys for himself and family.

Third. He pays a 2-percent tax on the rent.

Fourth. He pays a 2-percent tax on all insurance premiums, including automobile, life, and fire. If he takes out a new policy, he pays a 2-percent tax on the face value.

Fifth. If he has purchased a home, he pays a 2-percent tax on the purchase price, another 2 percent on payments of interest as it falls due. He pays a 2-percent tax on fire-insurance premiums on the dwelling and a 2-percent tax on the real-estate tax levied against his home.

Sixth. If he or a member of his family is sick, he pays a 2-percent tax on the doctor bill, nurse's fees, medicine, hospital bills, and so forth.

Seventh. If he owns an automobile, he pays a 2- to 12-percent tax on gas, oil, repairs, purchase price, plus a 2-percent tax on all other taxes now levied.

Eighth. He pays a 2-percent tax on all telephone, telegraph, gas, and electric-light bills.

Ninth. If I have forgotten anything else he buys, just insert it with a 2-percent to 12-percent tax.

How would you like to explain a "yes" vote on the McGroarty bill after the workingman has been operating under it for about 6 months?

HOW THE TRANSACTION TAX WILL AFFECT THE RETAIL MERCHANT

First. He would have to pay 2-percent tax on the interest paid on any note or mortgage he gives each time he borrows money to carry on his business.

Second. He pays a 2-percent tax on all real estate, automobile, or other taxes he now pays.

Third. He pays from 2 to 12 percent tax on all stock and equipment purchased.

Fourth. He pays a 2-percent tax on all freight bills, telephone, telegraph, and electric-light bills.

Fifth. He pays a 10-percent transaction tax on the income tax he pays the Federal or State Government, if any.

Sixth. He pays a pyramided transaction tax of from 2 to 12 percent on all goods he purchases. Tax paid on goods resold is passed on to consumer.

Seventh. He pays a 2-percent tax on all wages paid employees. (This tax is deducted from wage earner's pay.)

Eighth. He pays a pyramided tax on all fuel, operating expenses, and supplies of from 2 to 12 percent.

Ninth. He makes a return of all merchandise sold before the 10th of each month for the preceding month.

Tenth. In addition to the above, he would pay every tax that the workingman would pay on his home expenses enumerated under the workingman's list.

COMMENT

The chain-stores system, which purchases in large quantities direct from the producer, eliminates one or more transactions, and therefore eliminates part of the transaction tax. Four hundred and fifty retail hardware merchants went out of business in Michigan during the last 10 years. If this bill passes, it will give the chain store another advantage over the independent merchant and will force thousands of independent merchants out of business because of inability to compete with the chain stores.

HOW THE TRANSACTION TAX WILL AFFECT BANKS AND BANK ACCOUNTS

The bill is rather indefinite as to just how far it applies to banks. The act specifically exempts loans, deposits, and withdrawal from deposits. If by withdrawal from deposits it includes, as contended by some of its supporters, only savings deposits and that the law applies to checking accounts, then it is indeed far reaching. Let us assume I have a working capital of $1,000 cash, which I am leaving in the bank as a checking account. Every time I draw a check, that $1,000 becomes smaller because the bank has to deduct a 2-percent tax. If I sold $50,000 in goods during the year and put the money through the bank, the transaction tax on my bank checks would wipe out my $1,000 balance in 1 year. One of my critics, who is also a friend, is the organizing manager of the Townsend movement in my congressional district. Some time ago he wrote a letter to various papers, stating that the bank clearings in 1929—which is the business level they are trying to reach—showed transactions of $714,240,000,000.

Quoting this gentleman, he says:

> Everybody knows that not more than half of the transactions were reported through the banks; so if you will multiply this amount by 2, you will have $1,428,840,000,000, which would indicate that the dollar turned over about 300 times that year.

This friend of mine is going to levy apparently a 2-percent transaction tax each time the dollar turns over. In other words, he is going to tax each dollar 2 percent 300 times each year and make that dollar pay $6 in taxes. I never knew the dollar to be so prolific. My friend would have to cross-breed the dollar with a guinea pig to make it reproduce itself six times each year. He states that I do not understand this plan. I am frank to confess that when you begin to talk about trillions you are beyond me and that I cannot understand that kind of arithmetic. The same logic applies to the transactions on the stock exchange. How long do you suppose the banks and the stock exchange would be in existence under this law? How long would you collect a 2-percent transaction tax on bank and stock turnovers? How long would your bank account and my bank account last? My friend and colleague the gentleman from the Third Congressional District of Michigan—and he is my friend—said in his speech on the floor of the House on January 27 that this transaction tax was a "mild capital levy." Well, a tax that wipes out a dollar six times each year does not appeal to me as being a "mild capital levy." To be perfectly frank and candid, it is my conviction that my friend, Dr. Townsend's organization manager in my dis-

trict, is mistaken. While everything he says about turn-overs would apply to the stock exchange, the McGroarty bill certainly exempts bank loans, savings deposits and withdrawals from deposits, and, I believe, commercial accounts.

HOW THE TRANSACTION TAX WILL AFFECT THE MANUFACTURER

First. He would have to pay a 2-percent transaction tax on the interest he pays on any notes or mortgages given each time he borrows money to carry on his business.

Second. He would have to pay a pyramided tax of from 2 to 32 percent—if the biennial Census of Manufactures quoted by Dr. Doane is right—on raw material while it is put through the manufacturing process. This would be added to the cost of production.

Third. Then he would have to deduct 2 percent on all pay rolls in addition to the 9.6 percent paid under the social security bill when in full force for unemployment insurance. The 6.6 percent he must absorb. The 5 percent is taken from the wage earner.

Fourth. He pays 2 percent on all freight, telephone, telegraph, and electric-light bills.

Fifth. He pays 2-percent tax on all taxes paid to the county, State, city, and school districts, and so forth.

Sixth. He pays 2-percent tax on all corporation taxes, fees, and so forth.

Seventh. He pays a 10-percent transaction tax on any income tax he may pay the Federal or State Governments.

Eighth. He must make a return of all goods sold before the 10th of each month for the preceding month.

There are 750 paper mills in America, including 3 in my district. Due to keen foreign competition, from 50 to 60 percent of these are in the hands of receivers, trying to get on their feet financially. Ask the owners and operators whether they think they could absorb this tax. The fact is that practically every one of these 750 paper mills would close down and their employees be thrown upon the welfare if they have to add this additional burden to the cost of production. The copper and iron mines of the Upper Peninsula of my State could not operate and one-half of that area would have to be abandoned. What is true of the paper, iron, and copper industries in my State is true of hundreds of industries throughout the United States.

HOW THE TAX WOULD AFFECT THE STATE, TOWNSHIP, CITY, COUNTY, AND SCHOOL-DISTRICT GOVERNMENTS

A 2-percent tax would be deducted from all fees and salaries paid the county, township, city, and school officers, including school teachers. A pyramided tax of from 2 to 12 percent would have to be paid on all supplies bought, and a 2-percent tax added to the amount of taxes paid by every taxpayer.

The State would have to deduct a 2-percent tax on all salaries paid. In Michigan, this tax would amount to more than $500,000 annually. The State would also have to pay a pyramided tax of from 2 percent to 12 percent on all food, clothing, fuel, and supplies purchased to feed and care for the thousands of inmates in its various institutions. It would have to pay a similar tax on supplies, wages, salaries, and so forth, purchased and paid in the operation of its university, teachers' colleges, or other educational institutions. In other words, it would increase the cost of State and local government from 12 percent to 20 percent. This additional cost would ultimately have to be paid by the taxpayer.

"But", my friends say, "we are going to increase business." Just permit me to leave this thought with you. What is the difference in the amount of business done between these two cases. In the first case, each of 12 men spends $200 a year, the 12 spending $2,400. In the second case, each of 11 men gives his $200 each year to the twelfth who spends the entire $2,400. The latter case is the McGroarty bill in operation. Eleven men give their $200 to the twelfth who spends it, but after all, in each case the amount spent is the same.

This is the most far-reaching tax bill ever presented to any legislative body. You are taxed and retaxed from the second you are born until after you are dead. Your father pays a tax on the doctor and hospital bills, nurse's fees when you come into the world. He pays a tax on the soap with which you are washed; the clothes they put on you. You are taxed and taxed and taxed again each minute of the day from then on until you die. Even then they refuse to stop. They tax the coffin into which they place you. They tax the undertaker's fee for embalming you, and he pays a tax on the embalming fluid. They tax the hearse that takes you on the last ride and they tax the driver's wages. They tax the lot in which you are buried. They tax the grave digger's wages for digging your grave, and the grave digger pays a tax on the pick and shovel with which he digs your grave. They tax the preacher's salary who preaches your funeral sermon. They tax the coal with which they heat the church, and the mourners have to pay a tax on the crepe they wear when they follow your casket. If you want a tombstone, you pay a tax on that. They tax the probate judge's fee who probates your will, the administrator's fees who administers it and then they start in on your heirs. The only consolation you have is that you cannot kick on the taxes you pay after you are dead.

ENFORCEMENT OF THE M'GROARTY BILL

Now let us determine just how we are going to enforce this law if enacted. The act requires the Administrator of Veterans' Affairs, the Secretary of the Treasury, or the Collector of Internal Revenue among other things to do the following:

First. He or they must require and secure the proper spending of annuity money as required by law within 5 days after the expiration of the month for which annuity is paid.

Second. He or they must require adequate and sufficient accounting of money spent, which means, of course, a monthly return by the annuitant.

Third. He or they must create or maintain boards within the several States to administer the law.

Fourth. He or they must create or maintain boards of review within the several States to review the law.

Fifth. He or they must issue, promulgate, and enforce proper and suitable rules and regulations governing the manner and place of registration of applicants for annuities.

Sixth. He or they must see that the annuitant does not give away more than 10 percent of the annuity each month.

Seventh. He or they must see that the money is not spent for unreasonable and unnecessary maintenance of any able-bodied person in idleness.

Eighth. He or they must see that no money is used to unreasonably and unnecessarily employ a person or persons, and that no payment is made to any person of any salary or wages in disproportion to the service rendered.

Ninth. He or they must determine whether the annuitant has refused to pay any just obligation.

Tenth. If annuitant has income of less than $2,400 per year not derived from personal service, he or they shall determine what his income is and pay an annuity of the difference between the annuitant's actual income and the amount paid other annuitants.

Eleventh. He or they must provide for methods of identification and registration of annuitants.

Twelfth. He or they must see that eight or ten million annuitants do not engage in gainful occupation.

Thirteenth. All taxes shall be deemed levied and become payable on all transactions occurring 30 days after the act takes effect.

These are only a few of the duties imposed upon the Administrator of Veterans' Affairs, the Collector of Internal Revenue, and the Secretary of the Treasury. Some job! Think of eight or ten million reports coming into an office monthly made by aged people, many of whom are too feeble to write. Think of the condition and the form of those reports. Think of the required monthly reports from millions of farmers, garage men, gas stations, merchants, manufacturers, banks, businessmen of all kinds, individuals, corporations, townships, cities, counties, boards, commissions from 48 States and from the United States Government itself. Think of the United States Government reporting every transaction, pay check, and purchase and paying a tax thereon. The United States Government is not exempt under the provisions of this act. The only exemption I find—and that is only partial—applies to the

banker and bank deposits. Think of these millions of reports coming into an office, accounting monthly for every transaction from the sale of the Woolworth building down to a 10-cent sale made in that building. Reports accounting for every dollar paid in salary or wages in the United States, whether it be to the President or to a hod carrier. Reports accounting for every dollar of taxes paid in whatever form by every taxpayer in America and paying a tax on that tax. Every interest charge, telephone, telegraph, electric light, and freight bill is included. It is impossible to begin to describe the extent of this law.

Mr. Glen J. Hudson, of Oakland, Calif., one of Dr. Townsend's experts, a leader in this movement and one of the framers of the second McGroarty bill, testified at the committee hearings that in 1929 the United States did $1,200,000,000,000 worth of business. Mr. Hudson further testified that in 1929 each dollar was used 132.70 times, according to the New York banks. He quoted the Research Division of the Federal Reserve Board and Dow Jones as his authority.

This is twelve hundred billion dollars' worth of total business transactions each year. If the average of each transaction were $100, it would mean that someone would have to make and check over returns on over 12,000,000,000 transactions each year in 12 monthly installments. Imagine the field force and office force necessary to check over these reports 12 times each year to see that 12,000,000,000 transactions representing $1,200,000,000,000 were properly accounted for, the amounts properly computed, and the tax properly paid monthly. I will say to General Hines or Secretary Morgenthau, "Gentlemen, you have some job. If you get away with it, all I can say is 'What a man!'" Consider the tremendous expense and cost of administering and enforcing this law. I believe I am conservative in saying that a small part of that cost and expense would pay a real pension to the aged of our land.

I am merely pointing out the absolute and utter absurdity of the proposed law and the impossibility of enforcing it. I want to ask the most enthusiastic supporter of either the Townsend plan or the McGroarty bill how long he or she thinks the general public would stand for an enforcement of a law of this kind. If this law is ever passed and any attempt is made to enforce it, you will see many a tax collector tarred and feathered and driven out of town. We had a little experience in Michigan in 1933. We passed an old-age pension bill and made provision that the money be raised with a head tax. The legislature appropriated enough money to take the census of old people. They took that census, but when they tried to collect the head tax it was so unpopular that no one dared make the collection. Not enough money was taken in to pay the expenses of taking the census, and certainly none with which to pay the pension. The administration which was responsible for that law was defeated at the next election, and that head tax was one of the factors of that defeat. Right here is where I want to ask the people of my district who have joined a Townsend club, "How many of you paid that little $2 head tax? I paid mine. Did you pay yours?" You know and I know that if this law is ever passed it will make the old-age pension so unpopular that it will be years before that cause will regain the ground it will have lost. It will put us back to where we were 15 years ago when as a member of the Michigan State Senate I first advocated an old-age pension. Some of the Members of Congress are wondering whether they can be reelected if they vote against the McGroarty bill or oppose the Townsend old-age-pension plan. I am wondering whether they can be reelected if they vote for this bill or support the Townsend plan.

I want to comment on just one other feature of the old-age pension. Some 14 years ago I spoke in a little town in my district on Memorial Day. There were 168 Civil War veterans located in that community on land given them by the Government as a bounty. They had cleared the forest, built their schools, their churches, their homes, and turned that wilderness into a successful farming community. All but a few of these old soldiers are now sleeping on the hillside. They fought to make this country a better place in which to live for themselves, their children, and their grandchildren. They fought to preserve the Union just as the old Confederate veteran fought for what he believed to be the rights of his State. Many times I have heard some of these old veterans, as their family was growing up, say, "I want my children to have a better chance in life than I had. I don't want my children to work as hard as I have had to work." Today their children and in some instances their grandchildren have joined a Townsend Club in their community. I have a family, and as a husband and father, I have two ambitions in life. One is to save enough money so the mother of my children and I will be independent in our old age. In other words, I want for myself and my wife old-age security. The other ambition I have is to give my children a good start in life. I think every father and mother has these two ambitions—old-age security and the desire to have their children do well. I do not believe there is a father or mother, a grandfather or grandmother, who would do anything to handicap in any way their children or grandchildren as they go through life.

After all, there are, according to the 1930 Census, 122 million people in America. Approximately 10 million of these will benefit by an old-age pension. The other 112 million will have to pay the cost of the old-age pension. Who are these 112 million people? They are the children and grandchildren of the first 10 million.

Is there one among those 112 million people who is so ungrateful, so selfish, so devoid of feeling and of love to those to whom he or she owe their very existence, that he or she does not want to do their share toward giving the old father and mother or grandfather or grandmother that security in old age to which they are entitled? On the other hand, is there one of the 10 million aged who is so selfish that he or she can ask for a sum that is larger than is necessary to give them that security in old age, a sum which under this bill will be so large that to raise it, it will require the taxation and retaxation many times of every article purchased by their children for themselves and their grandchildren. I still believe in that old Grandpa and Grandma who always got more joy and happiness in giving than in receiving. I don't believe that the aged of our land want that sort of a law. I don't believe that sort of a tax is necessary. I believe we can have old-age security without it. That law should be so simple that the average person can understand it; so definite in its terms that everyone will know just how much they will receive, how much they will pay, and how they will pay it. I stand ready and willing to support such a law.

In conclusion, let me repeat what I said in my speech of January 27:

> Would it not be wonderful if on the first day of every month an old couple could go to the post office and get a check for $60? Would it not be a wonderful thing if they could depend upon that amount monthly, without strings attached as to spending but to spend as the pensioners saw fit and without having Government employees coming into their homes to see what the money was spent for? Not perhaps everything that we would like, but a beginning. I recognize the absolute inadequacy of the present law. I am willing to do everything I can to bring about the passage of a law which will place a definite sum into the hands of every aged person on the first day of every month, commencing not next year, or the year after, but now.

[Applause.]

Mr. MAIN. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. Yes.

Mr. MAIN. Does the gentleman realize that at the bottom of page 2 of the McGroarty bill there is an exception whereby any single isolated transfer of property of fair value less than $100 which does not arise in the usual course of an established business is exempt from the operations of the bill?

Mr. ENGEL. I am putting that section in as it is, but an isolated transfer does not include the matter of insurance or a man's wages or a man's grocery bill.

Mr. GREEVER. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. Yes.

Mr. GREEVER. I am interested in what the gentleman is saying, and would like to know if he has ever estimated

how many people it would require to carry out the terms of the bill?

Mr. ENGEL. It would be impossible for me to estimate that. It is impossible to carry it out, in my judgment, to account for $1,200,000,000,000 in transaction and check over every pay roll annually.

Mr. MAIN. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. Yes.

Mr. MAIN. Does the gentleman realize that even though he spent his whole congressional salary of $10,000 per year in his own community he would pay only $200 as a direct tax into the Treasury of the United States for the purpose of financing the Townsend old-age plan?

Mr. ENGEL. And I would pay 12 percent on everything that I buy. I would pay 10 percent tax on any income tax I pay.

I would have to pay 2 percent tax on my rent, on my life insurance, and everything, according to the statement of Dr. Doane.

Mr. MAIN. But does not the gentleman realize that he would pay directly only 2 percent of his entire salary or his income to the support of this plan?

Mr. ENGEL. The law provides for a 2-percent tax on all salaries. I have no objection to that. I maintain a man drawing $10,000 a year salary could better afford to pay 10 percent of that salary than the wage earner could afford to pay that 2 percent.

Mr. WOODRUFF. And how much would the gentleman take indirectly?

Mr. ENGEL. I have enumerated that in this talk. They would pay from 2 to 12 on everything that they buy, including rent, electric-light bill, everything. It is entirely too broad.

Mr. WHITE. The gentleman mentions the cost in Detroit, Mich. Is it the gentleman's contention that that money is to be withdrawn from that community and not to be respent there?

Mr. ENGEL. Here is my contention. What is the difference between these two cases? If it is the question of increasing business, suppose you have 12 men and each one of them spends $200 a year. That would be $2,400. Suppose 11 of them give their $200 to the twelfth man and he spends the $2,400. That is the McGroarty bill. It would not, in my judgment, increase the total business transactions as the total amount spent would be the same.

Mr. MOTT. Will the gentleman yield?

Mr. ENGEL. I yield.

Mr. MOTT. I am not sure that I get the gentleman's argument. As I understand it, it seems to be the gentleman's contention that because under the McGroarty bill a person pays 2 percent on his salary, 2 percent on this thing that he buys, 2 percent on this thing that he needs, 2 percent on his rent, that all of those 2 percents together would run his tax up several hundred percent. The fact is that that is not the case, obviously. If everything that you have to buy is increased by 2 percent or 10 percent under the McGroarty bill, then is it not true that the ultimate tax burden would be that increase of 10 percent or 2 percent or whatever you say it is in the cost of your living? I ask the gentleman if he can make anything except that out of it?

Mr. ENGEL. I think the gentleman will find the answer to his question in what I have already said. I have tried to state heretofore exactly what the wage earner, the farmer, the merchant, and so forth, will pay.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. ENGEL] has again expired.

Mr. TARVER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, in an Associated Press dispatch carried in many newspapers on Saturday afternoon there appears an outburst from a gentleman who, in the absence of a more appropriate name, I shall refer to as Cotton Ed. Cotton Ed, it seems, has always posed as the representative of the southern cotton farmer. Just what grounds he has upon which to base the claim of his friendship for the southern cotton farmer I am not advised.

It seems that this House, in the passage of the bill on Friday of last week, offended Cotton Ed by including in that bill some provision for the tenant and sharecropper class who, until that amendment had been included in the bill, were apparently not going to receive any benefits as the result of its passage, although it involved the paying out in benefits to the farmers of the country, who were the owners of land, of approximately a half a billion dollars.

The House of Representatives, as I have said, made some provision in the bill for this class of our agricultural population. It was not so definite a provision as in my judgment should have been made, but it at least directed the attention of the Secretary of Agriculture and those under him to the fact that Congress did intend that the tenant sharecropper class of farmers should not be ignored in the administration of this bill. There appears no reason why a real friend of the farmer, such as Cotton Ed has claimed to be over a long period of years, should have become excited because of the inclusion in this bill of such a manifestly just provision, but in the Associated Press article to which I have referred it is stated that the gentleman in question "bristled and roared" when his attention was called to this provision, and among other statements said something like this:

> What kind of a fool thing is this they have adopted? The tenant and sharecropper get it all now. They are given their part of the crop with no strings on it. The landowner has to pay taxes and cost of production, housing, implements, and repairs. It is not fair that he should give away what he gets for good land practices, which make more money for his workers.

Now, I want to call the attention of the Members of this House to these facts: I assume that the majority of the membership are already acquainted with them, but for fear they may not be, in order that they may be included in the RECORD, I wish to point out that the 1930 census shows that in the South alone there were a total of farm operators aggregating 3,223,816; that of this number the owners were 1,415,675; managers, 17,358; tenants 1,790,783, of which number 776,278 were sharecroppers. As against 1,415,675 landowners in the South, according to the 1930 census, we therefore have 1,790,783 tenants and sharecroppers.

Under those circumstances, how can there be a man anywhere in the country, and especially from the South, who would stand up and say in the discharge of a legislative duty, that a bill which was intended, at public expense, to carry benefits in the nature of a subsidy to the farming classes of this country should contain absolutely no provision for tenants, of whom there are more than 1,700,000 in one section of the country, but should provide that all benefits payable in that section should be paid to the land-owning class of 1,400,000; and that the same rule should apply throughout the country as a whole?

Mr. COX. All of that 1,700,000 having been discriminated against in the administration of the law heretofore.

Mr. TARVER. My colleague is quite right in his statement. It is generally acknowledged, at least it is acknowledged in the section of the country where the Bankhead Act operated, that in the administration of the Bankhead Cotton Act the small farmers and the tenant farmers were in many cases unjustly discriminated against.

Mr. ROBSION of Kentucky. Will the gentleman yield right there?

Mr. TARVER. I am glad to yield.

Mr. ROBSION of Kentucky. I was very much interested in this farm relief being spread out, and the little fellow getting help. I wonder how the gentleman would administer to the tenant farmer, and why did the gentleman, the other day, when we were trying to limit relief to not more than $2,000 to any particular farmer, vote against that proposal?

Mr. TARVER. The gentleman well knows, if he is referring to the motion to recommit, that the provision to limit the relief to $2,000 to any particular farmer was included with another provision in the same motion, to prevent the use for commercial purposes of lands planted in soil-conserving crops, a provision which was generally recognized by the membership of this House as clearly unconstitutional, and which would have invalidated the entire bill, it was passed. That is my answer to that question.

Mr. ROBSION of Kentucky. I am interested in how this could be administered to help the tenant farmer, the sharecropper.

Mr. TARVER. May I say to my colleague, in the manner that was provided in the House amendment which I proposed on Friday, and which was adopted; that is, that those administering this act should take into consideration the value of the labor of the tenant in carrying out soil-conservation programs, what labor will be done by the tenant, and the extent to which the income of the tenant might be diminished because of the taking of lands which he would otherwise have cultivated, and devoting those lands to the production of grasses, legumes, or other soil-conserving crops.

That was the amendment which was adopted by the House, and it will certainly be no more impractical in administration than the provisions of the bill with reference to the payment of benefits to the landowners.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield myself 5 additional minutes.

The gentleman to whom I have referred as Cotton Ed is represented to be one of the largest plantation owners in his State. His interest in the matter, therefore, may be assumed to be the interest of the large landowner. I frankly say that I do not believe he represents the majority of the landowners of my section of this Nation, because I believe that the majority of those do not entertain such a narrow, selfish, heartless attitude toward the tenant population of our section as that manifested by the statement of Cotton Ed.

Cotton Ed is the man who sat on the Doxey bill all last summer after it had been passed by the House and refused even to allow its consideration. That was the bill which proposed to exempt three bales of cotton to each farmer under the Bankhead Act.

May I say also that Cotton Ed, according to the newspapers, last fall came down to the capital of my own State and made a speech discussing the agricultural situation, in the course of which he undertook to criticize severely the administration of the Bankhead Act because, he said, it had resulted in undue hardship to the small farmers. A great sympathizer with the small farmer, is Cotton Ed, when he makes speeches in the South; but when he issues statements to the newspapers in Washington he does not hesitate to say that the tenant and the sharecropper get all now, and the thing that Congress ought to do is to undertake to take care of the landowner. There is such a thing as playing both ends against the middle. I have known gentlemen to attempt it sometimes, without being perpetually successful. Sometimes a practice of this sort may survive in a successful manner for a number of years, but I say to you that the man who at home pretends to represent and have the interest of the small farmer at heart, but who, when he comes to Washington, adopts the view that only the landowners are to be considered, is holding with the hares and hunting with the hounds in a thoroughly unjustifiable way.

His statement has accomplished at least one thing: There has been sifted through this House the information coming from certain quarters that it was not necessary to amend this act so as to say anything should be done for the tenant or the sharecropper. Why? Why, because they said, "We are going to take care of the tenant and the sharecropper; that is unnecessary surplusage; you should not put anything of that sort in the bill. It will simply hamper us in its administration."

But this gentleman to whom I have referred, and who this article states is a very powerful influence, does not state that this amendment ought to be eliminated because it is intended, any way, to take care of the tenant and sharecropper in the bill. No. On the contrary he says, "Eliminate it because you ought not to do anything for the tenant and the sharecropper." If the conferees appointed on the part of the House agree to the elimination of this amendment and if the House should concur in the conference report, nothing could better prove that the views of the powerful gentleman on the question had been adopted, and that it had been officially determined by this Congress that in the payment of this subsidy, because it is nothing else, to the farm population of the country more than a majority in my section of the country of those engaged in agriculture should be ignored. I have no objection to the bill as a subsidy. If it were 20 times the amount, it would still be only a fraction of what has been taken from the farmers and given to manufacturers by the tariff. But it was taken from all of them, and if you are going to help farmers, help them all.

I do not claim that in what I have said to you this afternoon I have perhaps been politic. I admit that it might have been more diplomatic if I had not placed in the RECORD the facts to which I have referred, but in my judgment this is an issue about which if anything is done it must be done in the open. The forces that are operating in this Congress to deprive the tenant farmer and sharecropper of any benefits under this bill are not operating in the open.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield myself 2 additional minutes.

It was only the anger of the gentleman who issued the statement on Saturday which caused him to expose his hand so completely and to frankly admit that so far as he was concerned there was no purpose to be of any benefit to the tenant and the sharecropper; that they do not deserve the attention of Congress.

Mr. MASSINGALE. Mr. Chairman, will the gentleman yield?

Mr. TARVER. I yield.

Mr. MASSINGALE. The gentleman is familiar with the conditions of tenantry in the South, and knows about the percentage of people who are tenants and sharecroppers. I should like to get the gentleman's opinion, if he does not mind giving it, on the disastrous effects that would follow the elimination of this amendment in the bill.

Mr. TARVER. Why, my dear colleague, I believe that any farm program which is patently intended or claimed to be an agent to bring about the rehabilitation of agriculture in this country which ignores in one section of the country alone 1,700,000 tenants, while undertaking to help 1,400,000 landlords, is foredoomed to failure, and ought to fail. So far as I am concerned, I would not have voted for this bill if that amendment had not been included; and I shall not vote for any conference report which undertakes to eliminate it. If the tenant farmers and the sharecrop farmers have enough friends on the floor of this House, we will deny the right of Cotton Ed to misrepresent and ignore the rights of the tenant-farmer class of our people as he undertook to do by the heartless statement published in the papers on Saturday. [Applause.]

[Here the gavel fell.]

Mr. THURSTON. Mr. Chairman, I yield 20 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, a few moments ago the arch high priest of payment of Government bills by lottery made a personal reference to me and then was not sufficiently courteous, although he had time to spare, to permit me to correct his statement, which I will proceed to do at this time. However, before doing so, I may add I have a very high regard for the institution of learning situated in my district, from which that gentleman graduated. On the other hand, I doubt very much whether the course of training in that splendid institution had any leaning toward advocating gambling or lotteries; however, it does, I am quite sure, train the young men along the line of courtesy. I do not think the gentleman from New Jersey took that course as an elective one, otherwise he would have yielded to me a few moments ago after having used my name.

Mr. BIERMANN. Will the gentleman yield?

Mr. TREADWAY. I refuse to yield. I am referring to the gentleman from New Jersey [Mr. KENNEY], a graduate of Williams College. I do not believe he took the course in courtesy. If he had, he would have yielded to me for a correction of the statement he was then making. He said that the gentleman from Massachusetts [Mr. TREADWAY] seemed worried about a tax bill. He was absolutely in error about that. I have not the slightest worry about a possible tax

bill, as the Republican minority will have no hand in writing this tax bill. That is a matter in the lap of the Democratic majority, after they have received their instructions from downtown. So the worry is all on that side of the House. The only worry on our side is for the unfortunate taxpayers who will have to pay the bill of Democratic extravagance. That is the correction I wanted to make, if the gentleman from New Jersey had been courteous enough to yield to me. I will now proceed with the subject matter which I wish to discuss at the present time.

Mr. Chairman, we find in this agricultural bill a page devoted to an appropriation for the Bureau of Agricultural Economics. The total appropriation for the Bureau of Agricultural Economics for 1936 is $5,734,801. I have not an analysis of how that money is to be expended, but it is fair to assume that the appropriations asked for are based upon estimates which come from experts capable of saying how much the various branches of the Government need for such purposes during the ensuing year. I believe these departments intend to expend this money in an impartial manner. Five million dollars today, in view of Democratic expenditures, is just a drop in the bucket. It is of no consequence to them. And, nevertheless, I say that these estimates should be made up upon a fair, impartial, and nonpolitical basis.

During the month of September 1935 there was submitted to the Secretary of Agriculture by the Bureau of Agricultural Economics a report dealing with the cotton-reduction program of the Agricultural Adjustment Administration. This report, among other things, showed that although the price received for cotton during 1934 with the adjustment program was about 3.6 cents per pound higher than the estimated price that might have been received without the program, this difference was not enough to offset the smaller quantity of cotton available for sale; so that the estimated gross return from cotton and cottonseed were less with the program than they would have been without the program. A portion of said report, although conceded to be accurate, was deleted therefrom before publication on the basis of a memorandum submitted by an official of the Agricultural Adjustment Administration which contended that "the publication of this report will result in intensifying the criticism of the entire principle of the adjustment program."

Would not that be too bad? It would be just too bad to have any criticism intensified. So, of course, it was deleted.

When the report was issued in altered and revised form, it was accompanied by a press release stating that "Continued cotton-production adjustments are needed." This is absolutely contrary to the undeleted, unexpurgated edition of the report that came into their hands from their experts, a conclusion directly opposite to that to be drawn from the original report.

Mr. Chairman, such suppression of the true facts relating to the Agricultural Adjustment program and the publication of misleading information in regard thereto is contrary to the public interest and frustrates the effort of Congress to legislate independently and impartially with regard to the agricultural program, as has been previously done. This situation attracted the attention of the press, and I have here several most interesting items from the press. First, I have some clippings from the Wall Street Journal covering the ground to which I have just referred. Further, may I say, not on the authority of the man himself but having secured the information elsewhere, that at the press conference following the publication of the report to which I have referred, the man who had written and made that statement in the Wall Street Journal was given a first-class calling down by the Secretary of Agriculture. This information did not come to me from the gentleman himself.

What could be more embarrassing for a fair-minded newspaperman, supposed to place the facts before the reading public, than to have the head of that Department scold him in the presence of his newspaper colleagues? Nobody has ever denied that this report was deleted. Further than that, not only was an attempt made to scold this truthful reporter, but in addition to that, it was an effort to intimidate other reporters not to print things disagreeable or unsatisfactory to the Secretary of Agriculture. That is a very good illustration of how this administration and the Department of Agriculture are treating free press.

Mr. McCORMACK. Will the gentleman yield?

Mr. TREADWAY. I would prefer not to, but I yield to the gentleman.

Mr. McCORMACK. I just wanted to ask the gentleman if his statement is based on hearsay evidence?

Mr. TREADWAY. No. It is based on corroborated evidence, or I would not submit it, and furthermore, nobody has ever denied the accuracy of the report to which I have made reference.

Mr. McCORMACK. The gentleman has made certain accusations.

Mr. TREADWAY. Yes.

Mr. McCORMACK. I just wanted to know if he had based his statement upon hearsay evidence or from evidence which he himself obtained?

Mr. TREADWAY. Permit me to continue, and then the gentleman may draw his own conclusion. I am not using hearsay evidence. I am using accurate accounts from various newspapers, which statements have not been denied or corrected; in fact, they are correct, because it is so admitted in the final report sent out by the Bureau of Economics.

Mr. McCORMACK. I was confining myself to what the gentleman said about the scolding by the Secretary of Agriculture.

Mr. TREADWAY. That is correct and every newspaperman who was in the room at the time will say so.

Mr. McCORMACK. I was simply trying to find out whether the gentleman was making a statement based on hearsay or on accurate evidence.

Mr. TREADWAY. I am basing it on accurate evidence and not from any statement by the gentleman whom the Secretary of Agriculture scolded, but from other gentlemen who were in the room.

I think this answers my colleague's inquiry.

Mr. McCORMACK. I am quite satisfied.

Mr. TREADWAY. I am endeavoring to make accurate statements here and not statements based upon hearsay.

Now, bear this in mind, Mr. Chairman. This report, to which I am referring and which ought to be in the hands of Congress if a fair report is to be submitted on this subject, was made in September last. It then reached the high officials of the Department of Agriculture and the first reference to it is this corrected, deleted story issued by the Department on the 5th of February. It took them some time to get the corrections made in the way they wanted to have the report finally reach the public.

Now, what I am finding fault with is that we are making large appropriations for investigation. We are supporting every branch that furnishes information to the general public, but still it has to have a partisan, Democratic tinge or it cannot get by.

This is a just and fair criticism. What does the Chicago Tribune say about this matter in an editorial of last week? I shall read directly from it:

By withholding from the public and distorting reports of official bureaus, prepared for the information and guidance of the public, President Roosevelt and Secretary Wallace have placed themselves in the same position as unscrupulous corporation officers who withhold and distort reports prepared by auditors for the information of stockholders.

A congressional committee should proceed at once to investigate this scandal in the Department of Agriculture. The public is entitled to have the full and unexpurgated reports of the Government experts. A committee might also look into the question as to whether the suppression of official reports constitutes misfeasance and whether impeachment is called for. In any case, give the bunk about farm relief an airing before passing any more crop-control laws.

This is a portion of the editorial in connection with this subject matter. Now, there is another angle to this matter and in this connection I want to read an extract from the current issue of the Nation:

The supposedly nonpartisan Bureau of Agricultural Economics was caught doctoring a supposedly scientific report on the cotton situation in order not to embarrass the administration's efforts to get the new A. A. A. bill through Congress. Credit for the disclosure belongs to John W. Hazard, of the Wall Street Journal's

Washington bureau, who, undaunted by a rebuke from Secretary Wallace for having stated 2 weeks ago that the report had been doctored, ferreted out a copy of the report as originally written and a copy of an A. A. A. memorandum objecting to sections of the report as inimical to continuance of the crop-reduction program. Comparison of these with the report finally made public showed that the objectionable passages had been deleted and comments in line with A. A. A. policy substituted for them.

It seems to me, Mr. Chairman, that these facts absolutely nullify the advantages of this supposedly impartial type of report. I am not at all surprised about this. The Democratic administration is so obsessed with putting these blame-fool notions through that they will go the limit, even to doctoring their own reports or reports submitted by their own officials.

There is another angle to this same question. There has been a gentleman connected with this Bureau for 16 years. He was 6 years at the head of the Bureau of Agricultural Economics, and about the time this report came out he found it advantageous to resign, and a gentleman who is a college professor, of course—we expect these places to be filled with them—a college professor who had been in the hog end of the work of the Department of Agriculture—I do not know just what he was doing there, but, at any rate, that was his official position, having something to do with hogs—Democratic hogs, I guess—was appointed to this gentleman's place after his 16 years of expert assistance in the Department of Agriculture. You can draw your own conclusions.

I was quite interested to look over the report or the memorandum that the new chief gave to the Subcommittee on Appropriations. He simply filed with this subcommittee various items, handed to him, undoubtedly, because he is evidently quite an honest man, for he says, "I have been in the Bureau about 9 months and have not known very much about the working of it except in a general way up to this time." He is honest enough to admit he does not know anything about it, but he did take the place of a man who knew all about it, whom they wanted to get rid of.

Now, there are other newspaper comments just as adverse to this situation as the ones I have read. Here is a front-page story, under date of February 14, in the Baltimore Sun:

Report on cotton outlook altered. A. A. A. requested Agricultural Economic Bureau to make change. Aim reported not to embarrass work for new farm program.

In other words, the report as finally submitted had to have in it the line of argument the present Triple A officials wanted to have there. If that does not absolutely nullify the value of the report, tell me what would.

Now, the Baltimore Sun follows up this 2-column story with some details. Changing the Facts is the title of the editorial. It says:

CHANGING THE FACTS

There are in Washington several agencies that were established exclusively for the purpose of engaging in research and fact finding. Their activities are supposed to be, and as a rule are, entirely above politics. They serve no political party but only the public.

Recently, however, according to a despatch from Washington by Mr. Paul Ward, the Bureau of Agricultural Economics, one of these nonpartisan agencies, "revised a report on the cotton situation at the A. A. A.'s request in order not to embarrass the administration's efforts to get its new farm program through Congress." One section of the original report indicated, on the basis of a special study, that "though the A. A. A. had succeeded in raising cotton prices by reducing production the farmers enjoyed no actual benefit", for their returns were less than they would have been had there been no reduction of output.

The revised report omitted this significant section. The Secretary of Agriculture, as Mr. Ward recalls, sought subsequently to deny that the original report had in any way been revised. He called upon the Bureau of Agricultural Economics for confirmation of his contention, and this was forthcoming. As a result, Mr. Wallace took to task those newspaper correspondents who had suggested in their despatches that something had been left out of or changed in the final report. But now, 5 months later, a copy of the original report has been discovered, and this shows that the "embarrassing" section was deleted, while Mr. Ward goes on to state that this was done at the request of the A. A. A.

This matter is of great importance not only because it reveals that supposedly nonpartisan Government fact-finding agencies can be subverted to political ends but also because the original finding of the Bureau of Agricultural Economics would appear to undermine one of the administration's strongest arguments for its new farm program.

Mr. BANKHEAD. Will the gentleman yield?

Mr. TREADWAY. I will yield to the gentleman.

Mr. BANKHEAD. The gentleman has read extracts from several newspapers that are antiadministration.

Mr. TREADWAY. I do not know that.

Mr. BANKHEAD. Oh, yes, the gentleman does know it; and he says that this has not been denied. Does the gentleman know whether or not the Secretary or the members who made the report have ever been interrogated?

Mr. TREADWAY. Yes; by those members of the press who were present at the press conference, and I have read extracts of what actually happened. I am persona non grata with the Agricultural Administration, so I would not be invited to the press conference.

Mr. BANKHEAD. My complaint is that on the whole the statement made by the gentleman is not a fair accusation——

Mr. TREADWAY. It is absolutely fair, for it is accurate, and what is accurate is absolutely fair.

Mr. BANKHEAD. Will the gentleman yield further?

Mr. TREADWAY. Certainly.

Mr. BANKHEAD. Will the gentleman state on his responsibility, upon information he knows is accurate, that any real inquiry has been made of the Secretary of Agriculture or the members of this board who filed the original report as to the reasons, if any change was made?

Mr. TREADWAY. The reason why the change was made is apparent on the face of it.

Mr. BANKHEAD. That is the gentleman's conclusion.

Mr. TREADWAY. No; it is the conclusion of everyone else, that no longer can we depend upon impartial, nonpartisan information coming out of these Departments.

Mr. TARVER. Mr. Chairman, I yield now to the gentleman from Iowa [Mr. BIERMANN].

Mr. BIERMANN. Mr. Chairman, I was quite astonished to listen to a statement some time ago that the Agricultural Adjustment Administration had wastefully destroyed pork products. I thought that that accusation had been answered fully at least a year ago, but apparently it has not been answered to the satisfaction of some gentlemen on the other side of the aisle. In order not to take up the time of the Committee, I ask unanimous consent that at this point I be permitted to extend my remarks by including a letter which I received a year ago from Chester C. Davis answering somewhat in detail that accusation.

The CHAIRMAN. Is there objection?

There was no objection.

The letter referred to is as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL ADJUSTMENT ADMINISTRATION,
Washington, D. C., February 14, 1935.

Hon. FRED BIERMANN,
House of Representatives.

DEAR MR. BIERMANN: This is to acknowledge your letter of February 5 relative to the disposal of the lightweight pigs purchased during the emergency pig- and sow-buying campaign in the early fall of 1933.

There have been a number of charges or accusations made, similar to the one which you mention, that packers dumped whole carcasses into streams or piled them up in places so as to menace public health. No specific instances of such irregular disposition, however, have come to the attention of the Agricultural Adjustment Administration.

Such rumors were prevalent a few months ago, particularly in some regions. Since that time, however, I had believed that these charges had been proved false and hoped that they were no longer being spread. But if such rumors are still in circulation, they should not be allowed to go by without further refutation.

For your information and in order that you may aid us in dispelling these erroneous statements, here are some high lights relative to the processing of the pigs and sows purchased during the campaign:

The emergency pig- and sow-buying program, as you know, was recommended by the corn-hog producers and was conducted through a period of about 5 weeks, beginning on August 23, 1933. By the close of the buying period in late September about 5,100,000 light pigs, 1,100,000 heavy pigs, and about 220,000 sows had been acquired. The heavy pigs, weighing between 80 and 100 pounds, and representing about one-third of the total live weight of all pigs bought, and the sows were processed for edible use; that is, they were converted into dry salt pork, which was later distributed to needy families by the Federal Emergency Relief Administration. The heavy pigs and sows utilized in this manner yielded nearly 100,000,000 pounds, or approximately 3,200 carloads of pork.

The light pigs, those weighing 80 pounds or less, were not utilized for edible purposes, because of two reasons: (1) Their small carcasses could not be adequately and satisfactorily handled by the packing-house machinery involved in the initial processing operations, particularly the dehairing machines; and (2) the complete utilization of all pigs for edible purposes, irrespective of the higher costs involved, would have considerably delayed the program. Light pigs, therefore, were utilized for inedible products, that is, fertilizer tankage and grease, of which the inedible grease was the more valuable.

After the animals had been dispatched, the principal processing operation for producing inedible products from the whole pig carcasses was complete rendering in tanks. The grease, which rose to the top of the tank during the process, was then drained off, and the residue, called fertilizer tankage, either was dried and stored or disposed of immediately—either dried or pressed and undried as the circumstances of the processor under contract permitted. The average yield of inedible grease per light pig was about 3 to 5 pounds per animal, depending on the weight. The tankage yield, dry basis, was about 5 pounds per animal. As animal flesh is composed of a high percentage of water, the product yield on a dry basis is, of course, a small percentage of the total live weight.

All of the grease, amounting to about 21,000,000 pounds, was saved because of its value for technical uses. This grease was sold to the highest bidders during the latter part of 1933. In the case of the tank residue, only about one-fourth of the product was saved, because of the lack of storage facilities and the low value of the product. The rendering-tank residue, because of its hair content, could not be converted into digester tankage, the most valuable type used in hog feeding. Federal regulations require that digester tankage be free from hair. Regardless of the disposal of the tankage, however, the contract required that all carcasses be completely rendered in order that the maximum yield of grease should be obtained.

Depending upon the situation of the contracting processors, the tankage not dried and stored was given to farmers who came to the processing plant, or it was hauled away and dumped where such dumping was permissible, or burned, buried, or consumed at public incinerators.

All slaughtering and processing operations were carried out under the supervision of the Bureau of Animal Industry of the United States Department of Agriculture. This assured the Agricultural Adjustment Administration that the processing contract specifications would be carried out in full. At points where the Federal inspection services were not available, processors were not permitted to enter into contracts with the Secretary under the emergency program.

In a few cases it was ascertained that the processors, under pressure of heavy receipts of pigs, were failing to render adequately the carcasses, thus failing to obtain the average yield of grease. In these cases compensating deduction was made in the reimbursement to packers under the terms of the contract. Insofar as possible, objectional disposal methods were not used, and in all cases the pigs were dispatched and the carcasses were rendered before disposal of the residue.

I hope that I have answered your question fully and accurately and to your satisfaction. However, if you wish to obtain further information relative to the emergency pig- and sow-buying campaign, I shall be very glad to get it for you.

Sincerely,

CHESTER C. DAVIS, *Administrator.*

Mr. TARVER. Mr. Chairman, I yield now to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Chairman, it is frequently the case that public servants of the Government are subject to criticism; and I think it fitting, when a public servant of many years shall have terminated his service in a highly satisfactory manner, that there should be some recognition of the fidelity of that servant.

On January 31, 1936, Dr. Hugh S. Cumming, because of the condition of his health and his need for rest, retired as Surgeon General of the Public Health Service. He had held this position since February 1920, or a period of 16 years, and had served as an officer of the Public Health Service for 42 years.

Dr. Cumming is my constituent, and I do not think that his retirement from this position which he has filled with signal ability for such a long period of time should be permitted to pass unnoticed. He is the fifth Surgeon General of the Public Health Service. Preceding him have been Dr. John M. Woodworth, who served from 1871 to 1879; Dr. John B. Hamilton, who served from 1879 to 1891; Dr. Walter Wyman, who served from 1891 to 1911; and Dr. Rupert Blue, who served from 1912 to 1920.

Dr. Cumming was born in Hampton, Va., on August 17, 1869. His literary education was obtained at Symmes Eaton Academy, Hampton, Va., and Baltimore City College. He received his medical training at the University of Virginia, where he was graduated in 1893. He entered the Public Health as assistant surgeon in 1894. In 1899 he was promoted to the grade of passed assistant surgeon; in 1911 to surgeon; in 1918 to Assistant Surgeon General; and in February 1920 he was appointed as Surgeon General.

Dr. Cumming received a broad preliminary training which fitted him particularly for his service as Surgeon General. He was peculiarly qualified to deal with the medical aspects of the immigration question by service at Ellis Island, San Francisco, and in foreign countries. He was on field duty in the yellow-fever epidemic of 1900, and his work as quarantine officer at southern quarantine stations and later at San Francisco brought him into intimate touch with diseases of the Orient and Tropics against which the United States has always maintained strict quarantine. Later he was brought into actual contact in Japan with these diseases.

After a tour of duty in the Orient he began the study of the pollution of navigable streams and made an investigation of coastal waters along the Atlantic seaboard.

During the World War he was detailed to the Navy as adviser in sanitation, and later was sent to Europe in charge of Public Health Service activities relating to sanitation, returning troops, and the resumption of trade. He then served as president of the Interallied Sanitary Commission to Poland, and it was from this work that he was recalled to the United States to assume the position of Surgeon General in 1920.

Dr. Cumming is a fellow of the American College of Surgeons, the American College of Physicians, American Public Health Association, and the American Medical Association. He has represented the United States as head of the American delegation at the Pan American Sanitary Conference at Lima, Peru, Habana, Cuba, and Buenos Aires, Argentina, and was a member of the American delegation to the Immigration Conference in Rome; he was head of the American delegation at a meeting of the Office International d'Hygiene Publique, which proposed the new international sanitary treaty, and a member of the international meeting which proposed the Pan American sanitary code. He is a member of the permanent committee of the Office International d'Hygiene Publique, and is a member of the health committee of the League of Nations.

Surgeon General Cumming has received the decoration of commander of the Legion of Honor of France and the decoration of commander, Poland Restituta of Poland, and has been tendered the order Al Merito of Ecuador, the Order of Carlos Finley of Cuba, and El Sol of Peru. A special act of Congress authorized him to accept these decorations.

Among the important achievements that have been accomplished during the time Dr. Cumming has been Surgeon General of the Public Health Service the following may be mentioned:

First. Reorganization of the hospital work and expansion of hospital facilities of the service to meet the emergency of temporarily caring for ex-service men and women who were beneficiaries of the Veterans' Administration—now Veterans' Bureau.

Second. Completion of the national quarantine system by securing transfer to Federal control of the last State-owned quarantine stations in operation, which were located at the port of New York and at several ports in the State of Texas.

Third. Establishment of a national leprosarium for the care of lepers in the United States.

Fourth. Successful control of outbreaks of bubonic plague at New Orleans, La.; Beaumont, Tex.; Galveston, Tex.; Pensacola, Fla.; and Los Angeles, Calif.

Fifth. Erection of new marine hospitals at Cleveland, Ohio; Detroit, Mich.; New Orleans, La.; San Francisco, Calif.; Baltimore, Md.; Stapleton, N. Y.; Seattle, Wash.; and Galveston, Tex.; and new quarantine stations at Mobile, Ala.; New Orleans, La.; Los Angeles, Calif.; Miami, Fla.; and Sabine, Tex.

Sixth. Inauguration of plan of assigning medical officers to American consulates abroad in connection with the medical examination of intending immigrants prior to departure for the United States.

Seventh. Development and expansion of important research and field investigative activities of the Public Health Service.

Eighth. Rationalization of maritime quarantine procedures, differentiating and lessening the restrictions applied in international intercourse with the United States, and resulting in conservation of time and costs due to these procedures.

Ninth. Supervision of sanitary control of international serial navigation provisionally established on a tolerant and understanding basis, pending the completion of studies inaugurated to determine scientifically the basis for any necessary quarantine restrictions, and participation in international conferences on the sanitary control of serial navigation.

President Roosevelt nominated Dr. Cummings for a fourth term as Surgeon General, which became effective March 10, 1932.

In addition to the duties directly connected with the Public Health Service, Dr. Cumming is a member of the Board of Hospitalization formed by the President for the purpose of making recommendations concerning the expenditure of funds for the purchase and erection of hospitals used by the Veterans' Bureau. He holds a designation from the President as a member of the board of visitors of St. Elizabeths Hospital (Government hospital for the insane), an institution for the reception of insane patients under the jurisdiction of the Department of the Interior. Surgeon General Cumming was chairman of the section on public health organization of the White House conference on child health and protection. He is a former president of the Southern Medical Association, the American Public Health Association, and of the Association of Military Surgeons.

Surgeon General Cumming was three times elected director of the Pan American Sanitary Bureau, dealing with sanitary problems common to the Pan-American countries. As Surgeon General, Dr. Cumming was the responsible administrative head of the Public Health Service, whose functions, under law, may be summarized as follows:

First. Protection of the United States from the introduction of disease from without, through the Federal maritime quarantine system.

Second. Prevention of the interstate spread of disease and suppression of epidemics.

Third. Cooperation with State and local health authorities in public health matters.

Fourth. Investigations of the diseases of man.

Fifth. Supervision and control of biologic products.

Sixth. Medical examination of prospective immigrants in foreign countries and of arriving aliens at ports of entry in the United States.

Seventh. Public health education and dissemination of health information.

Eighth. Medical care and treatment of certain beneficiaries authorized by law.

Ninth. Operation and maintenance of narcotic farms designed to rehabilitate and restore to health persons addicted to the use of narcotic drugs.

In all of these services and in performance of his duties, Dr. Cumming was always diligent, faithful, and efficient. He gave them his personal attention, and no matter was too small to receive his attention if the health of the Nation was involved.

I have known him since his early manhood and my admiration for him has grown with the passing years. Quiet and modest, he has never sought for personal glory, but has always tried, as a faithful public servant, to leave behind him a record of duty well done.

Hampton, where he was born, is proud of her native son, and Virginia feels that he has added new luster to her roll of distinguished men and faithful public servants. He holds, and will ever hold, the abiding affection of his native town and State. A warm welcome awaits him at home.

I am sure that I speak the sentiments of all who have known him here when I wish for him many years of health and happiness. [Applause.]

I desire to incorporate as a part of my remarks copies of letters from the President and from the Secretary of the Treasury on the occasion of Dr. Cumming's retirement, and commending his work.

THE SECRETARY OF THE TREASURY,
Washington.

Surg. Gen. HUGH S. CUMMING,
United States Public Health Service.

MY DEAR DR. CUMMING: I have most regretfully given my approval to the finding of a board of medical officers convened at your request that you are no longer in fit physical condition to continue to bear the heavy burdens of your office as Surgeon General of the Public Health Service, and their recommendation that you be placed on waiting orders effective February 1, 1936.

In thus acceding to your wish that you be placed on an inactive status to conserve your health, I can express only inadequately my admiration for the long career of distinguished public service that you have rendered. It has been a career of benefaction not merely to the Government and the people of the United States, but it has transcended the national boundaries, and you have deserved fame as a faithful and able servant of humanity that is world-wide.

I feel honored to have had the opportunity to work with you, and I desire to record my gratitude for your wise counsel and cooperation in more than 2 years of our association in public duty.

Sincerely yours,

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

THE WHITE HOUSE,
Washington, January 28, 1936.

Surg. Gen. HUGH S. CUMMING,
United States Public Health Service.

MY DEAR DR. CUMMING: It was with great regret that I learned that the state of your health would no longer permit you to bear the heavy strain of your work as Surgeon General of the Public Health Service and that Secretary Morgenthau had therefore given approval to the findings of a medical board, convened at your request, which recommended that you be placed on waiting orders as of February 1.

Your release from active duty marks the rounding out of a career in the public service which the American people can view with pride and admiration because of the honor you have brought to them as their faithful servant and benefactor. You yourself may view it with the most thorough satisfaction in a task well done.

I am happy to recall that your labors in protecting humanity against disease and in advancing health standards everywhere have brought you deserved recognition and honor, not only in your own country but throughout the world.

I am privileged to express to you the gratitude of the Nation and to add my own thanks for the great service you have rendered.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Mr. MAPES. Mr. Chairman, will the gentleman yield?

Mr. BLAND. Yes.

Mr. MAPES. Mr. Chairman, I heartily join with the gentleman from Virginia [Mr. BLAND] in paying tribute to the very great service of Surgeon General Cumming during the many years he occupied that office. Under his direction, the Public Health Service has attained its present high efficiency and reputation. His many friends and associates, I am sure, wish him a long life of happiness.

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. WILCOX].

Mr. WILCOX. Mr. Chairman, contrary to custom I desire to make a reference to the bill under consideration during general debate. My object in doing so is to serve notice that at the appropriate time when the bill is being read, I expect to offer an amendment. My purpose in rising at this time is to urge the committee at the time of the offering of my amendment not simply to vote it down, but to give it careful consideration.

The appropriation bill for the Weather Bureau is deficient in that it does not make sufficient appropriation for storm-warning service. This service is of particular interest to my district. Probably I ought not to refer to the fact that occasionally my district is visited by tropical hurricanes which originate in the Caribbean area. For a number of years we tried to deny the existence of those hurricanes, we tried to avoid any reference to them, but denying their existence did not stop the hurricane, when it decided to pay us a visit. In recent years a number of these tropical disturbances originating in the Caribbean area have stricken my district with a resultant property loss and loss of human life that none of us likes to think about. I think

I may say with all propriety that they do not originate in Florida and that they are therefore not Florida hurricanes. A hurricane is not dangerous provided sufficient warning is given of its approach to enable the people to take necessary precautionary measures. When adequate warning has been given there has been no loss of life and practically no loss of property. Precautionary measures can be taken which greatly minimize the danger of these disturbances, but in recent years, through lack of adequate facilities, the Weather Bureau has not been able to properly and efficiently forecast the path of these tropical disturbances, the most recent of which was brought home to us in a very unfortunate way with the enormous loss of life in the veterans' camp on the Florida Keys. It is no reflection on the Weather Bureau that that hurricane struck with the resulting loss of life.

The Bureau did the best it could with the inadequate facilities at hand. These disturbances originate in the Caribbean Sea. The Weather Bureau has to depend, in very large measure, upon ships in the area for accurate information. Naturally, the ships leave the area when these disturbances arise. So when the Labor Day hurricane of 1935 struck, the Weather Bureau was without sufficient, adequate information to plot the course of the storm. The result was that it was only a few hours before the hurricane actually struck that the Weather Bureau was able to warn people in that section, and it was too late for them to get out of the area and get to a place of safety. The result was that more than 500 people lost their lives.

Mr. Chairman, I expect, when this bill is read for amendment, to offer an amendment to the Weather Bureau portion of the bill. I want to appeal to the committee not to resist that amendment. I know, of course, the difficulty of amending an appropriation bill on the floor. I know that everybody who comes in from the cloak rooms and the lobbies like to support the committee because they have not had an opportunity to avail themselves of the information at hand. Naturally, they want to go along with the committee. I want to appeal to the House and to the Committee on Appropriations not to resist this amendment, because I have just been in telephonic communication with the Director of the Bureau and he tells me that this amendment is very vital and necessary. I expect to ask for an additional amount to be made available to the Weather Bureau for the purchase of additional instruments and the installation of additional facilities which will enable the Bureau to correctly and accurately plot the course of these storms, and distribute and disseminate accurate information in time for the people in the danger zone to avail themselves of it. I do not expect to ask for any large sum. I am told by Mr. Gregg, of the Bureau, that an additional $25,000 will cover the cost of additional instruments and additional facilities. So, at the proper time, I am going to offer an amendment of that character. The purchase of instruments is only a part of a program which includes the construction of stormproof houses of refuge, but that portion of the program is expected to be financed in another way, and all I am seeking at this time is the money to purchase necessary instruments.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. TARVER. I yield the gentleman 1 additional minute.

Mr. BEAM. Will the gentleman yield?

Mr. WILCOX. I yield.

Mr. BEAM. Mr. Chairman, I am very much interested in the enlightening statement which the gentleman has just made. For my own information and the information of the committee I should like to hear just what precautionary measures, in addition to those taken, the people of Florida would avail themselves of?

Mr. WILCOX. It will take more than the minute which has been allowed me to answer the gentleman's question. If I had sufficient time I would be glad to answer the gentleman.

Mrs. ROGERS of Massachusetts. Will the gentleman yield?

Mr. WILCOX. I yield.

Mrs. ROGERS of Massachusetts. I should like to ask the chairman to yield the gentleman additional time so that I may ask him a question or two.

Mr. TARVER. Mr. Chairman, I yield the gentleman from Florida 2 additional minutes.

Mr. WILCOX. The course of a hurricane is easily plotted if sufficient and accurate instruments are available. The barometric pressure, wind direction, and velocity may be ascertained, and the path of a hurricane may be accurately plotted many hours in advance of its actual approach. But these hurricanes originate in the Caribbean area and they come across the Bahama Islands, the Lesser Antilles, across the open water. There are at this time in that area no adequate facilities for taking the barometric readings, the wind direction, and pressure, and other readings necessary to an accurate plotting of the course of the hurricanes. It is proposed by the Weather Bureau to install adequate instruments in that area and along the Florida coast, which would give them sufficient information to accurately plot the course and direction which a hurricane is taking. I may say that these hurricanes have certain well-known characteristics. Those that originate at certain seasons of the year move northward through the Atlantic. Those that originate in certain other seasons move directly westward through the Yucatan Channel into the Gulf of Mexico. Those hurricanes strike the east coast of Texas and Mexico. Those that originate in the month of September usually proceed in a northeastly direction and are apt to strike the east coast of Florida. If sufficient instruments are provided and sufficient facilities are made available the plotting of the course of a hurricane is a very easy and a very accurate matter. Once it is plotted, and sufficient warnings are given, the people may take the necessary precautionary measures, by means of boarding up their houses, and so on, and seeking places of safety so that there is no real danger of loss of life or of property.

Mrs. ROGERS of Massachusetts. Will the gentleman yield?

Mr. WILCOX. I yield.

Mrs. ROGERS of Massachusetts. Does not the gentleman think that someone was very remiss in not removing the veterans earlier? I have the report released in September of the W. P. A., and it seems to me clear, after reading this report, that there was some mismanagement resulting in great tragedy.

Mr. WILCOX. I would not want to get into that difficulty at this time. There is quite a conflict of opinion as to who, if anyone, was to blame. I should like to discuss that some other time, but I do not want to get that question involved here. Of course, we all have our own ideas as to who may or may not have been at fault, but I can say to the lady that I believe, if we had had accurate instruments and enough of them in enough places so that the course of the storm might have been accurately charted, sufficient information could have been given in advance of the approach of the storm, that the veterans could have been removed.

I hope, Mr. Chairman, that when I offer this amendment it will not be voted down.

Mrs. ROGERS of Massachusetts. Will the gentleman yield further?

Mr. WILCOX. I am sorry, but my time has expired.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. FORD].

Mr. FORD of California. Mr. Chairman, I was very much interested in the very illuminating and brilliant presentation by the gentleman from Florida [Mr. WILCOX] of what might be done to avert the results of hurricanes in his region. I want to call the attention of the House to the fact that there is another hurricane on the horizon, which we might call a political hurricane. That hurricane is the Townsend plan.

Opponents of the McGroarty bill are vehement in their asserting—first, that it will not accomplish its purpose; second, that a transaction tax will so pyramid as to increase

the price of commodities that a situation of wild inflation will result; and, third, that the idea is ridiculous; which, of course, is not argument at all but merely opinion, backed only by prejudice, and barren of facts in substantiation of the position.

It is my view that a 2-percent transaction tax will produce sufficient to pay every qualified person over 60 a pension of $200 per month.

It is my opinion, based on careful research, that this would not be a calamity but a national blessing.

Why? Because it would put a vast volume of purchasing power into circulation, based on the theory of velocity of money, a theory held by a large body of reputable economists.

This vast volume of purchasing power would arise due to the fact that the money would be spent in the 30-day period.

This would increase demand for consumer goods. This demand for consumer goods would at once call for increased production. This increased production would call for increased manpower to meet the demand; thus, our unemployment problem would be solved and prosperity, such as we cannot even envision, would result.

There would be some increase in prices, but there was a vast increase during the war due to the war demand—at that time it was 37 percent—and most of the goods went abroad—and everyone was prosperous. No one, I am sure, has the hardihood to maintain that we are today able to consume all that we produce. Give us the McGroarty bill, and that happy situation will be brought about.

This would create an increased demand for goods produced and consumed at home.

It would not transfer purchasing power from one group to another, as is charged, because the demand would at once, through higher wages, increase the purchasing power of both producer and consumer.

Eighty-seven and one-half percent of all the purchasing power of money in this country comes from pay checks. The pay check consumes 87½ percent of all the goods and services produced in the United States. If you increase the number of people drawing pay checks, by reason of this increased labor you will increase the wages of labor and the purchasing power of labor; and, Mr. Chairman, increase of purchasing power has been the one thing this Congress has done its best to bring about. Here is a plan simple in conception and nothing like as intricate in execution as most of its opponents claim. It would actually increase the consuming power of a vast number of the people of the country. By reason of their increased purchasing power there would be a tremendous demand for consumer goods. This tremendous demand for consumer goods would call for the rehabilitation of many of the factories that now lie idle. It would bring into operation that well-known law of the velocity of money; and, in my reasoned judgment, it would bring about prosperity.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield 15 minutes to the gentleman from Georgia [Mr. CASTELLOW].

Mr. CASTELLOW. Mr. Chairman, I ask unanimous consent to revise and extend my remarks, and to contract the same if necessary.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. CASTELLOW. Mr. Chairman, I had no idea of being able to secure time this afternoon to address the House upon any subject whatever until just a little while ago. It had been my hope to have secured some time during general debate on the agricultural conservation bill.

I was struck especially with the remark made by my most esteemed and highly appreciated colleague, the gentleman from Georgia [Mr. TARVER] on that occasion. It did not seem that he was entirely satisfied with all of the provisions of the bill, and on that I certainly have no quarrel with him. One of the suggestions he made in regard to the situation was that it did not yet appear what answer would be given to the oft-repeated question of the gentleman from Pennsylvania [Mr. RICH], "Where are you going to get the money?" There is but one place from which money can be secured by the Government, and that is from its citizens, and from that class of its citizens who produce money. Money is not produced except by those who labor. The men who produce money, as a rule, are not in the millionaire class, but are those who earn their living by the sweat of their brow. Most of the money which we have, and which we are appropriating, has or will come from the toiler; and who has a better claim to that expression of identification than the farmer? Since he, in the last analysis, must provide most of the revenue for the Government, he should certainly be entitled to some consideration in its distribution.

The question of taxes which has not yet, it occurs to me, been seriously considered, will finally be of utmost importance. In this connection, Mr. Chairman, I desire to call the attention of the House to the remarks which I made in January 1934 upon this subject. At that time I said that I found in this legislative body one committee to deal with the expenditure of money and a separate and distinct committee to provide the revenue out of which the appropriations are made. At that time I compared it to the situation of the head of a family who is called upon to produce the money to meet the family budget without having any say-so as to how it should be spent. As I recall, I stated on that occasion that I felt the old man who toiled to earn the wherewithal should at least be consulted at times about its distribution and expenditure. I went so far as to suggest that the Committee on Ways and Means should act first, should see how much money could be raised, from what sources it could be supplied, and that after we had accumulated the money we should consider its expenditure. I stated it was my observation that the successful man in the conduct of his business or his home was the man who provided the money before he even permitted his good wife to go shopping and who acquainted her with the amount he had. Then she could more wisely make her choice of purchases. As it is good for an individual, so I believe it would also be good for a government. Not only that, there is a psychological effect.

Throughout all time taxes have been unpopular and government officials desiring to retain individual popularity developed the policy of imposing taxes in such a way as not to invite too much criticism or opposition from the people who had to pay them. Consequently they often resorted to indirect taxes, and this is the one thing that will destroy financially a man or a nation quicker than any other—concealing the thing which kills. Strychnine is one of the bitterest of all drugs, but administered in capsules its taste is concealed. Its destructive effect, however, is just as sure.

Taxes may be concealed from the people upon whose backs they are placed, but the weight is there just the same, and bears down accordingly.

I have even gone to the extent of saying I doubt the advisability of permitting a government to issue any bonds whatsoever. They should run on a cash basis. They should collect the taxes as they go along. If they will do that, there will always be sound government and not so much complaint about reckless expenditures. There is a psychological effect to that also. If you do not agree, just try it. We should cease buying on credit. As I have stated before, there are two words which I believe are responsible for more bankruptcies than all others combined, and those two words are "charge it."

If every man were required to pay in cash his proportionate part of governmental expenditures as made, and not be permitted to make payment even by check but, rather, count it out in new silver dollars, governmental extravagance could not exist. Adopt this policy, if you will, in your private affairs and note the result. Pay over the counter in new silver dollars! You will see what difference it makes in the budget that must be provided.

Mr. Chairman, this is not all I had in mind to say about this bill. I made some remarks in this House on the 6th day of February in reference to regimentation. I believe there is not a man in America, whether he be from the North, West, East, or South, who is more opposed to being regimented, supervised, and controlled than I am. You may not

readily recall my remarks on that subject, but if you do and have noted my vote on the agricultural bill it might occur to you there is some inconsistency. However, I insist that my conclusion in each instance is not only reasonable but logical. The agricultural bill, as before stated, contains certain objectionable features. It makes of the Secretary of Agriculture a court of last resort. For this year and next it gives him a broad discretion in distributing $500,000,000 annually among the farmers of the Nation, in accordance with regulations to be formulated. Thereafter, and as a permanent policy, payments or grants will be made from the Federal Treasury to the farmers of each State in accordance with laws or plans formulated and submitted by the respective States or organizations therein, provided such laws or regulations are approved by the Secretary of Agriculture. In other words, the Department will not formulate these plans—that will be left to the States or subdivisions thereof—but before any State may draw anything from the Treasury of the United States the plan must be approved by the Secretary of Agriculture.

The Secretary cannot compel anyone to come into this program. No one can be forced into this program under the bill. However, by way of illustration, suppose an aggregation of 48 men were called upon to provide a fund for a banquet. The table is spread most abundantly with food. The master of ceremony announces, "Now, here we have the food. You see it. I cannot compel a single one of you 48 men to come in and sit at this board or partake of these refreshments. You may come or not, as you like; there is nothing compulsory. Although there is no other source of supply and you have contributed your proportionate share to this splendid spread, you cannot partake thereof without my approval. If I do not like the set of your hat or the cut of your pants, you will have to step out. You must submit yourself for my approval before you can enter. It is up to you, not to me, as to whether you come in; but, if you do not, you may remain out and perish to death, you darned old fool."

There you are. That is the plan. There is no compulsion; none whatsoever.

Just a few minutes ago I remarked to the gentleman from Georgia [Mr. TARVER], when someone on the other side was talking: "I thought when I came here that we were in such a great majority the Democrats had the advantage of the Republicans. But I find, as usual, the Republicans seemingly have it their own way. They have three times as much time per capita to talk as have the Democrats. That is pretty good management for the Republicans, it seems to me."

To this my good friend [Mr. TARVER] replied, "You must take into consideration this fact: I was in the House when the situation was reversed, and we had three times as much time per capita, which shows that it is not satisfactory to try to fix things just for today. You have to think about tomorrow." Then I asked my good friend: "What about the bill we passed last week?" What of the agricultural program we have been administering under a Democratic regime? The Secretary of Agriculture is the arbiter of this entire program, and yet it would seem, from certain remarks heretofore made upon the floor, that at least it has not been conducted in conformity with the wishes and to the liking of some of the most pronounced Democrats in the House.

The gentleman from Texas [Mr. BLANTON], stanchest of the Democrats and a consistent supporter of the administration, declared on the floor of the House on January 8:

> I do not approve of many things that Henry Wallace has done. He has filled my district with Republicans from Iowa and from all over the West. He has an army of them down there.

[Here the gavel fell.]

Mr. TARVER. I yield the gentleman 5 additional minutes.

Mr. CASTELLOW. Mr. Chairman, that statement, as I said, came from the gentleman from Texas [Mr. BLANTON], the Democrat of Democrats. It will be recalled what he said about the situation in his district, and this with a northern Democrat administering the act. What will happen, I ask my friends in the South, when a northern Republican is telling the men of the South who produce the cotton what they must do before they may seat themselves at this banquet board? I can hear now the cry coming from the far-away Dixieland asking the men who are in Congress then, "Where were the Democrats, especially from Georgia, when this bill was put over in the House?"

Think of the situation! It is all right today, possibly, the gentleman from Texas, Mr. BLANTON, states, or I would infer from his remarks that it is even all right now; but how will it be then? Look and see what the situation really is and do not legislate only for today, but think of tomorrow, next year, and throughout the time to come. This is the danger in this kind of legislation. We call it emergency legislation, but when the emergency has passed and another body sits in the seat of the mighty, and they enact certain laws, provide rules and regulations that are not satisfactory to us, then they will point to us and say, "If we are wrong, you pointed the way", and what will be our answer?

My justification in supporting the legislation may be understood from the following illustration: In going through a penitentiary you may find one of the inmates eating, and you may say, "My friend, do you like to be in the penitentiary?" The man would most probably reply, "No; I regret it and detest above all things being in the penitentiary." Then you would say, "Why, then, are you eating? A sure way to get out would be to quit eating, would it not?" The answer is apparent. Although in the penitentiary, why refuse nourishment?

I am speaking seriously. We in the South, as I see it, by much of our legislation, are putting ourselves in just that situation.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CASTELLOW. Mr. Chairman, I wanted to discuss a subject that has been talked about on this floor quite a good deal, but seeing the gentleman from New York [Mr. WADSWORTH] here, I will not have time to take that detour. I always listen to what the gentleman from New York has to say. The gentleman compared the things we have been doing to a balloon that you pressed on this side and it bulged out on the other, or you pressed it at the bottom and it bulged out on top, and so forth. Long before I heard the gentleman speak I had been thinking somewhat along the same line, and here is the way I illustrated the situation. God Almighty has put us flat-footed on the ground, and as long as we so remain we are reasonably safe from tripping. But when ambition prompts one to seek an artificial height by the use of stilts, although only 6 inches in height, he arouses in another a similar ambition to surpass him. Forthwith, he provides himself with 12-inch stilts. Another, unwilling to be outdone, makes his 2 feet in height, and so on until 6 feet or more might be the artificial elevation. The higher they are made, however, the more uncertain is the balance and sooner or later a limit is reached, and one and all topple and tumble to the ground.

In order to protect industry and provide for it superior advantage a high protective tariff was levied. This made it imperative that a similar advantage be given to farming and other industries. We have undertaken, it seems, to raise every enterprise to artificial levels. If everything is placed upon a level, what advantage is there to any even at a dizzy height, for a level is a level after all, and the closer to the ground the more secure. In a recent discourse by the gentleman from New York [Mr. WADSWORTH], he was asked this question by the gentleman from Mississippi [Mr. RANKIN], "Did not the distortion of the economic balloon begin with pushing in the thumb of high-protective tariffs for special privilege?" To this Mr. WADSWORTH answered, "It did." Since I have been in Congress I have heard thousands of questions and answers, but I do not recall I ever heard a single answer of yes or no except on this occasion. [Applause.]

I also believe this all began with your tariff, and now with everybody on stilts, what can the poor farmer do except to

get on stilts himself, even though he knows he is liable to break his neck; but I trust to goodness he does not. [Laughter and applause.]

[Here the gavel fell.]

Mr. THURSTON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SNELL].

Mr. SNELL. Mr. Chairman, earlier in the afternoon, the gentleman from Illinois [Mr. KELLER] was giving some comprehensive statements relative to the finances of the country. He was deploring the fact that in some years the percentage of the rate of high income taxes was reduced. He said that if they had kept them up we would have paid the national debt. At that time I asked him a question, and I said if my memory served me correctly that after the reduction of income rate in the 1924 tax bill we received more income for the Government from income taxes than the year before. He said I was entirely mistaken. I did not proceed much further but I told him that if my memory served me, I was correct.

Since then I have looked up the report of the Secretary of the Treasury for October 31, 1927, and I will read from that report:

The Revenue Act of 1926 eliminated about 2,000,000 individual taxpayers; it increased by 50 percent and 40 percent, respectively, the exemptions for single and for married persons; it cut the normal rates drastically and reduced maximum surtax rates from 40 percent to 20 percent; it doubled the limit of income to which this earned-income provision applied. It was very naturally anticipated that these changes would result in a considerable off of revenue.

In its report the Ways and Means Committee estimated a reduction of $46,000,000 in normal tax, over $98,000,000 in tax returns from the surtax, and a further loss in revenue of $42,000,000 due to increased exemptions. As a matter of fact, however, the individual filed for the calendar year 1925 showed a larger tax return than did those for 1924, the total (net income) tax returned inceasing fom $704,000,000 to $734,000,000. The Treasury Department had always contended that lower rates would be more productive than the very high rates which prevailed, but neither the Treasury Department nor the Congress had anticipated such an immediate increase, an increase which was, of course, greatly accelerated by the rising tide of prosperity.

Mr. KELLER. From what is the gentleman reading?

Mr. SNELL. I am reading from pages 2 and 3 from the Revenue Division in hearings before the Ways and Means Committee, October 31, 1927, the report of the Treasury which will substantiate my statement.

Mr. THURSTON. Mr. Chairman, I yield 30 minutes to the gentleman from Massachusetts [Mr. TINKHAM].

Mr. TINKHAM. Mr. Chairman, on February 6 I addressed the House. I stated that at a later date I intended to submit to the House evidence to warrant the charge that Walter Hines Page, United States Ambassador to the Court of St. James during the last war, conducted himself traitorously in that important office.

This I now propose to do.

On August 11, 1914, President Wilson issued a proclamation of neutrality. In it were these sentences:

We must be impartial in thought as well as in action; we must put a curb on our sentiments as well as upon every transaction that might be construed as a preference of one party to the struggle before another. * * * Every man who really loves America will act and speak in the true spirit of neutrality, which is the spirit of impartiality and fairness and friendliness to all concerned.

This neutrality proclamation bound all Americans to be neutral. It bound all Americans who loved America to be impartial. It enjoined upon all American officials particularly, if they were to be loyal to the United States and to the President who had appointed them, to be impartial in thought as well as in action.

Walter Hines Page occupied the most exalted post in the diplomatic service of the United States. He was United States Ambassador to the Court of St. James.

Great Britain was then a belligerent. The United States was neutral.

It was the official, if not the sacred duty, of Ambassador Page to help the State Department to hold Great Britain to international law, and thereby protect the rights of Americans. Instead of doing that, he threw all his strength upon the side of Great Britain, as the record will show.

In the Intimate Papers of Colonel House, by Charles Seymour, Sterling professor of history, Yale University, volume I, page 310, Mr. Seymour, in referring to the seizure of American vessels as early in the war as November 1914, only 3 months after war had been declared, has the following to say:

Unfortunately, the oil and the copper exporters in the United States felt differently, and protests poured in upon the State Department in Washington. For Mr. Page, who was in vital sympathy with the allied cause, the situation was worse than trying. His nerves became taut. As usual, the minor questions were the more vexatious. What was dangerous was that, in his misunderstanding and irritation with the State Department, he should lose sight of the Washington point of view, which he was sent to London to represent.

On page 312 of the same volume there is printed the following letter from Colonel House to Ambassador Page:

NEW YORK, *December 4, 1914.*

DEAR PAGE: I have just returned from Washington. * * *

The President wishes me to ask you please to be careful not to express any unneutral feeling, either by word of mouth or by letter, and not even to the State Department. He said that both Mr. Bryan and Mr. Lansing had remarked upon your leaning in that direction, and he thought it would materially lessen your influence.

He feels very strongly about this, and I am sending the same message to Gerard.

Faithfully yours,

E. M. HOUSE.

In a book entitled "The Life and Letters of Walter H. Page", by Burton J. Hendrick, volume I, page 394, there is reported the following conversation between Ambassador Page and British Foreign Secretary Grey early in 1915, concerning the *Dacia*, a ship owned by an American, loaded with American cotton, and carrying an American crew and the American flag. Mr. Hendrick writes:

When matters had reached this pass, Page one day dropped into the Foreign Office.

"Have you ever heard of the British Fleet, Sir Edward?" he asked.

Grey admitted that he had, although the question obviously puzzled him.

"Yes", Page went on musingly. "We've all heard of the British Fleet. Perhaps we have heard too much about it. Don't you think its had too much advertising?"

The Foreign Secretary looked at Page with an expression that implied a lack of confidence in his sanity.

"But have you ever heard of the French Fleet?" the American went on. "France has a fleet, too, I believe."

Sir Edward granted that.

"Don't you think that the French Fleet ought to have a little advertising?"

"What on earth are you talking about?"

"Well", said Page, "there's the *Dacia*. Why not let the French Fleet seize it and get some advertising?"

A gleam of understanding immediately shot across Grey's face. The old familiar twinkle came into his eye.

"Yes", he said; "why not let the Belgian royal yacht seize it?"

The *Dacia* was seized by a French cruiser in the English Channel, as Ambassador Page had suggested.

This detailed conversation shows Page, American Ambassador, conspiring with the British Government to which he was accredited to bring about the seizure of an American vessel by a foreign belligerent government. I submit that this conduct was wholly traitorous to the American people and wholly disloyal to the President of the United States, whose representative he was and who had issued a proclamation of neutrality. As the record shows, his one aim was to help Great Britain, regardless of the rights of American citizens and the proclaimed neutrality of the United States.

In the Intimate Papers of Colonel House, volume I, page 445, in relation to the suggestion of President Wilson early in 1915 that Great Britain lift the embargo upon food, we find that Colonel House wrote the following:

Page was inclined not to make a personal appeal to Grey in behalf of the acceptance of the President's proposal concerning a compromise with Germany on the question of the embargo. I called his attention to the President's cable to me requesting me to say to Page that he desired the matter presented with all the emphasis in his power. He then said he would make an appointment with Grey and do so, though one could see he had no stomach for it. He did not consider the suggestion a wise one, nor

did he consider its acceptance favorable to the British Government. I argued to the contrary, and tried to convince him that the good opinion gained from the neutrals would be compensation enough for any concessions this (the British Government) might make, and that the concessions were not really more than those made by Germany.

This, mark well, was in 1915, 2 years before the United States entered the war.

On the next page, page 446, there appears a letter from Colonel House to the President. This letter is dated at London, May 20, 1915, and is as follows:

DEAR GOVERNOR: When your cable of the 16th came, I asked Page to make an engagement with Grey in order that we might protest against the holding up of cargoes and find definitely whether England would agree to lift the embargo on foodstuffs, providing Germany would discontinue her submarine policy. Page promised to make the appointment. He did not do so, and finally told me that he had concluded it was useless because, in his opinion, the British Government would not consider for a moment the proposal to lift the embargo.

According to this letter from Colonel House to President Wilson, Ambassador Page refused to obey an order from the President and was working in the interest of Great Britain. Here we have an example of insubordination as well as traitorous conduct and disloyalty to the President.

On page 456 of the same volume, the author writes:

* * * Colonel House was anxious that President Wilson should comprehend the difficulties which Sir Edward Grey faced, how hard he was pressed by British opinion and the Admiralty, and how important it was that the United States remain on friendly terms with the Allies. Whatever the irritation caused by the restriction of American trade, House never wavered in his conviction that our welfare was bound up in German defeat. All this Ambassador Page had urged in many long letters. But the very number and length of the letters, touched as they were by pro-Ally emotion, lessened the influence of the Ambassador who, in Washington, seemed more like the spokesman of Allied interests than the representative of the American Government.

In the Memoirs of Lord Grey, British Foreign Secretary during the war, volume II, page 110, we read:

* * * In all this Page's advice and suggestion were of the greatest value in warning us when to be careful or encouraging us when we could safely be firm.

One incident in particular remains in my memory. Page came to see me at the Foreign Office one day and produced a long despatch from Washington contesting our claim to act as we were doing in stopping contraband going to neutral ports. "I am instructed", he said, "to read this despatch to you." He read, and I listened. He then said: "I have now read the despatch, but I do not agree with it; let us consider how it should be answered!"

Here we see Mr. Page, American Ambassador, grossly violating his allegiance to the United States. Again we have an evidence of his disloyalty to the President of the United States, whose representative he was. Here we see the Ambassador of the United States collaborating with the British Foreign Office in drafting a reply to a protest from the United States Government. We see him acting as a British agent.

In the Life and Letters of Walter H. Page, by Hendrick, volume II, page 23, we read:

* * * He (the President) would sometimes refer to him (Mr. Page) as a man who was "more British than the British", as one who had been taken completely captive by British blandishments, but he never came to the point of dismissing him. Perhaps he did not care to face the public scandal that such an act would have caused. * * *

In nearly all his communications to the State Department and to the President, Mr. Page spoke as a partisan of Great Britain.

As recently as January 17 last, Senator GLASS, who served in the Wilson Cabinet as Secretary of the Treasury, in a speech in the United States Senate, made the following statement:

* * * As a matter of fact, everybody intimate with Mr. Wilson knows that he was excessively impatient with Ambassador Page because of the Ambassador's frequent and incessant partiality for Great Britain. And when an extract is read here from some letter from Ambassador Page in confirmation of the miserable charge that Woodrow Wilson is a liar, I begin to wonder if that was one of the letters from Ambassador Page which Wilson did not read at all. * * *

This statement may be found on page 573 of the CONGRESSIONAL RECORD of January 17, 1936. Senator GLASS is recognized as a man of high courage and of impeccable intellectual integrity.

In the Intimate Papers of Colonel House, volume II, pages 268–269, referring to the situation in the spring of 1916, Mr. Seymour, the author, writes:

At London Mr. Page was on the most intimate terms with Sir Edward Grey and through him could reach the other members of the cabinet. Unfortunately, as the Ambassador's letters indicate, he himself did not sympathize with Wilson's policy. While he did not advocate entering the war as a belligerent, he insisted that diplomatic relations with Germany should be broken, so as to indicate plainly that our sympathy lay with the Allies. Feeling thus and with intensity, himself inclined to regard Wilson as pursuing the wrong course both in remaining friendly with Germany and in bothering the Allies about trade questions, he found it difficult to explain the President's policy to the British. Wilson had long supported Page against those who insisted that the Ambassador took the British rather than the American view of the war, but his patience began to ebb. On May 17, 1916, he wrote House that the Secretary of State was so dissatisfied with Page's whole conduct of American dealings with the Foreign Office that he wanted to bring him back for a vacation, "to get some American atmosphere into him again."

Then there follows a letter from Colonel House to the President, dated at New York, May 18, 1916. It reads:

DEAR GOVERNOR: I do not think we need worry about Page. If he comes home at once, I believe we can straighten him out. You will remember I have urged his coming for more than a year.

I do not believe he is of any service there at present, and the staff are able to carry on the work. They have just added Hugh Gibson from Brussels, who is a good man. * * *

No one who has not lived in the atmosphere that has surrounded Page for 3 years can have an idea of its subtle influence; therefore he is not to be blamed as much as one would think. * * *

He would have done admirably in times of peace, but his mind has become warped by the war.

He may wish to remain after he comes home, for private reasons; and if he does, I would not dissuade him. On the other hand, if he remains here for the ordinary 60 days' leave, he will probably recover his equilibrium and there will be no further trouble with him. * * *

Affectionately yours,

E. M. HOUSE.

Ambassador Page was then recalled to the United States on leave. Mr. Page was recalled to the United States because the President deemed him "more British than the British" and in need of being purged of his unpatriotic character. However, this proved an impossible accomplishment, as may be seen by the following:

In the intimate papers of Colonel House, volume II, pages 318–319, in an excerpt from the diary of Colonel House, we read:

September 25, 1916: Walter Page called this afternoon (he wrote) and we had a 2-hour conference. I cannot see that his frame of mind has altered. He is as pro-British as ever and cannot see the American point of view. He hit Lansing wherever he could, but expressed profound regard for the President—a feeling I am afraid he exaggerates. * * *

On the following page, page 320, we read:

X (of the State Department) expressed much concern over our strained relations with Great Britain, which are growing worse rather than better. He attributes it to the two Ambassadors, Page and Spring-Rice. Of the two, Spring-Rice is more to blame, because Page is persona grata in London and creates no irritation, since he wholly agrees with the British point of view.

In the Life and Letters of Walter H. Page, by Hendrick, volume II, page 11, in discussing the selection of the successor of Mr. Bryan, who had resigned as Secretary of State, Mr. Hendrick indicates that the appointment of Mr. Page as Secretary of State was being pressed upon the President by Colonel House. Mr. Hendrick then states:

* * * But President Wilson believed that the appointment of an Ambassador at one of the belligerent capitals, especially of an Ambassador whose sympathies for the Allies were so pronounced as were Page's, would have been an "unneutral" act, and, therefore, Colonel House's recommendation was not approved.

In the recently published War Memoirs of Robert Lansing, Mr. Lansing, in referring to his own appointment as Secretary of State in June of 1915, pages 15–16, makes the following statements:

* * * He (the President) undoubtedly considered, among other names, those of Secretary McAdoo and the Honorable Walter Hines Page, the American Ambassador to London. Possibly the latter, whose appointment was, as I have been informed, strongly urged by Col. E. M. House, the President's most influential adviser,

would have received more favorable consideration under other conditions. * * * However, Mr. Page's prejudice in favor of Great Britain had embarrassed the administration and caused Mr. Wilson many anxious hours. In view of the President's fixed determination to preserve a strict neutrality, he hesitated to give consideration to Mr. Page's name. It was the Ambassador's lack, or apparent lack, of conformity with the President's policy of preserving a neutral attitude toward all the belligerents that was the obstacle which stood between him and the vacant secretaryship; and this objection even the powerful support of Colonel House, whose personal influence with Mr. Wilson was at the time very great, could not remove, though I believe that the President, on account of his friendship for Mr. Page, would have been glad in other circumstances to have named him as Mr. Bryan's successor.

Ambassador Page was disloyal to the American people. He was not loyal even to President Wilson, and was not in sympathy with the policies of Mr. Wilson, as the record clearly reveals.

In The Life and Letters of Walter H. Page, volume III, page 279, there appears a memorandum which Mr. Page wrote about the visit of Colonel House to London in January 1916. This memorandum contains the following:

The President today sends House a telegram to the effect that the German submarine controversy being laid, all the pressure of criticism will be made on Great Britain—a certain fierce, blue-bellied Presbyterian tone in it.

On page 290 of the same volume, in discussing the so-called House memorandum of 1916, containing a proposal to end the war, which was approved by President Wilson, the author makes the following statement:

The unfortunate fact is that Page had no longer any confidence in President Wilson.

It has been publicly stated that Ambassador Page consented to a British request for permission to intercept and search the baggage of all American diplomatic officials below the rank of minister who happened to be taken by the British while traveling to and from their posts in Europe.

This most shameful violation of international law and diplomatic usage said to have been approved by Ambassador Page is another instance of the traitorous conduct of Mr. Page to the American people and of his disloyalty to the President of the United States in favor of British interests.

As has been said by others, in all this Mr. Page's conduct cannot be excused, as some have tried to excuse it, on the ground that he meant well and had uppermost in his mind only the promotion of a great cause—Anglo-American unity. That was likewise the obsession of Benedict Arnold in the later days of the American Revolution, and he worked for it in a more direct and courageous fashion.

In the Life and Letters of Walter H. Page, volume II, page 237, there appear quotations from a memorandum written by Mr. Page in 1917 after the United States had declared war. Mr. Page in this memorandum relates an intimate conversation with King George on the occasion of a visit to Windsor at the invitation of the King. In this connection, Mr. Page writes:

* * * After I had risen and said "good-bye" and was about to bow myself out the door, he (the King) ran toward me and waving his hand cried out, "Ah, ah; we knew where you stood all the time."

A memorial to Walter Hines Page has been erected at Westminster Abbey, a fitting place. Westminster Abbey is the shrine of British national heroes. We do not find there any memorial to George Washington, to Thomas Jefferson, to Andrew Jackson, to Grover Cleveland, or even to Woodrow Wilson.

I submit that the foregoing documentary evidence from the lips of Ambassador Page himself, from President Wilson, Colonel House, and other men with whom he was closely associated, fully proves that Ambassador Page was faithless to his trust and disloyal to his President. There is no escape from that record. There can be no palliation.

The moving finger writes; and, having writ
Moves on; nor all your piety nor wit
Shall lure it back to cancel half a line,
Nor all your tears wash out a word of it.

It will forever remain unknown exactly what influence Ambassador Page had in involving the United States in the last war. It is clear, however, that from the very beginning of the war Mr. Page was the agent of the British Foreign Office and was working in the interest of Great Britain; also, that President Wilson finally adopted the viewpoint of Mr. Page.

On February 6, last, I submitted to the House an excerpt from the private diary of Col. Edward M. House, dated September 28, 1914, in which it was disclosed that although he had no official status, he obtained a note written by the Secretary of State destined to the British Government, protesting against the seizure by the British Government of American shipping, and that he took it to the British Ambassador here at Washington and allowed the British Ambassador to rewrite this note of protest to his Government.

There is ample evidence that the British Foreign Office dominates the foreign policy of the present administration. Let us not wait until 20 years after, and until the "Memoirs", the "Intimate Papers", and the "Confessions" of our present pro-British officials are compiled and published. Let us have the disclosures now. I renew my suggestion that this Congress should institute an inquiry of the most searching character into the present domination of our State Department by the British Foreign Office.

Mr. UMSTEAD. Mr. Chairman, I yield 15 minutes to the gentleman from North Carolina [Mr. LAMBETH].

Mr. LAMBETH. Mr. Chairman, I am undertaking to do what is perhaps a presumptuous thing, and that is to reply to an address just delivered which had been prepared in advance and read to the House. I waited the entire day, as I have waited every day for the past 2 weeks, for that address. Perhaps the best description that I can give of it is to quote to you from one of Aesop's Fables:

The mountain was in labor, sending forth dreadful groans, and there was highest expectation throughout the region, but it brought forth only a mouse.

The gentleman who just preceded me has read a lot of books, and he quoted here most of the time during his remarks from the works of Hendrick on the Life and Letters of Walter Hines Page, from Seymour's Intimate Letters of Colonel House, and from the Autobiography of Viscount Grey, 25 Years, 1892–1916. Those books were published in the following years: The book on Colonel House in 1926, Viscount Grey's Autobiography in 1925, Life and Letters of Walter Hines Page in 1923. Ten years have elapsed since all the information which the gentleman from Massachusetts has brought to the House was published. It is very interesting to note that the gentleman relied chiefly upon the papers of Colonel House to prove that Ambassador Page was "guilty of traitorous conduct", when he had already denounced Colonel House as being "the son of an expatriated Englishman."

I shall quote from that great authority, than which there is none greater nor more authentic, the CONGRESSIONAL RECORD!

On January 17, 1918 (65th Congress, 2nd sess., Vol. 56, pt. 1, p. 976), the gentleman from Massachusetts [Mr. TINKHAM] delivered an address, and I take my text for the remarks which I shall submit in reply to the address that he just delivered the following words: "America wants the truth, and it is vital that America have the truth." Those words were spoken by that great truth teller, the gentleman from Massachusetts, and none other. He had just then returned from a visit to Europe, and I quote further from that address, because it is a very interesting one:

Autocracy in Europe has democracy by the throat and is strangling it. * * * It seems impossible for France and England to obtain a military decision, and France and England frankly admit the absolute necessity of a colossal effort on the part of America. * * * The best informed men in France and in England believe a decisive military decision cannot be reached before 1919 or 1920, when America will be able to contribute her real military strength. * * * This war, cost what it may, in blood or treasure, strength and sacrifice, must be won for America's honor and America's future.

Thanks to an efficient administration, headed by our great war President, our able Secretary of War who still lives, and our distinguished Secretary of the Navy, who is now the Ambassador to Mexico, the gentleman from Massachusetts

turned out to be a poor prophet, because within 10 months after his address was delivered, an armistice, a humiliating surrender, had been wrested from that autocracy about which he spoke, and we had sent into France 2,000,000 American soldiers who turned the tide of that conflict.

The gentleman speaks of a traitor. He has discovered after 10 years what no other man has discovered, and that is that the great war-time Ambassador to the Court of St. James was a traitor. What is a traitor, Mr. Chairman? I wish the gentleman had defined a traitor. I undertook to interrupt him when he mentioned the word, but he would not yield to me. I should have yielded to him had he been present here 2 weeks ago.

A traitor is one who violates his allegiance and betrays his country, and one who in breach of trust delivers his country to an enemy.

Mr. Chairman, that is a strong word—traitor. I would have been content to say nothing because history had already written its verdict as to the honor and patriotism of Walter Hines Page and as to the statesmanship of Woodrow Wilson, but because the gentleman did not see fit to yield to me for a few remarks, I am now trespassing upon the indulgence of the House.

The gentleman quoted very freely from the book by Mr. Seymour, The Intimate Papers of Colonel House. While I might say that I have not read so many books as the gentleman, because he has had more time to read books and more years in which to read them, I happen to have read everything that he said here on the floor today. He read from page 310 of The Intimate Papers of Col. House, and you can get the citation from the CONGRESSIONAL RECORD in the morning, but he stopped after he finished reading the comment of Colonel House.

I had wished to ask him if he would not read the opening sentence from the letter of Ambassador Page to Colonel House, dated London, December 12, 1914, which occurs on the same page. These are the words:

MY DEAR HOUSE: I am trying my best, God knows, to keep the way as smooth as possible.

The gentleman said that President Wilson was much put out because he thought that our Ambassador was more British than the British. May I use the words of President Wilson himself in order to answer that charge? I quote now from a message of the President, read at the memorial service of Walter Hines Page, held in the Brick Presbyterian Church, New York, April 25, 1919:

It is a matter of sincere regret to me that I cannot be present to add my tribute of friendship and admiration for Walter Page. He crowned a life of active usefulness by rendering his country a service of unusual distinction, and deserves to be held in the affectionate memory of his fellow countrymen. In a time of exceeding difficulty he acquitted himself with discretion, unwavering fidelity, and admirable intelligence.

That was signed by Woodrow Wilson.

Mr. Chairman, if there is any word that is the antithesis of traitorous conduct, it is fidelity or faithful conduct.

Of course, the President could have removed the Ambassador without embarrassment, because, as I stated on a previous occasion, the Ambassador tendered his resignation, which was refused.

The gentleman from Massachusetts also spoke of the fact that there is a tablet in Westminster Abbey to Walter Hines Page. That is not a new discovery. I quoted the remarks of Viscount Grey, who was the foreign minister under the Asquith government during the difficult period from 1914 to 1917. But there is a tablet in Westminster Abbey to another great American Ambassador from the State of Massachusetts, James Russell Lowell. I recall, parenthetically, and it has no connection, that I once spent a winter in the State of Massachusetts, and the Lowells ranked at the top. There was something that went like this:

Here's to Massachusetts,
The land of the bean and cod,
Where the Cabots speak only to the Lowells,
And the Lowells speak only to God.

As to this charge that the Ambassador was a traitor—let us dismiss that. Now as to the accusation that he was pro-British. I would like for the gentleman, who has had much contact, more than any man in this House, with foreign offices, foreign ministers, and ambassadors, to tell us sometime what is an Ambassador for, anyway, if it is not to keep his government out of trouble with the government to which he is accredited; if it is not to develop more friendly relations between his country on the one hand and the country to which he was sent? I wish the gentleman from Massachusetts had included in his remarks the fact that Walter Hines Page was tendered the most conspicuous decoration that the British Government ever gives to a person in a similar position, and he declined that distinction. I will insert it in the RECORD. It was the Grand Cross of the Order of the Bath. He declined it because of his anxiety, Mr. Chairman, to keep himself untrammeled for his work. Out of a long line of illustrious Ambassadors that our Government has sent to the Court of St. James, Walter Page was the second man ever offered it, and the only man ever to decline it. It is by all such men the most coveted decoration.

He referred to the *Dacia* incident, as I expected he would. Time will not permit me to go into that question, except to say this: The *Dacia* was one of the German ships which was in an American port at the time war came on, and, of course, it was interned. Then it was bought by a gentleman from Marquette, Mich., by the name of Breitung, who I think must have been at least of German descent. That ship, flying the American flag, was loaded with a cargo of cotton. It had been announced in advance, and was known by all people, that it was going out as a test case. That was the most difficult period that Mr. Page had to deal with as Ambassador, because our relations with Great Britain were quite strained at the time. What would happen if the British Navy seized the *Dacia* and its cargo, destined for a German port, or for a neutral port for transshipment to Germany? It is upon the basis of that incident and that conversation that the gentleman seems to pin his charge principally. Our Ambassador did what I think any Ambassador, who wished to keep friendly relations between the two Governments, who, having had personal conversations daily for 2 years at least with the Foreign Minister, in addition to official conversations, would have done. We speak of such conversations in this House as "off the record." The suggestion was made that it would avoid complications for all of them if the British Navy did not seize that ship but let it be attended to by the French, which is what happened; and as a result of that skillful stroke of diplomacy a most difficult situation was averted. I wonder sometimes if the gentleman from Massachusetts had been our Ambassador during that period what his policy would have been in dealing with all these difficult matters.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. LAMBETH. Mr. Chairman, let me say that whatever mistakes the Ambassador may have made, that was a most difficult period. It was a difficult period for men in Congress, just as the period we have been going through has been a difficult period, and we have made mistakes. Even Congressmen are not infallible, Mr. Chairman! He kept our relations with Great Britain from reaching the breaking point. When the *Lusitania* was sunk, Mr. Page advised the President to send the German Ambassador home. If that had happened, in my humble opinion—of course, no man can predict what might have been the result of anything that might have been done—but in my opinion if that had been done, as the Germans expected, as the German Ambassador himself expected, as the German press in this country practically admitted they expected, it would not have necessarily led us into the war with Germany, but it would have shown that ruthless, autocratic, imperialistic German Government that this Government meant business.

It might have been, Mr. Chairman—in my opinion, quite possibly it could have happened—that the war would have ended 1 or 2 years earlier, saving the lives of millions of men, saving billions of treasure, and possibly saving our having to send any American boys to the other side of the water.

Mr. Chairman, my time has about expired. I have taken more time than I should have. I wish the Members of the House would avail themselves of an editorial in the United States News dated December 23, 1935, written by David Lawrence, headed "Traitor or Statesman?" This editorial constitutes the finest statement I have seen as to the facts leading to our entry into the war and the reason why war became inevitable, to use the words of the German Ambassador himself.

In closing this discussion—and for my part it is closed—I hope I can put my finger upon an editorial which appeared recently—not in a North Carolina paper, for, frankly, I suspect that an editorial upon this subject by a paper in North Carolina would have to be printed upon asbestos—this editorial appeared in a paper printed in the city of Boston, and it is in such good humor that I am sure even the gentleman from Massachusetts will have a rollicking good laugh as I read it. I have said nothing about Colonel House, because Colonel House is living and is able to take care of himself. Besides, there are other Members here who are able to take care of the colonel. But the editorial is headed "Riding the Colonel." I quote:

Civil wars being the fiercest of all, the attack of Congressman GEORGE HOLDEN TINKHAM on Colonel House as an "expatriated Englishman's son" who was guilty of "scandalous and perfidious conduct" under Woodrow Wilson is not surprising, although a little difficult to understand.

I interrupt the reading to say that I think the Boston Herald is not only a strong Republican organ in the city of Boston, but that it is one of the traditional Republican papers of New England.

The Congressman does not accuse the colonel, Ambassador Page, or Woodrow Wilson of having sold themselves for British gold, but, but—well, anyway, Mr. TINKHAM is alarmed in an ex-post-facto sort of way.

But why the attack on the diffident colonel as the son of an expatriated Englishman? The only difference between the colonel and the Congressman dynastically is that the latter's ancestors beat the former's to it by a few generations. It is the understanding of genealogists that Mr. TINKHAM is descended from any number of *Mayflower* passengers. A Herald writer was once unkind enough to say that a chart on the Congressman's walls, showing his ancestry, had been worn out by his incessant glances of admiration.

And who knows? The colonel and the Congressman may have stemmed from the same family tree, the resemblance between the names House and Holden being strong. There are three letters in common. George may be attacking his own kinsman.

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BLANTON].

HON. EDWARD M. HOUSE

Mr. BLANTON. Mr. Chairman, the gentleman from Massachusetts shows that he has not any correct information at all about Hon. Edward M. House. Every statement he made about Colonel House being incorrect, I shall not waste my time answering him.

Col. Edward M. House is one of the patriots of this Nation. He has been the close adviser of many of the most distinguished Governors of my State for the last 40 years. He was the close friend and personal adviser of President Woodrow Wilson throughout the World War. He is now the close friend and personal adviser of President Franklin D. Roosevelt. He has not in his whole life asked anything whatever from either any State government or from the Federal Government. Everything he has done in a public way, and all the valuable service he has performed for his country, he has done as a patriot. It is useless to refer further to the gentleman from Massachusetts.

GEN. JOHNSON HAGOOD

I do want to mention one of the most damnable outrages ever connected with this Government that today was perpetrated by the War Department on one of the greatest major generals who ever served the United States Army. Prior to our committee holding any hearings on the War Department bill, I wrote Mr. Secretary Dern and called attention to the restrictions that are usually put about Army officers to prevent them giving their own opinion of matters about which the committee interrogates them. I called attention to the fact that our committee had asked the War Department to bring before it Gen. Hugh Drum, in command of Hawaii; Gen. Paul D. Malone, commanding the Ninth Corps Area, from the Presidio of California; Gen. Lyman Brown, in command at Panama; Gen. Johnson Hagood, the able commander of the Eighth Corps Area at Fort Sam Houston; and other high officers; and, in effect, I said, "If you are going to prevent these men giving us their honest opinions, I am not going to waste my time fooling around with any hearings. We want to be able to ask them questions and we want them to give us their conscientious opinions in frank answers. What are you going to do about it?"

I have a letter in my office right now from Gen. Malin Craig, Chief of Staff of the United States Army, advising that my letter to Secretary Dern had been referred to him for reply and stating that they had withdrawn all restrictions from these high Army officers; and he said he had issued an order to them that they could give us their frank answers, their frank opinions, and their frank judgment on any matters that came up in committee.

Mr. THURSTON. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I yield.

Mr. THURSTON. Will the gentleman include this letter in his remarks?

Mr. BLANTON. I am so busy in some hearings upstairs just now that I do not know whether I shall have time to go to my office for it. If my secretary is still in my office after I conclude I will have her find it, and would then insert it. If I do it this evening, I will print it in the RECORD in the next day or so.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes.

Mr. RICH. Did the Secretary of War give his permission for these generals to give their own opinions?

Mr. BLANTON. Gen. Malin Craig in his letter stated that the Secretary of War had referred my letter to him for answer and he was answering it. It came from the Chief of Staff of the United States Army, who stated unequivocally that all of said officers were directed by him to give their own conscientious opinions freely and without any restrictions whatsoever. Then these major generals came here, and we spent our Christmas holidays in Washington holding hearings. I came here in December.

I missed all of my family reunions at Christmas time in Texas in order to help hold these hearings, which were not perfunctory in character. We wanted to get the frank opinions of these great major generals. Now because General Hagood forsooth gave his honest, conscientious opinion, the War Department says it is going to spank him. It has taken his command away from him and has ordered him to stand by subject to the orders of the War Department.

Mr. Chairman, I want to say to General Malin Craig, Chief of Staff; I want to say to Secretary Dern; and I want to say to Harry Woodring, Assistant Secretary of War, that they cannot get away with this outrage. I know they have General Hagood where he cannot say a word, but I am here to say a word for him. They have started a scrap that is going to last, so help me God, if He will let me live long enough, until I see they do not put this over without punishment to themselves.

Mr. WADSWORTH. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from New York.

Mr. WADSWORTH. Does the gentleman suspect that this order comes from a higher authority?

Mr. BLANTON. The gentleman has been in public life too long not to know just how the Chief of Staff handles his punitive orders. Sometimes when the Chief of Staff pulls off these stunts, no higher up even knows about it. But they are going to know about it. I am going to bring the facts to the attention of the President.

I will say to the gentleman from New York that in my representative capacity I will back up 100 percent every word that Johnson Hagood said in that hearing. His sentiments, then expressed, are my sentiments. It is my opinion. This waste of

public money by scores of officials not loyal to the President must stop. All of my constituents want this waste stopped. Who will deny that all this money which was spent here in Washington shaking rocks in tin cans to scare the starlings from one building to another was not stage money? We all know it was. Who ever heard of putting balloons up in trees to scare the birds from one tree to another? It cost thousands of dollars here in Washington to do that. The administration does not stand for that. It stopped it when we brought it to the attention of the President. It is the foolish, wasteful spending of the underlings who are causing criticisms to be heaped upon our great President and our administration.

Mr. RICH. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from Pennsylvania.

Mr. RICH. I congratulate the gentleman on defending these Army officers because as a rule they are afraid to come up and say anything in these hearings. When they do say something they get the devil for it, and I think the gentleman is quite right in standing up here on the floor and defending them.

Mr. BLANTON. Mr. Chairman, I want Secretary George Henry Dern, Gen. Malin Craig, and Harry Woodring to know this, that they ought to be impeached for this and put out of office, and that comes from a loyal Democrat who has faithfully supported his party for his entire lifetime. Ninety-five percent of the people of my district would express exactly the same opinion that Gen. Johnson Hagood did. Ninety-five percent of the Democrats of my State will back up 100 percent every word that General Hagood said at those hearings.

Harry Woodring is the man who has attempted to spank a great major general, one of the ablest, one of the most efficient, and one of the most courageous major generals we have in the United States Army. It is outrageous. It is damnable. If they get away with that, Congress might just as well quit and adjourn. We might just as well adjourn Congress. We might just as well turn the Treasury over to the War Department and say, "Take it. We have taken the front door off the hinges. Put your long arms in and get all you want." We might just as well do all that if we cannot get frank expressions from the high Army officers of this Nation.

Talk about ability? Johnson Hagood has more ability in his little fingernail than Harry Woodring will have in his whole system when he dies.

Mr. Chairman, let me tell you what is the matter with Harry Woodring. Get the hearings, and they will substantiate what I say. When he appeared before our committee I got after him for not punishing Major Hoffman for selling out to a parachute company.

[Here the gavel fell.]

Mr. THURSTON. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. BLANTON. Mr. Chairman, I asked Harry Woodring why he had not taken action against Major Hoffman. This major had the last say so as far as buying parachutes for the Army Air Service was concerned. This Major Hoffman helped organize a parachute company, in return for which the parachute company gave him $23,000 in shares of the company. He was the man who let the contracts for parachutes. The Triangle Parachute Co. advertised him all over the land as being their servant. They advertised all over the country how he was in their company. They stated our War Department had spent thousands of dollars perfecting their parachutes. They sold stock all over the country by holding up the name of Major Hoffman in the United States Army as their stock in trade.

Mr. Chairman, I brought this matter to the attention of Mr. Woodring 3 years ago. He sat there and did nothing about the matter. My committee burned him up recently when he came before us for his inaction. He did not like it, and, because foresooth Johnson Hagood is down in my State with the respect and confidence of every Texan down there, he thought he would take a backhanded slap at General Hagood because he is in command at Fort Sam Houston. Harry Woodring, you are not going to get away with it! You have started something that you are not going to carry through, because I am going to give you the scrap of your life.

Mr. LUCKEY. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from Nebraska.

Mr. LUCKEY. May I call attention to the fact that, the other day, I inserted in the RECORD figures showing that the United States had paid for armament and army and naval purposes more than any other nation in the world since 1919, and yet we have less to show for it than any of the other large nations?

Mr. BLANTON. Mr. Chairman, may I say that if we Democrats let General Craig and Woodring get away with this, it will cost the Democratic Party a million votes in November as sure as we live. It would cause the loyal Democrats in my district, who know Hagood, who also do not believe in this waste of public money, and who want this money spent for things worth while, to have a contempt for the General Staff and our War Department for this infamous, dirty, damnable, inexcusable outrage.

Mr. LUCKEY. I think it is about time that we clean house in the Army and Navy.

Mr. BLANTON. I think it is about time for us Democrats to clean our own house, and I appeal to the President of the United States to do the cleaning.

Mr. RICH. Will the gentleman yield?

Mr. BLANTON. No; I want you Republicans to keep out of this row.

Mrs. ROGERS of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I yield to my friend from Massachusetts, but do not criticize; let me do that.

Mrs. ROGERS of Massachusetts. I am just asking as a favor if you will go to the President and to the Secretary of the Interior. Colonel Hopkins has urged the use of a certain sum of money for buildings, for instance, at Fort Devens in my district, and for buildings at other Army posts all over the country.

Mr. BLANTON. I have already paid my respects to Harry Hopkins in a speech I made the other day when I called attention to the fact that there are thousands of men in my district, patriotic men, who have skimped and denied themselves and made sacrifices and gone hungry and let their wives and little children go without shoes or clothing because they were too proud to go on relief. And Harry Hopkins will not give them W. P. A. work because they have not been on relief.

Mrs. ROGERS of Massachusetts. But he has already recommended this.

Mr. BLANTON. Harry Hopkins says worthy starving men cannot get work unless they have been on relief. He is penalizing them for keeping off of relief, and he is putting a premium on those who have been on relief.

Harry Woodring, I despise injustice like I hate the devil, and you had better withdraw this damnable, unjust order to Johnson Hagood, because I am after you. [Applause.]

Mr. THURSTON. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. LEHLBACH].

Mr. LEHLBACH. Mr. Chairman, I give my hearty endorsement to the remarks of the gentleman from Texas in respect to the action taken concerning Major General Hagood.

Major General Hagood was invited to testify before the subcommittee of the Committee on Appropriations having in charge the Army appropriation bill. He testified in response to the request of the committee. He testified, pleading for appropriations for Army housing, and in support of his plea for an appropriation in the appropriation bill, he showed the impossibility of getting money from other sources that might be available for this purpose, but the gentleman from Texas does not go far enough. He told the committee that he could get W. P. A. money for purposes that resulted in nothing of permanent value, but for projects such as housing on Army posts he could secure no allocations from relief money. This testimony was given under examination by a committee of the House, who had the

right to require his testimony not only on facts but on his conclusions and his best judgment.

Publication of his testimony was not his act, but that of the committee who may control what they include, in the printed hearings.

For this testimony he has been relieved of his command and sent home in disgrace.

In his denunciation of this reprisal on General Hagood the gentleman from Texas indulges in shadow boxing.

He denounces Assistant Secretary of War Woodring, he speaks about the Chief of Staff, General Craig, and mentions Secretary of War Dern in passing. The gentleman could not have read the order. Let us read the order. The Army order reads:

By direction of the President.

Not a routine matter, not a staff matter, not a War Department matter, but the order reads:

By direction of the President, Maj. Gen. Johnson Hagood, United States Army, is relieved from assignment to the command of the Eighth Corps Area, and further duties at Fort Sam Houston, Tex. Major General Hagood will proceed to his home and await orders. The travel directed is necessary in the military service.

Although Major General Hagood was obeying a Committee of Congress, although he had express carte blanche to give his views from the Chief of Staff, in this reign of terror he is to be disciplined by President Roosevelt because he said something which might militate against Candidate Roosevelt in the next election. Private citizens have been bedeviled about income-tax revisions going back years and years. Businessmen and banks do not dare to call their souls their own. This reign of terror of which Hagood is only one example, will be increasing all over this country from now until November. The New Deal certainly has a bad case of jitters.

Mr. THURSTON. Mr. Chairman, will the gentleman yield for a question?

Mr. LEHLBACH. Yes.

Mr. THURSTON. While the President is Commander in Chief of the Army and, as such, has all the prerogatives of that office, yet in regard to the fiscal policies of the Government, a committee, duly constituted by the Congress, has the power and the authority to interrogate Army officers or any other employees of the Government with respect to any information that may be necessary for such committee.

Mr. LEHLBACH. And an Army officer who refuses to express fully his honest views when asked by such committee, is contumacious and, consequently, more in error than making any statement which might militate against anybody. [Applause.]

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi [Mr. COLMER].

Mr. COLMER. Mr. Chairman and members of the Committee, I want to discuss in these few moments allotted to me a phase of this agricultural appropriation bill.

At the last session of Congress an authorization was had for sea-food inspectors in the various parts of this country where sea food is produced.

In the deficiency bill this year an appropriation of $33,000 was made for the carrying out of that authorization. Through a misunderstanding that was cut out of the deficiency bill.

Then when this appropriation bill was considered, following the fact that that was cut out, the Appropriations Committee left out an appropriation of $80,000 for carrying out the work for the fiscal year.

I realize that it is almost impossible, certainly impracticable, to get an amendment on the floor that is opposed by the committee. But I think the Members of this House, if they understood this proposition, understood the misunderstanding that prevailed among certain gentlemen in charge of the bill, that this item would be reinstated in the bill.

So I am serving notice now that I will offer an amendment at the proper point in the bill for reinstatement of the $80,000, and I hope that this amendment may prevail. I say there was misunderstanding about this, and I want to point that out.

When the deficiency bill was under consideration on January 23, the gentleman from Virginia [Mr. WOODRUM] made this statement:

Since it has been incorporated in this bill, the Department of Agriculture is of opinion that perhaps this would operate as a limitation on their right to administer the act. It is an unnecessary item of the bill, and therefore ask that it be stricken out.

That was done. I have no criticism of the committee. They are my personal friends.

As I say, there was some misunderstanding; and I hope the membership of this body will not blindly go along as we are prone to do—go along with the committee and give little consideration to the legislation.

Mr. RICH. Will the gentleman yield?

Mr. COLMER. I yield.

Mr. RICH. During the past 2 years committees have come in here and recommended something and the House has gone along blindly and that is the reason we have got such legislation.

Mr. COLMER. Let me say to the gentleman that I am not interested in any partisan view of this matter. The gentleman has industries in his State, at least there are such industries in some of the States represented here by Republicans, that are interested in this matter just as vitally as I am. I am interested in the matter because I think we are entitled to have the provision in the bill. We are entitled to the inspection of sea foods just the same as the meat packers at Chicago and other places have their food inspected. It costs the Government about $5,000,000 a year to furnish food inspectors for the meat-packing industry. We are asking here for $80,000 for the extension of the service to sea-food packers. An opinion prevails in this country that sea food is poisonous, that it is injurious to the human body, and people will not eat it unless it has the Government stamp upon it. We are asking here for the same treatment on a limited scale that the meat-packing industry receives on a large scale.

In a letter from Dr. Campbell, the head of this department, to Senator HARRISON of my State, he writes:

I pointed out that if the opinion of Congress as expressed in the sea-food amendment of August 27, 1935, was carried out, it would be necessary to appropriate $33,000 for the remainder of this year and $80,000 for next year. I stated to the committee that some of the small packers of shrimp did not have inspection because they were not able to pay the cost of inspection, but that if the salaries of inspectors were paid by the Government it was highly probable that practically all shrimp packers would apply for that inspection. It is to provide more adequate protection for the consuming public, since there is always potential danger in the sale of uninspected shrimp. I advanced this added protection to the public as the chief justification for the appropriation. I also stated that it was the opinion of those who advocated the enactment of the amendment that there was the same justification for appropriating funds for sea-food inspection as for inspection in the packing of meat.

Remember this. We have an authorization for this appropriation. The Budget has submitted it with approval. What is the use of getting an authorization for a certain line of work unless we can get the appropriation to carry out that work? So I hope that when this amendment is offered at the proper time, the chairman of this committee, able gentleman that he is, considerate as he is, fair as he is, will accept the amendment. In the event that he does not, I hope that we can muster sufficient strength to put it over.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. COLMER. Yes.

Mr. TABER. Is it not a fact that that bill to which the gentleman refers authorizes the collection of a fee from all these people who pack shrimp and that that fee is being collected and that the inspection is going on out of that fee.

Mr. COLMER. That is not true. The original bill did authorize that kind of procedure, but the bill as amended now provides for Government inspection up to within the limits of appropriation.

Mr. THURSTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Massachusetts [Mrs. ROGERS].

Mrs. ROGERS of Massachusetts. Mr. Chairman, I wanted the gentleman from Texas [Mr. BLANTON] to yield further, to ask him if he and other Members of Congress who have Army posts in their district, and also the entire membership of the House, would join me in a trip to the White House to see the President of the United States and the Secretary of the Interior, Mr. Ickes, to ask them to grant the money necessary for building Army cantonments as they should be built. In some posts there are quarters that are nothing better than shacks.

I know that Colonel Hopkins last summer recommended some $800,000 allocation at Fort Devons, which is in my district. It is now, I understand, in the office of the Secretary of the Interior, and I think that a request by Members of Congress and also the taxpayers and workers all over the country—particularly those in the building trades—would go a long way toward getting that money allocated for necessary buildings. I heartily agree with the gentleman from Texas [Mr. BLANTON] when he decried, ridiculed, and denounced the great expenditure of money for useless projects. Individually the personnel in Colonel Hopkins' office and in the field offices are very courteous and very cooperative, but a chaotic condition exists in the entire work-relief program. It is a perfect whirligig and like other New Deal schemes. As a result not only the taxpayer suffers but hundreds of unemployed. If the President and Secretary Ickes would approve the allocation for the Army-post projects, employment could be given at once, because the War Department's plans have been drawn and it could put people on the projects at once.

Mr. WHITE. Will the gentlewoman yield?

Mrs. ROGERS of Massachusetts. I yield.

Mr. WHITE. Does the lady know there has been $164,000,000 allocated to the Army out of the public-works appropriation bill?

Mrs. ROGERS of Massachusetts. I think not recently, except in one or two instances. One, I think, for a hospital at Fort Bragg, in South Carolina; that was some time ago, however; but nothing recently.

Mr. WHITE. One hundred and sixty-four million dollars of that money is yet to be expended for Army improvements.

Mrs. ROGERS of Massachusetts. That may have been, but not for these projects. This is for buildings that were recommended last summer by the War Department and I am sure they were recommended prior to that. I have pleaded and pleaded in vain for those buildings. I realize the work it would give and also the great saving of money, because rent is being paid for quarters for officers and men in the towns. In some Army posts there is a great fire hazard due to lack of suitable buildings. These buildings must be erected sometime to have our Army properly housed. It is only common sense and sound business management to have relief money spent so that it will give employment and at the same time fill a real need. Every day it seems that someone is punished for expressing his opinion or for giving perfectly legitimate governmental information. The removal of Colonel Hagood from his post for expressing his opinion before an appropriations committee is the latest proof of that. Truly we are becoming more and more like Russia.

The CHAIRMAN. The time of the gentlewoman from Massachusetts has expired.

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. MAVERICK].

TOWNSEND OATH VIOLATES CONGRESSMAN'S OATH; YOU CANNOT BE TRUE TO BOTH

Mr. MAVERICK. Mr. Chairman, this is a nice small meeting, and possibly someone will read this in the RECORD. At any rate, it has become customary to say things about the Townsend plan. I have always been for old-age pensions and am still for them. I was among the very first to announce myself for old-age pensions in Texas. That, however, is not my subject. My subject concerns the methods of so-called leaders in Washington. Although the "plan" is rapidly passing away and will be of no moment as such in 6 or 7 months from this time, I want to make a few remarks in a quiet sort of way about some practices here in Washington.

They have sent out a questionnaire, and I have not received one, but it is endorsed by the Townsend organization, and it says:

Will you make a pledge to support and vote for national legislation sponsored by it?

It does not say what this legislation is. They want to know in advance if you are going to vote for it blindfolded, just as they tell you. Then it says further:

Will you pledge yourself to a bill enacting the Townsend plan, leaving the detail of such legislation to the national organization of the Townsend plan, which evolved the plan and presented it to the American people?

Now, they go on to say that you must go before a notary public and swear that you will keep this as an oath to the national Townsend group. In other words, you must take an oath to the national Townsend group which is superior to your national oath of allegiance to the United States of America, which is superior to your oath as a Congressman, which is superior to the duty that you owe your country.

I am making a nonpolitical talk. I am not trying to denounce anybody; but for sheer impudence, for sheer cheek, for sheer ignorance, I have never heard such a thing in the history of the American Republic.

Mr. TABER. Will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. TABER. Could anyone who had taken such an oath qualify as Member of Congress, under the statute?

OUR OATH IS WITHOUT EVASION OR MENTAL RESERVATION—TOWNSEND OATH WOULD VIOLATE THIS

Mr. MAVERICK. No. I do not want to criticize anybody who favors the Townsend plan. They have a right to favor any plan they please, but any man that takes this oath, in my opinion, cannot qualify as a Congressman, because this is the oath which we must take as Congressmen:

I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

Some of these promoters at the head of the Townsend plan are so grossly ignorant of parliamentary practices and duties, so ignorant of a man's self-respect and his personal honor, that they ask you to swear that you will violate your oath in advance.

Mr. WHITE. Will the gentleman yield?

Mr. MAVERICK. I yield.

Mr. WHITE. On what authority does the gentleman say that any such language is contained in any communication that came from the official Townsend organization?

Mr. MAVERICK. I have the personal word of Raymond Clapper, of the Scripps-Howard newspapers, and I have this article in the newspaper. I have checked it. He told me that he went to the headquarters and saw Mr. Clements, and saw the questionnaire.

Mr. WHITE. Do you believe everything you read in the newspapers and everything any reporter tells you? Is that right?

Mr. MAVERICK. Of course not; but this is true, and you know it is true.

Mr. WHITE. Sure, it is true.

Mr. MAVERICK. Well, I am glad to know you admit it is true.

MORE OATHS TO GIVE UP YOUR SELF-RESPECT

I am told that other questions of a grossly impudent nature were asked. They ask this:

If already a candidate, will you sign a statement agreeing to withdraw your candidacy in the interests of unity and success at the polls if someone other than yourself is endorsed for the position you seek?

Then another question:

If your answer is "yes", will you, in that event, support the candidate endorsed by the organization?

On a separate sheet set forth in a few words (not less than 200 nor more than 500) why you are in favor of the Townsend plan, and what method you intend to use to convince others to support the Townsend plan at the polls?

In other words, we are ordered to give not less than 200 words nor more than 500 words, because this group of leaders does not want to be bored by too many words.

Raymond Clapper, in the Scripps-Howard papers on Saturday, February 22, 1936, says:

If anyone knows of a more brazen attempt to kidnap national legislation in advance and hold them, signed, sealed, and delivered, he would be doing a public service to expose it.

I agree 100 percent with Mr. Clapper; and this exposes it as far as Congress is concerned.

Now, I want to make this appeal to Republicans, Democrats, Progressives, and Farmer-Laborites, that we ought not to stand for any such thing, as honest, honorable men. I am not criticizing any Member of this Congress. I do not say that a man is not honest because he is for the Townsend plan, but this group of men are misleading people all over the country for a plan which they know is utterly impossible, and are trying to bulldoze Congressmen, and we, as self-respecting men, should not stand for it. Personally, I would consider myself as a crook, as a dishonorable man, if I should sign any such oath.

I call upon all Members of Congress, whether they are for the Townsend plan or not, to denounce such tactics. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MAVERICK. Mr. Chairman, I ask unanimous consent to revise and extend my remarks and include therein certain parts of this article.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. TARVER. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. LUDLOW].

Mr. LUDLOW. Mr. Chairman, I have asked for this brief time while the House is discussing the state of the Union to express my unqualified approval of the following provision in the pending agricultural appropriation bill now before the House:

Provided, That no part of the appropriations contained in this act shall be used to continue the establishment of the so-called shelterbelt project of trees or shrubs in the Plains region undertaken heretofore pursuant to appropriations made for emergency purposes.

The agricultural subcommittee, of which Hon. CLARENCE CANNON, one of the ablest Members of this House, is chairman, wisely declined to make a specific appropriation for this shelterbelt.

The adidtional language cited above, which the committee approved today, puts an end, in my judgment, to one of the most ridiculous and ill-conceived projects ever though of by well-meaning but impractical officials, who actually thought they could construct a luxuriant forest belt across a part of the country where the Almighty will hardly permit a cactus to grow. They already have spent $2,000,000 of the taxpayers' money on this irridescent dream and they were asking for a million dollars more. Ultimately the project would have cost at the very minimum $100,000,000. Even if these gentlemen could have done what the Almighty has not done and could have brought this so-called shelterbelt into existence, it would not have affected climate or temperature, and the only benefit would have been to local people in the belt zone who would have profited by the Government's largess.

This whole scheme was fairly dripping with extravagance. A de luxe prospectus on a superquality of calendered paper and highly illustrated with pictures and maps was issued the other day entitled "Possibilities of Shelterbelt Planting in the Plains Region." It was such a high-toned looking document that I was seized with a desire to know what it cost the taxpayers, especially when it seemed to me that a Government release less ornate and less expensive would have served the purpose quite as well, so I wrote to Mr. Giegengack, the Public Printer, inquiring the cost of producing this release. His reply was as follows:

This will acknowledge the receipt of your letter of February 14 in which it is requested that you be informed as to the total cost of producing the volume entitled "Possibilities of Shelterbelt Planting in the Plains Region", and in reply I am pleased to advise that there was a total of 5,000 copies printed for the Emergency Conservation Work (Forest Service) and the total cost was $4,011.64.

Of course, this was just the printing cost of the release. The cost of collecting and editing the material is another matter and still back of it was the cost of making a detailed study of the region, costs on top of costs never ending, it seems. Out in Indiana a mighty good farm can be purchased for $4,000 these days and here we find the cost of a splendid Indiana farm was spent merely on one relatively small item connected with this irrational and indefensible project—the cost of printing an ornate description of it.

I am a thousand percent for the President of the United States in his efforts in the direction of curtailing expenditures, as demonstrated by his recent orders calling in various emergency appropriations. I do not hold the President to blame for all of the vagaries of impractical persons in his administration, but I do hope and pray that an early frost will come along and nip all such dreamy and impossible schemes as this shelterbelt project, to the end that with the worst of the depression over, we may get back as speedily as possible to real economy in Government which is so much needed as a basis of sound recovery. [Applause.]

[Here the gavel fell.]

Mr. TARVER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MCREYNOLDS, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H. R. 11418, the agricultural appropriation bill, 1937, had come to no resolution thereon.

PERMISSION TO ADDRESS THE HOUSE

Mr. IGLESIAS. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. Is there objection to the request of the Resident Commissioner from Puerto Rico?

There was no objection.

Mr. IGLESIAS. Mr. Speaker and Members of Congress, permit me to make a declaration which comes from the bottom of my heart and my own convictions. The tragic and brutal assassination of Col. E. Francis Riggs in the city of San Juan should in no way reflect on the Puerto Rican people. They resent such dastardly crimes as much as you and I.

I knew personally the late chief of police of Puerto Rico, and I have yet to hear of any complaint being made with respect to the performance of his duties. I want to make clear to the Members of this body that the people of Puerto Rico are absolutely innocent of the slaying of Colonel Riggs and ought not in all fairness be connected with it. I hope that a thorough investigation will be made by Governor Winship of the background of this terrible crime, and that the responsibility should be placed where it belongs forever in order to purge any reflection which might have been made on a law-abiding people, who cherish American democratic ideals and institutions of liberty and freedom that the Puerto Ricans enjoy under the American flag and its institutions. An overwhelming majority of the people resent this crime.

We wish the respect and loyalty of the American people and hope some day to be admitted into the Union.

I besearch you to consider the people of the island in this light. We have in the island free speech, freedom of press, freedom of association, and the rights of citizenship, and these institutions must be maintained at any cost against every enemy or emergency within or without the island. [Applause.]

Mr. IGLESIAS. Mr. Speaker, under leave granted me to extend my remarks in the RECORD, I must mention again the very unfortunate death of Col. E. Francis Riggs, perpetrated by two youths. I feel constrained, as a matter of record, to transcribe a few of the comments and opinions which followed that terrible crime, something which the entire people of Puerto Rico energetically protested against and condemned.

It is true that on one hand the feeling of the people in Puerto Rico, of those who look upon with anxiety the arrival of the economic and social reconstruction of our country on the basis of true justice and the uplifting of the masses, were shocked by such a killing as that which recently took place. On the other hand, those who have created a supergovernment over the head of the insular government, and who still believe in the supremacy of a chosen few to govern the rest of the people, those reactionaries, think another way.

Puerto Rico, without those attempts at the destruction of democracy and popular representation imposing a supergovernment, will evolve as rapidly as possible toward rehabilitation without privileges for anyone or any party and most surely under the rules of our democratic institutions and the protection of the American flag. We do not have to renounce that which means our pride because of the greatness of our historical background, and we can benefit by much of that which represents human happiness to us—American civilization.

The Democratic, Socialist, and Republican Parties and the American Federation of Labor during the past 30 years have constantly advocated the obtaining by the people of Puerto Rico the decided cooperation of the Congress in Washington in order to solve the most serious problems affecting its social and economic life.

Before I continue, it is my desire again to affirm that the people of Puerto Rico, since the time of the occupation by the American Army and every year after, the Presidents and Congress have continually been requested from the nation through representatives of all our political parties and organized labor of the island to define and to set a policy for the island's future and to give recognition to the aspirations and demands of the majority of representatives elected by the people, with prospects in view for economic rehabilition and self-government.

Unfortunately the press of the United States gives the affairs of the island scant publicity, failing to mention, among other things, the causes of disgust and indignation in Puerto Rico, and only when something like these regrettable tragedies happen is Puerto Rico mentioned.

Without doubt the New York Times has given more consideration and taken a greater interest in the economic, political, and social conditions existing in Puerto Rico than any other paper. Commenting on Colonel Riggs' assassination, the New York Times says:

The politically conscious among the 1,500,000 American citizens of Puerto Rico are tugged between two warring schools. One, represented by a majority of the island legislature, wants elevation from a dependency to a State of the United States. The minority demands independence.

Most militant among the independence advocates are the nationalists—mostly young men, some of whom carry weapons which they occasionally use. Last Sunday two of them shot and killed the chief of the insular police, Col. E. Francis Riggs, formerly of the United States Army. They did it openly, in the presence of other police, who arrested them.

In the police station they said they acted to avenge the killing of four Nationalists in disorders last October. While being questioned the killers tried to arm themselves from a nearby closet; they were shot dead.

* * * * * * *

Puerto Ricans became American citizens in 1917. But never since the United States took the island from the Spaniards in 1898 have the people been exactly sure of the form of government that would eventually be theirs. At present the islanders elect their own legislature, but not the heads of the executive departments; the President of the United States appoints the Governor and each of these two men names some of the executive chiefs, subject to confirmation by the Senate at Washington or at San Juan, as the case may be.

Washington policies toward Puerto Rico have varied with administrations. The uncertainty caused the island legislature in 1934 to petition Congress to grant statehood with a large degree of autonomy. The coalition majority, now in power in the island with 205,000 of the 388,000 votes cast in 1932, backs the statehood proposal. The chief opposition, the Liberals, have a platform declaring for independence, but do not push it strenuously.

At this point I also wish to include in my remarks some very short comments on the subject which appeared in the Washington Daily News, as follows:

The San Juan assassins who slew Col. Francis Riggs, ex-Army officer and member of a distinguished banking family here, were followers of Pedro Albizu Campos, "president" of the "republic." The men who killed a local police chief a few hours later also were identified as nationalists.

This group, which polled 5,000 votes in the last Puerto Rican elections, is represented here as an organization of patriotic zealots formed on Fascist lines rather than as a political party. It is not identified with either of the major parties—the Liberals or the Republican-Socialist coalition.

Another comment appeared as an editorial in the Baltimore Sun, as follows:

The sudden and ugly appearance of terrorist assassination in Puerto Rico will come as a profound shock to mainland Americans, who, whatever the defects of their attempts at overseas administration, have always tried to cultivate the best interests of the insular possessions and have always prided themselves upon relative success of their relationship with the insular peoples. When overseas administration is not founded upon the naked principle of colonial vassalage and brutal repression, its problems are bound to be difficult.

Under the British, both in India and in Egypt, we have seen the imperial relationship develop in precisely that way. In both countries handfuls of extremists have at one time or another reduced the political problem very nearly to the insoluble. But Americans, both of the mainland and the island, have more successfully managed to meet the unavoidable difficulties of the relationship with sanity and compromise, and mainland Americans certainly hope that they may continue to do so. The two wretched youths who murdered Colonel Riggs in San Juan and called down upon themselves what looks horribly like an application of the ley de fuga, have rendered Puerto Rico a terrible disservice, but not so great a one as that of the politicians who incited them with fantastic talk of an "army of liberation" and a "war of independence." There are only two possible answers to terrorism. One is drastic suppression. The other implies a much worse fate for the island; it is independence, which means economic and political death.

And the other was printed in the Washington Post, which follows:

The only policy which we have consistently followed with respect to Puerto Rico is one of drifting. So casually "conquered" by General Miles in 1898, the people of this island have never been advised as to what may be their final position in the American scheme—or as to whether they are ultimately to belong to that scheme at all. Meanwhile, Hawaii, with a population largely Asiatic in composition, has become a full-fledged Territory.

The uncertainty as to Puerto Rico's future political status has bred three distinct schools of thought among the islanders. One, a minority representing substantial property interests, would be satisfied to retain the present form of connection with the United States. Another and very influential group has long worked for outright statehood within the American Union. The third would have nothing less than complete independence.

The issue of independence was first openly intruded into local politics in 1932 by the Liberal Party of Antonio Barcelo. The Liberals would attain their ends by the peaceful weapons of petition and argument. However, members of the Nationalist group, composed largely of hot-headed youths, have favored a program of violence. They have apparently acted on the theory that if they make the situation of American officials on the island uncomfortable enough we might withdraw and leave the natives to their own devices.

Until recently extremist agitation had largely been restricted to displays of untempered speech. But ever since the sanguinary incident of Rio Piedras last October more direct methods have been feared. The passive attitude of responsible elements in the face of thir strong probability is evidence of serious negligence in dealing with the fundamental problem. Now, resort to terrorism by members of the Nationalist Party reveals a situation which can no longer be ignored.

I want to make clear to the Members of the House that the people of Puerto Rico are absolutely innocent of the slaying of Colonel Riggs and ought not, in all fairness, be connected with it, because the great majority of Puerto Ricans are law-abiding citizens, who cherish democratic ideals and the institutions of liberty and freedom which they enjoy under the American flag.

POLITICAL PARTIES

The island's political parties in existence at this time are organized in four groups, as follows:

The Union Republican Party of Puerto Rico historically represents a true spirit of Americanization of the island and maintains the fundamental principle of permanent association with the United States. This party strongly supports the ideal of the admission of Puerto Rico as a State of the Union, as recently stated in the platform of the National

Democratic Party. The total number of votes obtained by this party in November 1932 was 110,793.

The Liberal Party is asking for independence and the organization of Puerto Rico as a republic. They want also that the statehood be granted by Congress at once. The total number of votes obtained in November 1932 by this party was 170,162.

The Socialist Party of Puerto Rico is a creation of the labor organization as represented by the American Federation of Labor. Since its organization over 30 years ago as a political party, it has also maintained and supported the fundamental principle and aim of our permanent association with the people of the United States of America. The total number of votes obtained by this party in November 1932 was 97,433.

The Nationalistic Party is radically antagonistic to American institutions and advocates the immediate constitution of Puerto Rico as a free republic with no connection whatsoever with the United States of America. The party obtained only 5,254 votes at the last election.

THE COALITION

Both parties, the Union Republican and the Socialist Parties, having some common ideals, decided to form a coalition.

The total votes cast by the four political groups for the Resident Commissioner from Puerto Rico in Washington were as follows:

Coalition:	*Votes*
Union Republican	110,793
Socialist Party	97,433
Total	208,226
Liberal Party	170,162
Nationalist Party	5,254

The majority of the coalition for the Resident Commissioner was 38,064 against the Liberal Party.

PUERTO RICO AN ORGANIZED TERRITORY

The following decision with regard to the political status of Puerto Rico was rendered by one of the Assistant Attorneys General of the United States, in which the opinion is expressed that Puerto Rico is an organized Territory of the United States:

DEPARTMENT OF JUSTICE,
Washington, D. C., February 15, 1934.

MEMORANDUM FOR MR. STANLEY, THE ASSISTANT TO THE ATTORNEY GENERAL

I have had under consideration your request for recommendation on H. R. 7873 (73d Cong., 2d sess.) and reasons in support thereof, particularly concerning the request contained in the letter of SANTIAGO IGLESIAS, Resident Commissioner of Puerto Rico. I take it that the request of the Commissioner goes no further than to consider whether Puerto Rico is such a Territory as is intended to be governed by this act. I will therefore confine my consideration of the matter to that question.

* * * * * * *

If, therefore, Puerto Rico may be said to be within the meaning of the term "Territories" the act applies to Puerto Rico. It is true that Puerto Rico is not a fully organized Territory such as Alaska and Hawaii and has not been incorporated into the Union as a Territory (*Balzac* v. *People of Puerto Rico*, 258 U. S. 298, 305). On the other hand, it has been held by the United States Supreme Court to be a completely organized Territory.

* * * * * * *

"Puerto Rico, although not a Territory incorporated into the United States, is a completely organized Territory."

In the opinion Mr. Chief Justice Fuller said (p. 476):

"It may be justly asserted that Puerto Rico is a completely organized Territory, although not a Territory incorporated into the United States, and that there is no reason why Puerto Rico should not be held to be such a Territory as is comprised in S. 5278."

* * * * * * *

The specific question asked by the Commissioner is:

The object of this letter is to ascertain whether under the term "Territories" Puerto Rico is included and will benefit by this bill or any other bill where the word "Territories" is used.

I therefore answer this question in the affirmative.

Respectfully,

HARRY W. BLAIR,
Assistant Attorney General.

VACATIONS TO GOVERNMENT EMPLOYEES

Mr. RAMSPECK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8458) to provide for vacations to Government employees, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. RAMSPECK, SIROVICH, and LEHLBACH.

SICK LEAVE

Mr. RAMSPECK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8459) to standardize sick leave and extend it to all civilian employees, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

Mr. RICH. Mr. Speaker, reserving the right to object, will the gentleman tell us how much sick leave it is expected will be given Government employees?

Mr. RAMSPECK. We are reducing the sick leave from 30 to 15 days.

Mr. RICH. For all Government employees?

Mr. RAMSPECK. Yes.

Mr. COCHRAN. Mr. Speaker, reserving the right to object, does not the gentleman feel he is jeopardizing the legislation in view of the fact the Senate, as I understand, has given certain Senators an absolute promise that they would stand by the amendments they desire?

Mr. RAMSPECK. I do not think so. I may say to the gentleman I have consulted with the gentleman to whom he refers on the other side of the Capitol, and I think we shall have cooperation.

Mr. COCHRAN. It has always been my observation that when the Senate makes an agreement with certain Senators to do something they generally stand by their agreement. The gentleman might be jeopardizing his own legislation by sending it to conference.

Mr. RAMSPECK. I do not think so, I may say to the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none and appoints the following conferees:

Messrs. RAMSPECK, SIROVICH, and LEHLBACH.

ALLIES OF THE COMMUNISTS

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a radio address I delivered February 22, also to include a letter I received criticizing that address and my reply thereto, and three of four extracts from Communists' publications in regard to the same subject matter.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McSWAIN. Mr. Speaker, by permission of the House I am offering herewith to be printed as a part of these remarks an address delivered by me over the Columbia Broadcasting System at Washington on February 22, 1936, applying especially to the McCormack-Tydings bill and the Kramer bill. The enactment of these bills into law is being vigorously opposed by the Communists.

I do not charge that all who oppose these bills are Communists, but I do believe it fair to assert that those who oppose the enactment of these bills into law are, to that extent, perhaps unwittingly, but nevertheless actually, allies of the Communists in that respect, in connection with their opposition to these bills. Mr. Speaker, I am getting too old to become excited over any question and certainly old enough to be calm, temperate, and judicial in my judgments about all matters. I hope that I have cultivated a spirit of tolerance, liberality of views, and willingness to hear and to try to understand the other man's views. I have been an ardent student of Thomas Jefferson all my life. I have read everything that he ever wrote, if the same was published in the 20-volume edition of his writings that I have, and have read most of them more than one time. But Thomas Jefferson was an individualist of the most pronounced character. Believing in the Declaration of Independence, he also believed that it implied equality of opportunity to every man and woman to make of themselves all that their ability,

their energy, and their character justifies them in making. But he also believed that ability must be stimulated, energy must be aroused, and character must be strengthened in the fierce fires of competition. Thomas Jefferson did not believe that the sluggard should eat. He believed that the man who would not work should feel the pinch of hunger. He believed that the man who would not strive to be something, to do something, and to have something should not be permitted to enjoy that which others by their labor and sacrifice produce. I take my stand upon this broad platform, and that is why I believe that this doctrine of the Communists is an enemy to the progress of the human race.

Mr. Speaker, the general public may not think there is any danger from Communists and communistic sympathizers in this country. But they are active and energetic; they are working with the zeal of missionaries; they are pushing their propaganda with fanatical enthusiasm, but at the same time discreet, prudent, and well-nigh secretive methods. That is why these Communists are so bitter in their efforts to defeat the legislation to punish those who would incite disaffection and mutiny among our soldiers and sailors. This opposition has the same source as the opposition to the Kramer bill. How any loyal, reasonable American citizen will take the second thought about the Kramer bill and still continue in opposition to it is beyond my comprehension. Do not we all recognize the wisdom and the fairness of a law that prohibits, under criminal penalties, one person to advise and urge another to commit murder, or to commit burglary, or to commit arson, or to commit larceny, or to commit any other of the hundreds of crimes, common law or statutory? Yet can there be a higher crime than the urging and inviting and advising other people to bring on civil war? The Kramer bill simply says that it shall be unlawful for one person to advocate the overthrow of the Government of the United States by force and violence. The heart of that proposed law is the use of force and violence. We recognize the right under the Constitution of all citizens to advise and plead for the overthrow of the Government of the United States at the ballot box. Of course, the Communists of Russia would not allow any such privilege. If any person in Russia today were to speak or write advocating replacing the Soviet Government with any other government, that person would be thrown in prison immediately and perhaps finally executed. We have an accepted liberal Government under a liberal Constitution. I believe in it with all my heart.

I derive that belief from my understanding of the political philosophy of Thomas Jefferson. But I deny, and Thomas Jefferson would deny, and it seems to me that any very reasonable and fair-minded person would deny that any man should advocate the overthrow of our Government by force and violence, thus bringing on civil war, wholesale murder, destruction of property, and perhaps the destruction of our civilization itself. No greater crime can be contemplated. No greater act of treason could be committed. Yet some groups oppose our setting up a law that it shall be unlawful to commit this high treason by advocating civil war as a means of overthrowing our Government.

Mr. Speaker, the McCormack-Tydings bill is a corollary of the Kramer bill. Why do we spend nearly a billion dollars a year for national defense? Manifestly it is to support and defend our Government and our institutions against all enemies, foreign and domestic. In other words, our Army and our Navy are to prevent any foreign government from invading us and conquering us and forcing upon us their laws and their institutions. Without adequate national defense, the Soviet Government of Russia, with its most powerful air fleet and its most powerful armies, with adequate sea transport, could invade us and make another U. S. S. R. in good old U. S. A. Without an army and a navy to assist our civil-law agencies and officers, including our police force, our sheriffs and our deputy sheriffs, the sappers and miners within our own borders, these very Communists who openly and frankly admit that when they get sufficient strength and when the psychological moment arrives they will strike like a tiger, with all possible force and violence, at the throat of our Government, will surely seize the opportunity, seize our broadcasting systems, seize our telephone and telegraph systems, seize our transport systems, and seize all of our public utilities, and then finally seize the reins of government itself, and within a few days set up a Communist dictatorship as tyrannical, as cruel, and as murderous as that set up by revolution in Russia.

Mr. Speaker, it seems a popular pastime in the last few years for many of our citizens, heretofore loyal, to find some fault with our Government and with our economic system, and instead of working patiently to correct it, either by amending the Constitution, or by enacting legislation under the Constitution, or by forming public sentiment to make such changes effective, they impatiently insist upon overthrowing the Government itself. It seems to me very much like burning the barn to get rid of the rats. I know our Government is not perfect, but I also know the government of Russia is not perfect. I would a thousand times prefer to leave my children and the children of my brothers and sisters in a government controlled by the will of a majority of the people, where a man may freely express himself, either in writing or by speech, upon all public questions affecting the policies and laws of his Government, than to leave them subject to an autocratic, bureaucratic, dictatorial group of irresponsible commissars never elected by the people and not removable by the people, such as they have in Russia. Conditions in Germany and in Italy are bad enough, and I am as bitterly opposed to fascism and to nazi-ism as I am to communism. I am for Americanism, under the American Constitution, which can be amended at any time. I am now pleading with those who find little faults in our governmental and economic system not to join the ranks of our outright domestic enemies, not to sympathize with their opposition to this proposed legislation, not to become their virtual allies in this particular respect, but to stand by the Government that holds wide the doors of opportunity for our boys and our girls.

Ours is a Government that says to every boy and girl that he has a chance in life to be something and to have something. At the same time our Government says to every boy and girl that if they will not work, if they will not obtain an education, if they will not become efficient, if they will not economize, then they must brand themselves as failures, and while we will not see them suffer for bread, we will grant them an old-age pension sufficient to maintain reasonable comfort, yet those who do not work and produce shall not and should not enjoy the same benefits as those who work, sacrifice, and save in order to have something in old age.

M'CORMACK-TYDINGS-KRAMER BILLS

Mr. Speaker, to make application of these general propositions to the McCormack-Tydings bill, I express surprise that so many people and so many newspapers and magazines misunderstand the provisions of the McCormack-Tydings bill, as amended by the Committee on Military Affairs. Will any editor or anybody else claim the privilege of advising police officers and firemen not to obey the laws, regulations, and orders governing them? If so, why? Why do we pay and maintain policemen and firemen? The answer is obvious. Disobedience by them defeats the very purpose of our paying them. By the same token, it must be manifest that disobedience by a soldier or sailor defeats the purpose of having soldiers and sailors. If that be so, then who should have the privilege of urging soldiers and sailors to disobey? How can it deny ordinary freedom of speech and of the press to say that citizens shall not urge soldiers and sailors to disobey? When employers, the heads of newspapers and magazines, the heads of factories, and railroads, and other industrial institutions, tolerate the presence in their organizations of people who urge their employees to disobey the rules of the industry, to do defective work, to neglect their duties, to damage the property of the employers, and thus to derange, disorganize, and virtually destroy the business of their employers, then we understand why it would be proper to let Dick, Tom, and Harry advise and urge soldiers and sailors to disobey the laws, regulations, and orders governing them.

Mr. Speaker, there can be no danger to freedom of speech and of the press from this bill as amended. The committee is scrupulously careful to respect the principle of free speech and of free press. The provisions of the proposed law are directed solely at those who say to soldiers and sailors, directly and in person, that they should not obey those having authority over them. This talk I have heard and read that to circulate Bibles, or the Declaration of Independence or the Constitution of the United States, among soldiers and sailors would constitute the person so distributing them a violator of the law, seems to me too weak and unreasonable to deceive or mislead any informed mind. There is not a word in the Bible or in the Declaration of Independence or in the Constitution of the United States that could be, by any possibility, twisted into advising soldiers and sailors to disobey orders. In fact, the Bible is full of advice to the contrary. The Bible even says that servants should be obedient to their masters. The Bible throughout, and especially in the writings of St. Paul, exalts the virtues of the loyal and faithful soldier. When the Ten Commandments say, "Thou shalt not kill", it refers, as every reasonable mind must know, to malicious killing defined as "murder", and not to killing in lawful form. Surely there are very few, if any persons, who do not believe in capital punishment for certain hideous crimes. Can it be said that the Bible forbids capital punishment? When Jehovah led the hosts of Israel in battle against their enemies, did He, himself, violate his own command to his children? All language must be interpreted reasonably and in connection with the object to be accomplished and the idea to be expressed. True, Jesus Christ is the "Prince of Peace", but I have searched carefully, through many years, his words, and in vain, to find where he condemned a warfare of defense, a righteous warfare for truth and justice. He will reign after the final triumph of truth and justice over error and sin.

Who condemns the American Revolutionary War? Who condemns the War of 1812, to enforce our rights upon the sea and to defend our infant Republic? Who says that when the British put their feet on the soil at the shores of Chesapeake Bay and were marching toward our then infant Capital that it would not have been proper for our soldiers to have destroyed the last one of them rather than permit them to destroy our Capitol, our Executive Mansion, and many other public and private buildings? Who but deplores the inadequacy of our defense, who but hangs his head in shame to think of our defeat at the battle of Bladensburg? Who but recalls with humiliation the fact that the invader drove our President and his Cabinet and all other Government officials out of the city of Washington?

SINISTER APPEALS TO SELFISHNESS

Mr. Speaker, some very strange and subtle and misleading arguments have been used to try to defeat the McCormack-Tydings bill and the Kramer bill. I hope our people will wake up and think carefully about these matters. I know how susceptible enlisted men in the Army and the Navy are to the seductive insinuating suggestions that they are unjustly and unfairly treated, and yet employed to maintain an unjust capitalistic system. As a result of this fact, the enlisted men of the Army and the Navy suffer from what is now called "inferiority complex." Their minds and hearts are thus rendered fertile ground for the planting of feelings of insubordination, of disaffection, of disloyalty, of mutiny. It would sound very plausible, it would have a powerful appeal for Communists and their sympathizing allies to remind the enlisted men of the Army and Navy, and especially the noncommissioned officers, that the leaders, the masters, of Russia, of Germany, and of Italy today, were, during the World War enlisted men and noncommissioned officers.

How powerful would be the appeal to these noncommissioned officers to promise them that, when our Government is overthrown by the Communists and their sympathizers by using force and violence, then the present generals and admirals and other high ranking officers would be displaced, would, perhaps, have to face a firing squad or flee the country, and that those who are now noncommissioned officers and enlisted men, would be in command of the armed forces that a Communist government is certain to organize and maintain. The talk about the bottom rail getting on top is always a powerful appeal to the bottom rail. The good old English way, the good old American way, of rising from mud sill to the capstone, of advancing from the log cabin to the White House, of advancing from the sweatshop to the counting house, of advancing from the mine to the United States Senate, of advancing from poverty to wealth, of advancing from obscurity to power and influence, is the slow but sure method of competition, the fair and just method of personal ability, of individual industry and of private economy and thrift. If this system has been abused, let us correct it. If powerful business has abused its power, let us regulate it as we have done and as we are doing. If a few individuals receive too large a share of the national income, let us regulate that. But do not let us burn the barn to kill the rats.

Who would ask the legal right to advise and urge pupils in public schools to disobey the rules of the school and directions of the teacher? Who wishes the legal privilege of advising and urging cooks, chauffeurs, salesmen, trustees, cashiers, watchmen, and all employees and agents to be disloyal to their employers and principals? Then why should any person claim his rights and privileges are infringed by a law against advising and urging soldiers and sailors not to do their duty? "If any, speak, for him have I offended."

PROGRAM OF REVOLUTION IN AMERICA

The following is taken from the August issue of A Survey of Americanism, by the Veterans of Foreign Wars of the United States. Published and distributed by the Veterans of Foreign Wars, and they assume the responsibility for its accuracy:

RED TACTICS IN AMERICA

In the National Bulletin, Military Order of the World War, is published an excerpt from a confidential report of an address given recently in one of our large cities by a Soviet agent, an emissary of the criminal dictatorship of Soviet Russia. Said this sedition-breeding gentleman:

"We are proceeding in America just as we are in Europe, and throughout the world. We Communists and Socialists will haul down the dirty American flag and fly our own red flag over the White House. We are boring from within the labor unions. We are penetrating pacifistic organizations, organizing student clubs, and planting our workers in the culture clubs of women. We are organizing to fight the Boy Scouts, the rotten breeding places of patriotism. We will infiltrate into the American Army and Navy and stamp the men with our cause. Don't think we can't do it! We will drive them like sheep before us. We will put into your legislature, into Congress, into the Senate, those who will do our work for us. Think these things over. Get America ready for its fall."

Communists are feverishly attempting to organize within the National Guard, the Army and Navy of the United States. They have made progress in that direction. While legislation has been introduced to take care of this serious situation, the red-aiding American Civil Liberties Union is bitterly opposing it, assisted by Congressmen, at least one of whom admits his membership in this organization. The foregoing are but a few of the many of the astonishing facts available, showing the infiltration of sedition, atheism, and disloyalty into our national life.

COMMUNISTS WORK LIKE TERMITES

This speech was made at a mass meeting of key men of the Communist Party and sympathizers for the purpose of developing a united front against class legislation. The speech was made by one Paul Richie, San Diego assemblyman to the California State Legislature. Extracts are quoted below:

"We're as busy as termites." Perhaps we are going to come together in a united front, but I am here to protest some sinister un-American activities being carried on by certain subversive minority groups. I refer to the Junior Chamber of Commerce, Elks, etc. [loud boos], Fascist tendencies represented by Billy Hearst. The working class is waking up. It runs the industries except in ownership. We need to study tactics for the abolition of capitalism. Must convince the capitalist class that the rotten old system don't work. Your power lies in revolutionary industrial organization. The ballot preserves your respectability; advocate a peaceful revolution. I don't say we're going to have it, but it won't be our fault if it's a violent revolution. Do you want a revolution? [Audience: Yes; yes.] Then you must nullify the military forces of the United States (or the capitalist class). Then you can say, "Shoot us if you will, but we won't make your guns." I'd like to see it come soon. I believe the revolution tradition of American people will be stirred by our plank. Try "abolition of capitalism"; freedom of speech means nothing unless you have the right to advocate the overthrow of

the Government by force and violence if you wish. [Reading bills.] "One bill denies freedom of conscience in universities, etc."

ROCHESTER, N. Y., *February 22, 1936.*

Hon. JOHN J. MCSWAIN,
Member of Congress from South Carolina.

DEAR SIR: After listening to your talk via the radio today, I just couldn't resist the temptation to write you, and if what I say doesn't meet with your approval, please believe me when I say, at least it is an honest opinion of one who likes to think of himself as a patriotic American citizen; from the Mexican War through the Civil War, Spanish-American, and World War, my family has been amply represented.

I saw active service in France as a private in the doughboys; I might add I volunteered. I tell you this, not in the spirit of bravado, but to emphasize my claim as a patriotic citizen.

First, let me tell you I think you greatly underestimate the number of communistic sympathizers in this country. However that may be, the point I wish to stress is, instead of the bills which you have discussed, why not get at the bottom of this communistic action, find out why loyal American citizens are willing to listen to these "red" orators? If you do this, I am confident you will find that it is not so much "red" propaganda that is responsible as it is the greed and selfishness of the so-called "capitalistic class."

Unless you and your colleagues of both Houses of Congress can devise some means to stop this concentration of wealth in the hands of a few, which as you know creates untold hardship on most people, all the prohibitive legislation you pass will only serve to give these red agitators something to squawk about and thereby gain more sympathizers.

Please believe me when I say I am a firm believer in our American system of government and I sincerely hope it is never overthrown, but facts are facts, and I think you'll agree with me when I say that something is wrong with a system that permits all this wealth and splendor for some and misery and suffering for millions of others.

Find out what this wrong is, remedy it, and you won't have to pass prohibitive legislation to curb Communists. They will disappear almost over night.

In conclusion let me say, if the day ever comes when we have bloody revolution it can only be the fault of these greedy, selfish few who think that money makes right.

Very sincerely yours,

WILLIS O. PEACOCK.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MILITARY AFFAIRS,
Washington, D. C., February 23, 1936.

Mr. WILLIS O. PEACOCK,
41 Wooden Street, Rochester, N. Y.

DEAR MR. PEACOCK: I have received your letter which you volunteered to write me, and since you do not ask me to keep it confidential, I assume that you are proud of it. Accordingly, I am putting it in the CONGRESSIONAL RECORD along with my reply.

You say that you are a patriotic American citizen and you believe in our system of government, but manifestly you sympathize considerably with the Communists. Your reference to a bloody revolution is significant, and reveals the state of mind of these Communists. They openly confess that they will hail the day with joy when bloody revolution will stalk the land, and when thousands and tens of thousands will bite the dust in death. If you are the loyal American citizen you claim you are, and if you believe in our system of government, as you profess to do, then you should set your face and influence against the Communists and join our Democratic Party in our efforts to correct, as far as possible, the injustices of our constitutional and economic system. I believe that if private persons in Russia could express themselves about the tyrannical and despotic dictatorship now prevailing in that country, millions of Russians, yea, tens of millions of them, would be writing against Sovietism much stronger than you have written against the defects of our American system. Any Government and any system will always have some defects, but I fear that the Communists and their sympathizers, of whom you are manifestly one, would burn the barn to get rid of the rats; that is, you would overthrow the system in order to correct the defects, and if thus you bring in Communism, I feel sure that you will jump out of the frying pan straight into the fire.

Yours very truly,

J. J. MCSWAIN.

COMMUNIST FLAVOR HERE

The Washington Herald of December 19, 1935, reports a meeting called the National Peace Conference, which met behind closed doors, claiming to represent 29 organizations, and put out the following six-point program:

1. A Nation-wide program to have the United States enter into obligations of international action.
2. To cripple the Army and the Navy by cutting appropriations.
3. Defeat of the antimutiny and antisedition bill and the Kramer bill, which would forbid advocating the overthrow of the United States Government by force and violence.
4. Abolish R. O. T. C. in universities, colleges, and schools and begin with the entering wedge of the Nye-Kvale bill to make military training in land-grant colleges optional.
5. Vigorous propaganda for our entry into the League of Nations so that our Army and Navy might not be used to enforce League sanctions.
6. Adoption of a drastic neutrality bill, the effect of which would be economic isolation for a while but ultimately would probably mean our entry into another World War.

SINISTER SUGGESTIONS

A leaflet circulated among the sailors on shore duty signed "Shipmates' Voice", and pertaining to be published by the enlisted men in the Navy and the Marine Corps, contains the following:

WE MUST ORGANIZE FOR PEACE

Unless the soldiers and sailors and the millions of workers who would be called upon to swell their ranks in the threatening war do some thinking on their own accord and back it up with independent collective action against the war danger, the cause of peace is lost. The workers in their unions and the masses of the people in their antiwar organizations have made a good beginning. It is up to us to go along with them.

American capitalism regards the Navy as the first line of defense of its profits in time of war. It maintains the Navy to enforce the tradition of the freedom of the seas, which serves as a screen to war-profiteering trade. No more telling blow could be struck for the cause of peace than an organization of enlisted men in the Navy which would refuse to defend the profits of American business.

There are plenty of men in the Navy who are ready to support this program. Some of us are already organized into the groups which publish Shipmates' Voice. But to be really effective in the fight for peace, we must broaden this organization to include the entire enlisted personnel. Talk it up with your shipmates. Form a group on your own ship or shore station.

Join the workers' fight for peace. Not a shot in defense of capitalist war profits.

PLAN OF CAMPAIGN

A statement issued by the Communist Party at San Pedro, Calif., and circulated among soldiers and sailors and marines, addressed to them as fellow workers, contains among other things the following:

[Issued by San Pedro Unit, Los Angeles section, district 13, Communist Party, United States of America]

FIGHT THE BOSSES!

If we are to fight, let us not fight other workers! Let us join the millions of other workers to fight against our common enemy—the plundering, exploiting, bloodthirsty boss class!

Joint the Communist Party, the only party which fights for full and immediate payment of the bonus, against imperialist war preparations, for unemployment insurance, against wage cuts, and lay-offs! For information write to 1164 Market Street, San Francisco.

Turn all war funds over to the unemployed and for the veterans' bonus! Demand the withdrawal of American battleships from Chinese waters! Defend the Soviet Union, the First Workers' government! War means the butchering of millions of working-class youth! Fight against imperialist war preparations! Demand "hands off China!" Defend the Chinese Soviets! Fight against the wage-cut drive of the boss class!

MISREPRESENTATION RUN MAD

A glaring example of the misrepresentations made to the people whereby they are induced to express opposition to the legislation to protect our armed forces from disloyal, seditious propaganda, is the following extract from a newspaper sent to me by a lady out in Michigan:

Under the Tydings-McCormack military disaffections bill, a person who said the Army or Navy was too large would be liable to prosecution. Indeed, the critic who said the Army and Navy are too small would also be a criminal.

The mother who advised her son not to reenlist in the Army, Navy, or marines would be committing a crime and subject to a $1,000 fine and 2 years in prison.

How any person with the slightest intellectual honesty could so distort his imagination as to say that the McCormack-Tydings bill, if enacted into law, would make possible prosecution and conviction of any person who argued that the Army or Navy is too large or too small, is inconceivable to me. But the zenith of insincerity, of absurdity, of rank hypocrisy, not to mention falsity, is reached when they say that the bill levels its prohibition against a mother who might advise her son against reenlisting in the Army or Navy or the Marine Corps. There is no law, regulation, or order to the effect that any soldier or sailor shall reenlist. Many of the most loyal, patriotic women in the land might advise their sons not to reenlist. One enlistment for an American citizen is usually his share of military duty. There are millions stridently professing 100-percent Americanism

that not only have never in their lives done any sort of military duty, but have done all they can to evade and escape military duty for themselves and others. Jury duty, military duty, and many other kinds of public duty may be burdensome and unpleasant, but to have a government of the people, by the people, and for the people, these public duties must be discharged.

I respectfully ask all of those who write and publish these tirades against the McCormack-Tydings bill and the Kramer bill first to publish the exact language of these bills as recommended to the House by the appropriate committees. If they will do that, the bitter fulminations and false representations constituting their mere comment upon these bills will fall flat in the minds of intelligent and thinking people. All that I ask is that the people be given the knowledge of the exact language of these bills.

RADIO ADDRESS BY REPRESENTATIVE M'SWAIN, OF SOUTH CAROLINA, DELIVERED OVER COLUMBIA SYSTEM, FEBRUARY 22, 1936, AT WASHINGTON, D. C.

I am venturing on the discussion of the subject of subversive communistic activities in this country, especially as relates to the Army and the Navy, with a full realization that ordinarily the subject excites so much feeling, either for or against, that it is difficult for those aroused by such feelings to reason calmly and to distinguish truth from falsehood. I am hoping to offer a calm and judicial discussion and am begging all listeners to lay aside feelings, for the moment at least, and to reason calmly and coolly.

First, let us take up the Tydings-McCormack bill, now pending in the House of Representatives, having passed the Senate and having been reported favorably by the Committee on Military Affairs of the House. It has been erroneously thought by some people that this bill in some way impinges the freedom of the press and the freedom of speech of the ordinary citizen, due to misleading propaganda.

I cannot believe that those who come to this conclusion have considered the subject quietly. We must remember that the Army and the Navy are in a special group by themselves and have something of the same relationship to the public as the police force and the fire departments. No person is compelled in peacetime to join any of these organizations, but having joined them, and receiving the benefits coming from such membership, the individuals thereby set themselves apart as a peculiar class and establish for themselves a peculiar relationship to the Government. They no longer have the freedom and privileges of civilians. Now, the bill under discussion merely proposes that any person who knowingly, and with the purpose to incite mutiny or disobedience, advises or counsels any soldier or sailor to violate the laws or regulations governing the Army or Navy, shall be guilty of a criminal offense. This is simply and absolutely all there is in and about the bill. The very essence, benefit, and advantage of maintaining an Army and a Navy, and a police force, and a fire department, rests upon the principles of absolute and instantaneous obedience to orders. If the members of the fire department were permitted to delay after receiving the fire alarm and to debate and take a vote before responding, then the house would burn down before they arrived. If the members of the police force were permitted to deliberate and hesitate and pass resolutions before enforcing the law, then lawlessness and crime would stalk the land, until civilization would be impossible. In like manner, if soldiers and sailors are to discuss and debate the questions of obeying orders in any case whatsoever, or in certain classes of cases, then the money spent to have organized force to resist invasions, and surpress insurrection, would be largely wasted.

It is no answer, I respectfully submit, to say that neither the Army nor the Navy now need such legislation. Certainly, it is no reflection upon either the efficiency of the officers or the loyalty of the enlisted personnel to propose such legislation. All of us know the facts and none of us need dispute them, that pouring suggestions, insinuations, suspicions, and doubts into the minds of people will ultimately bear fruit in action. This psychological fact is the basis for billions of dollars spent in advertising. If communistic agencies and their sympathizers are to be free to speak and to hand out literature to soldiers and sailors, telling them that the existing economic institutions are unjust and unfair, and inhuman, and that our armies and navies are maintained to support and bolster up a selfish and wicked capitalistic system, and that the real interests of the enlisted men are with these communistic agitators and against their own Government, and that when a critical emergency arises and an opportunity presents itself for Communists to overthrow the existing Government, then such soldiers and sailors should defy the law and the authority of their officers and should join the Communist revolutionaries and should turn their guns against the Government that has been paying them, feeding them, clothing them, and housing them; if such propaganda is to be permitted, then the very condition that communistic agitators so ardently desire may ultimately come about. History is constantly repeating itself in different parts of the world, and I find that the communistic literature is full of suggestions about the French Revolution, the Russian Revolution, and the German Revolution, and hints are many about a coming world-wide revolution at the first opportune moment. All education, all propaganda rest upon the universally known fact that thought, ideas, sentiments finally bear fruit in action.

Now, note well, the prohibitions and penalties proposed by the Tydings-McCormack bill are directed exclusively against those who conduct such propaganda among the personnel of the Army and the Navy, and such propaganda must be under the amendment proposed by the House Committee on Military Affairs, be specifically and directly addressed to and knowingly and purposely aimed at such personnel of the Army and the Navy. If the speech or literature be addressed to a general audience of civilians and if incidentally the propaganda comes to the ears or eyes of the soldier or sailor, that would not constitute the offense. Therefore, all newspapers would be absolutely free and all speakers would be absolutely free to print or to say anything in favor of the communistic government and anything against our own democratic Government that they saw fit. It certainly is a high evidence of the toleration and liberal-mindedness of the American people that they do permit under their Constitution agitators to speak and to write sentiments and suggestions directly aimed at the overthrow of this Government and thus directly calculated to bring on civil war and to destroy the institutions that have made America great and upon which I believe her future greatness, power, and prestige must rest. I am wondering if a communistic government, such as prevails in Russia, would permit any speaker or writer to say or write anything critical and calculated to overthrow the Soviet regime, and proposing to establish a capitalistic system in Russia. I am informed it would not be tolerated one second.

Undoubtedly, there are some people in America who believe in the system of economics and the government now existing in Russia. Just how many I do not know, but they are certainly turning out a considerable volume of literature in the form of newspapers, pamphlets, magazines, and books. I wonder if their ideas should prevail, and ultimately they should be able to overthrow our American system and to set up in America their Russian system, if then they would permit any person to propose a return to the former American system and the overthrow of their Russianized and communistic system? I venture to say they would not and that either the prison or the firing squad would be the fate of all who dared to speak honest convictions to the effect that our good old American competitive system, based on private property and personal liberty, was better than any imported system based on communism, whereby private property would be destroyed, personal liberty wiped out, and all the people regimented in every detail of life by laws that they dared not question nor defy.

Now let me take up the Kramer bill which is also pending in the House of Representatives. This bill too has been misunderstood and misrepresented. All and simply all that it proposes that any person who advises the overthrow of the existing American system of Government by force and violence shall be held guilty of a criminal offense. Is there anything dangerous in such a proposal? Is it not essentially in the interest of public order and of human life and liberty? Mark you, the language does not say that it shall be against the law to advise a change from the existing system to some other system, such for instance, as communism in Russia.

The inhibition is directed against advising the use of force and violence to make such change. In other words, and reduced to its last analysis, it means that people shall not be permitted lawfully to advice insurrection, rebellion, and civil war, with all their horrors, sufferings, and destructive forces. We agree that all persons have absolute freedom under our Constitution to argue that our Constitution may be amended in any way the requisite majority wishes to amend it. Therefore the requisite majority may legally so change our Government that it will cease to be a government regulating a competitive economy based on private property and shall become a communistic or socialistic government, abrogating private property and wiping out personal liberty. If those holding such views can get enough votes in the ballot box in a peaceful and legal manner, then their will must prevail. But the Kramer bill says that you shall not advise and urge the people to use force in order to bring about the change. Every individual is invested by God Almighty with the right of self-defense. Every government is invested with the right of self-defense, and the government which does not lay a penalty against advising and preaching violence, internecine strife, fratricidal slaughter, and civil war would certainly not be taking adequate measures for self-defense.

Some persons say that concern and anxiety about the presence and spread of communistic sentiment in America is not justified. Some people tell us that the number of Communists is too small; that there are only 30,000 in the United States. However, there is a much larger fraction of the population, while not openly avowed Communists, who sympathize with and have many ideas in common with the Communists, and are willing to exert their influence to protect communistic propaganda. Too many good Americans join such organizations. The net result of this situation is that even in our colleges and universities, and in the studies of certain dreamy, theoretical, impractical people, claiming to be the intelligensia of America, even in some pink-tea drawing rooms, as well as in low dives and disreputable places, also among some submerged minorities, unduly class conscious and seeking opportunity for any change in the social order, there are perhaps hundreds of thousands who bear different organizational names, but all actually give aid and comfort to the philosophy of communism, and thus indirectly help the avowed Communists to overthrow our Anglo-Saxon institutions and to set up a communistic soviet society.

Those who smugly assure themselves that there is no danger from all these subversive sources may some day meet a rude awakening.

Though I have not hunted down any communistic missionaries, yet knowledge of their presence and activities in many places has been thrust upon me. From this knowledge, I feel safe in asserting to my fellow American citizens that an actual, deliberate, and thoroughly organized secret campaign for spreading disloyal sentiments and subversive teachings among the sailors and soldiers of America is today going on. Generally the Army and naval officers do not know about these things any more than they know about the private lives of their men. How can the officers tell with whom sailors and soldiers associate while off duty, and while strolling around the streets and alleys of the great cities? One soldier or sailor converted to this dangerous, disloyal thinking becomes the efficient emissary to induce many other soldiers and sailors to accept the same false doctrines. Thus they are advised to wear citizens' clothes while off duty and while attending the conferences and sessions of these hellholes of disloyalty. Their whispered program tells them to await the great day of decision and action. They are told by these Communist agitators to continue to accept the pay of the loyal taxpayers of this Nation, to eat their food and to wear their clothes, and to pretend to be their defenders. But these Communists have a deliberate, well-concealed and firmly fixed plan to cooperate with their traitorous conspirators in the civil population, and when the time is deemed ripe by the autocratic leaders of this school of traitors, they will seek to take possession of our forts, fields, and arsenals; to seize our stocks of food and clothing, to man airplanes, machine guns, cannon, and rifles, and following the commands of some American Stalin, they will turn against organized society in America all the instrumentalities of warfare that we have built up at great expense to defend ourselves against enemies, foreign and domestic, against invasion from abroad and insurrection at home.

GEORGE WASHINGTON

Mr. LORD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a speech made by the gentleman from Illinois [Mr. REED], on February 22, at Alexandria, Va.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LORD. Mr. Speaker, under unanimous consent to extend my remarks in the RECORD I include therein an address delivered by my colleague, Representative CHAUNCEY W. REED of Illinois, to the members of Alexandria-Washington Lodge No. 22, A. F. & A. M., on the occasion of their celebration on February 22, 1936, of the birth of George Washington.

Brother Toastmaster, Most Worshipful Grand Master, distinguished guests, ladies, and brethren, meager indeed is my command of the English rhetoric with which I must needs express the satisfaction that is mine in the rare privilege this evening to address you, the members of Alexandria-Washington Lodge No. 22, Ancient Free and Accepted Masons, on the anniversary of the birth of your first worshipful master. Tonight, throughout these United States, millions of citizens of this great Republic, which he founded, are seated by the firesides of their homes, and through the medium of radio are listening with rapt attention to eloquent tributes that are being broadcast through the air concerning the life, character, and distinguished services of this great man. Although more than 200 years have passed since he first saw the light of day, a grateful Nation seems never to tire of a recital of the incidents and accomplishments of his eventful life. It is a story that will never grow old.

To you, however, is accorded the privilege of meeting this day each year to honor the memory of a brother, who, although dead, is bound to you by a tie stronger than human hands can impose. In flesh and blood, he mingled and associated in fraternal comradeship with your older brothers. He guided the destinies of this lodge in its infancy and relinquished that trust only after there had been thrust upon his shoulders the responsibility of blazing the trail for a new Republic of which he was the acknowledged leader. I realize how futile must be my poor effort to discuss with this audience and in these surroundings the life and the character of the man—George Washington. He was born in this vicinity. He lived most of his life here. Many of the distinguished services he rendered to State and Nation were accomplished within a few miles from where we are now assembled. Anecdotes of incidents in his personal and public life are well known to all of you. You, and each of you, have been familiar since early childhood with the scores of historic landmarks that still remain to remind us of the long-ago struggle for freedom in which he played so important a part. Your lodge is rich with priceless treasures that continually emphasize to you with a mute eloquence more potent than words, his character as a Mason, a soldier, a statesman, and a man.

Like all great men, George Washington was blessed with a good mother. Not much is known of the girlhood of Mary Ball Washington. She was born in 1708 and lived in Westmoreland County, Va. She is said to have been a girl of rare beauty, and at the age of 18 was known as "the Belle of the Northern Neck." At the age of 22 she married Capt. Augustine Washington, and 2 years later the Father of his Country was born. Washington is said to have resembled his mother in many ways. From her he inherited his features, calmness, and dignity.

During the Revolutionary War she knitted constantly, making garments for the soldiers. When news was bad she would often say, "The mothers and wives of brave men must be brave women." On one occasion of bad news when her daughter Betty Lewis gave a cry of despair, she murmered, "The sister of the Commanding General must be an example of fortitude and faith." When news of victory at Trenton reached her and the neighbors were congratulating her on her son's victory, she said, "George is apt to succeed in anything he undertakes. He was always a good boy." After the surrender of Cornwallis at Yorktown she was in attendance at a jubilation ball at Fredericksburg. One of the French officers observing her and learning her identity exclaimed, "If such are the matrons of America, she can well boast of her illustrious sons."

As a surveyor in early life, George Washington entered the wilderness of Virginia and Kentucky and there, through hardship and peril, gained the knowledge that enabled him in later years to save the army of General Braddock from annihilation. The French and Indian War provided him with the opportunity to develop his natural military ability and assert his character of leadership. So universal was the knowledge of his prowess that hardly had the echo of the shot at Lexington ceased its reverberations when the American people called him to Cambridge and he received the sword never to be sheathed until he had won the War of Independence.

As a general, Washington was truly great; not merely for the things he did but also for the things he didn't do. He knew his soldiers. He appreciated his resources. He comprehended his enemies. He realized the odds that were against him. He knew when it was advantageous to fight and when it was wisdom to retreat. He was keen to grasp opportunity when within his reach and when he struck it was with all the energy, dash, and daring of which he was capable. Never will the brilliance of that achievement be dimmed, when, in a blinding snowstorm, amidst huge cakes of floating ice, he and his army crossed the Delaware and vanquished the unsuspecting foe at Trenton. And then again at Monmouth when, through the treachery of Gen. Charles Lee, the retreating and demoralized troops were about to surrender a well-earned victory, it was Washington who dashed at their lead and, through his personal magnetism and appeal, victory was snatched from defeat. At Princeton, too, the inspiration that must have permeated the ranks when their leader, scoffing at danger, led his troops into the thickest of the fight, was largely contributory to the victory that crowned his valor.

Too numerous to mention are the instances of sorrow, of despair, of intrigue, of conspiracies, of jealousies, of discouragements that fell to his lot during that awful winter at Valley Forge. It was here, during the darkest hour of the Revolution, that a private soldier is said to have seen his Commander in Chief drop to his knees in the snow and, lifting his eyes to Heaven, ask Divine guidance from Him in whom he had put his trust. His prayers were answered. A powerful foreign nation proffered its assistance. A brilliant military stratagem on the part of Washington culminated in the surrender of the British Army at Yorktown.

The struggle for independence was at an end. Peace was declared, and the political ties that bound the colonists to the mother country were forever severed. America was born. It was then that General Washington bade farewell to his officers and men and went back to spend what he thought would be a life of retirement and rest. But he was not long to remain in seclusion. The new Government was functioning badly. It needed strength. It required permanence. It lacked stability. A convention to remedy its faults was called in Philadelphia. Washington was chosen a delegate. The men who constituted that Convention were the most able and brilliant men in the country at that time. General Washington was their unanimous choice to preside over their deliberations. Only once did he take the floor, when he advocated a larger representation in the lower House of Congress. But the influence he wielded as presiding officer and the realization by the delegates that he and only he would be the one chosen as Chief Executive in the Government that was to be, had much to do with the approval and ratification of that bulwark of American liberty, the Constitution of the United States, which Gladstone described as "the most wonderful document ever struck off at a given time by the brain of man."

On February 4, 1789, the electoral college by a unanimous vote chose him President of the United States, and on April 30 of that year constitutional government began with his inauguration. For 8 years Washington remained at the helm of government. He demonstrated that kings were not essential to the proper control of the affairs of state and that orderly administration could best be attained when the people themselves ruled under and by virtue of delegated authority. As President it became his responsibility to maintain in peace that which he had acquired by war—the independence of his country. To accomplish this end he steadfastly insisted upon the enforcement of law, the maintenance of public credit, and the avoidance of entangling foreign alliances. This latter policy outlined by him was subsequently declared by President Monroe as the recognized doctrine among the nations of the world.

Refusing a third term, he returned to his beloved Mount Vernon to pass the remainder of his years. He died December 14, 1799. On the day following his funeral, Timothy Pickering, speaking in the United States Senate, said: "With patriotic pride we review the life of our Washington and compare him with

those of other countries who have been preeminent in fame. Ancient and modern names diminish before him. Greatness and guilt have too often been allied; but his fame is whiter than it is brilliant. The destroyers of nations stood abashed at the majesty of his virtue. It reproved the intemperance of their ambition and darkened the splendor of victory. Let his countrymen consecrate the memory of the heroic general, the patriotic statesman, and the virtuous sage; let them teach their children never to forget that the fruit of his labors and his example are their inheritance."

Men in public life are always the targets of those who seek to gain selfish ends through the missiles of abuse and ridicule. Washington was no exception to this rule.

In December 1799, during the final months of his last administration the Philadelphia Aurora, a fiery, partisan publication, edited by a grandson of Benjamin Franklin said, "If ever a nation was debauched by a man, the American Nation has been debauched by Washington. If ever a nation was deceived by a man, the American Nation has been deceived by Washington." And later upon the occasion of his retiring from the Presidency this same publication announced editorially: "We rejoice at the ending of a career of one who carried his design against the public liberty so far as to have put in jeopardy its very existence."

Thomas Paine that same year in an address, directing his remarks to the retiring Chief Magistrate of the Nation shouted, "As to you, sir, treacherous to private friendship * * * and a hypocrite in public life, the world will be puzzled to decide whether you are an apostate or an impostor; whether you have abandoned good principles, or whether you ever had any."

These utterances and the characterizations of aristocrat, tyrant, anglomaniac, monarchist, embezzler, crocodile, and even hyena, were hurled at him from all sides by fanatical, idiotic, and yet frantically sincere partisan political opponents.

Time has effaced all these unkind allusions to him whose memory we honor tonight, for, like the ever-changing tempest of the deep, they came, they lashed, they raged, they subsided, they shifted, and departing left behind them only a calm and tranquil sea. Reference to them is available today only through perusal of the musty files of long ago.

But sometimes I wonder if the living George Washington was more cruelly maligned than has been the dead George Washington. We Americans are prone to adapt ourselves to the movement of a pendulum. We go from one extreme to the other. We are apt to abuse and vilify a good man during his lifetime, but when he dies we honor and glorify him. With Washington we seem to have gone a step farther. We have stripped him of his attire of reality and clothed him in a mantle of unreality. In other words we have attempted to transform him from a real human, robust man to a supernatural man. When a small boy attending public school I was taught that George Washington never told a lie. It is difficult for the average schoolboy to imagine the creation of a human being who always tells the truth. He looks at his companions, his teachers, and even his parents and fails to observe in them the same flawless character as that of the man he has been taught to revere and who he has been told could not tell a falsehood. A few days ago, when reading some of Washington's letters, I chanced upon one which he wrote to a man after a trip through New Jersey in which he said "the New Jersey mosquito can bite through the thickest boot." In another letter "I announced that I would leave at 8 o'clock and immediately gave private orders to go at 5 so as to avoid the throng."

At Valley Forge, during the darkest period of the war, when no supplies were available, he issued an order to his men, a portion of which read as follows: "Thank heaven, our country abounds with provisions and prudent management. We need not apprehend want for any length of time."

No, Washington can hardly be classed as a supernormal. He was intensely human. He had his faults and imperfections the same as we have. He too had his weaknesses and his failings. Who among us can feel dissatisfaction over his characteristic natural temper which blazed forth at Monmouth when he denounced the recreant General Lee in language distinguished by its force and vigor, rather than its saintly perfection.

He was not a divinity; he was a man. A red-blooded, passionate, forceful man who thought, dreamed, and aspired. A man who could swear and a man who could pray when occasion demanded it. Sincere, modest, upright, humane. An all-around man with whom his fraternal associates could meet upon the level and part upon the square. He was first in war, first in peace, and first in the hearts of his countryman. His renown cannot be added to or diminished. It will shine with refulgent splendor as long as America remains a Nation of people. Apt, indeed, were the words of Abraham Lincoln when he said: "To add brightness to the sun or glory to the name of Washington is alike impossible. Let none attempt it."

EXTENSION OF REMARKS

Mr. WHITE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein extracts from an article to which I shall refer. I have an estimate from the Printer.

Mr. TABER. Mr. Speaker, reserving the right to object, how long are those extracts?

Mr. WHITE. My speech and the extracts will not amount to four pages of the RECORD.

Mr. TABER. How much space will the extracts take, about half?

Mr. WHITE. About half.

Mr. TABER. That is too large a proportion. If the gentleman will cut it down to a quarter, I shall not object.

Mr. WHITE. I hope the gentleman will bear in mind that I do not ask this privilege often nor do I take much time on the floor.

Mr. TABER. I shall have to object if half the extension is going to be extracts.

The SPEAKER. Objection is heard.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. GRAY of Indiana, for 1 week, on account of illness.

AGRICULTURAL APPROPRIATION BILL, 1937

Mr. CANNON of Missouri. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole House on the state of the Union resumes further consideration of the bill H. R. 11418, the agricultural appropriation bill, that time for general debate shall not exceed 2 hours, to be equally divided and controlled by the gentleman from Iowa [Mr. THURSTON], and myself, at the end of which time the bill shall be read for amendment.

Mr. THURSTON. Mr. Speaker, that is satisfactory.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SENATE BILLS REFERRED

Bills of the Senate of the folloing titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3. An act to regulate commerce in firearms; to the Committee on Interstate and Foreign Commerce.

S. 536. An act for the relief of Ada Mary Tornau; to the Committee on Claims.

S. 2188. An act for the relief of the estate of Frank B. Niles; to the Committee on Claims.

S. 2336. An act granting compensation to Mary Weller; to the Committee on Claims.

S. 2517. An act to provide for the advancement on the retired list of the Navy of Walter M. Graesser, a lieutenant (junior grade), United States Navy, retired; to the Committee on Naval Affairs.

S. 2747. An act conferring jurisdiction upon the United States Court of Claims to hear the claim of the Canal Dredging Co.; to the Committee on Claims.

S. 2869. An act to legalize the use of emergency-relief funds for the construction of armories for the National Guard; to the Committee on Appropriations.

S. 2922. An act for the relief of Rose Stratton; to the Committee on Claims.

S. 3125. An act for the relief of J. A. Hammond; to the Committee on Claims.

S. 3161. An act to amend section 13 (c) of the act entitled "An act to provide for the regulation of motor-vehicle traffic in the District of Columbia, etc., approved March 3, 1925, as amended; to the Committee on the District of Columbia.

S. 3257. An act to amend the World War Adjusted Compensation Act; to the Committee on Ways and Means.

S. 3333. An act for the relief of DeForest Loys Trautman, lieutenant, United States Navy; to the Committee on Naval Affairs.

S. 3367. An act for the relief of James Gaynor; to the Committee on Claims.

S. 3395. An act to authorize the acquisition of the railroad tracks, trestle, and right-of-way of the Gulf Power Co. at the naval air station, Pensacola, Fla.; to the Committee on Naval Affairs.

S. 3514. An act to regulate the manufacture, dispensing, selling, and possession of narcotic drugs in the District of Columbia; to the Committee on the District of Columbia.

S. 3655. An act for the relief of the Vermont Transit Co., Inc.; to the Committee on Claims.

S. 3663. An act for the relief of William Connelly, alias William E. Connoley; to the Committee on Military Affairs.

S. 3761. An act authorizing the Secretary of the Interior to patent certain land to the town of Wamsutter, Wyo.; to the Committee on the Public Lands.

S. 3777. An act to authorize the Secretary of the Treasury to execute an agreement of indemnity to the First Granite National Bank, Augusta, Maine; to the Committee on Claims.

S. 3860. An act to amend section 2 of the act entitled "An act to amend the National Defense Act", approved May 28, 1928; to the Committee on Military Affairs.

S. 3872. An act for the relief of the present leader of the Army Band; to the Committee on Military Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. PARSONS, from the Committee on Enrolled bills, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 11138. An act to extinguish tax liabilities and tax liens arising out of the Tobacco, Cotton, and Potato Acts; and

H. J. Res. 488. Joint resolution to provide for safeguarding of traffic on Military Road.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H. R. 11138. An act to extinguish tax liabilities and tax liens arising out of the Tobacco, Cotton, and Potato Acts; and

H. J. Res. 488. Joint resolution to provide for safeguarding of traffic on Military Road.

ADJOURNMENT

Mr. CANNON of Missouri. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p. m.) the House adjourned until tomorrow, Tuesday, February 25, 1936, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

678. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment, House of Representatives, for the fiscal year 1936, amounting to $4,250 (H. Doc. No. 415); to the Committee on Appropriations and ordered to be printed.

679. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated February 19, 1936, submitting a report, together with accompanying papers, on a preliminary examination and survey of channel from Back River to public landing in Wallace Creek, Elizabeth City County, Va., authorized by the River and Harbor Act approved August 30, 1935; to the Committee on Rivers and Harbors.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. GREENWOOD: Committee on Rules. House Resolution 427. Resolution for the consideration of H. R. 11047; without amendment (Rept. No. 2060). Referred to the House Calendar.

Mr. CANNON of Missouri: Committee on Appropriations. H. R. 11418. A bill making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937, and for other purposes; without amendment (Rept. No. 2061). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 7090) for the relief of Leonard Gramstad; Committee on World War Veterans' Legislation discharged, and referred to the Committee on Pensions.

A bill (H. R. 8011) to extend the benefits under the World War Veterans' Act, 1924, as amended, to Ethel Boyd; Committee on World War Veterans' Legislation discharged, and referred to the Committee on Claims.

A bill (H. R. 10343) granting a pension to Lou Satterfield; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CANNON of Missouri: A bill (H. R. 11418) making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937, and for other purposes; to the Committee on Appropriations.

By Mr. MAAS: A bill (H. R. 11419) to establish additional national cemeteries; to the Committee on Military Affairs.

By Mr. SIROVICH: A bill (H. R. 11420) to amend and consolidate the acts respecting copyright; to the Committee on Patents.

By Mr. DOUGHTON: A bill (H. R. 11421) to amend the National Firearms Act by extending its provisions to pistols and revolvers, and for other purposes; to the Committee on Ways and Means.

By Mr. FOCHT: A bill (H. R. 11422) to reimburse certain persons whose animals were seized in the Commonwealth of Pennsylvania because of tubercular infection; to the Committee on Agriculture.

By Mr. GREGORY: A bill (H. R. 11423) to authorize a compact and agreement between the States of Kentucky, Tennessee, and Virginia, providing for the control of the production of dark-fired tobacco in the said States and for the further purpose of regulating, protecting, and preserving a fair price for said commodity; to the Committee on Agriculture.

By Mr. KNUTE HILL: A bill (H. R. 11424) to provide for an adjustment with the State of Washington to satisfy the grants made to said State for school and other purposes in accordance with the provision of the act approved February 22, 1889 (25 Stat. 676); to the Committee on the Public Lands.

By Mr. GREENWOOD: A resolution (H. Res. 427) providing for the consideration of H. R. 11047, a bill relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by Reconstruction Finance Corporation and reaffirming their immunity; to the Committee on Rules.

By Mr. CONNERY: Resolution (H. Res. 429) providing for the investigation of labor conditions in the mining and tunneling industries; to the Committee on Rules.

By Mr. TREADWAY: Resolution (H. Res. 430) directing the Secretary of Agriculture to transmit to the House of Representatives a complete and unexpurgated copy of the report of the Bureau of Agricultural Economics relative to the cotton-reduction program; to the Committee on Agriculture.

By Mr. RANDOLPH: Joint resolution (H. J. Res. 496) for the erection of a memorial to Dr. Samuel Alexander Mudd; to the Committee on the Public Lands.

By Mr. DISNEY: Joint resolution (H. J. Res. 497) to permit articles imported from foreign countries for the purpose of exhibition at the International Petroleum Exposition, Tulsa, Okla., to be admitted without payment of tariff, and for other purposes; to the Committee on Ways and Means.

By Mr. FERGUSON: Concurrent resolution (H. Con. Res. 43) to direct the joint committee on internal revenue taxation to recommend measures imposing on procession appropriate taxes equal to amounts returned to processors as a

result of the decision of the Supreme Court in the Agricultural Adjustment Act case; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BLOOM: A bill (H. R. 11425) for the relief of Gustava Hanna; to the Committee on Foreign Affairs.

By Mr. BUCKLER of Minnesota: A bill (H. R. 11426) for the relief of Arthur P. Foster; to the Committee on Military Affairs.

By Mr. CARTER: A bill (H. R. 11427) for the relief of John N. Paulson; to the Committee on the Civil Service.

By Mr. COSTELLO: A bill (H. R. 11428) for the relief of Robert William Morris; to the Committee on Naval Affairs.

By Mr. CROWE: A bill (H. R. 11429) granting a pension to Elmer Goldman; to the Committee on Pensions.

By Mr. CULKIN: A bill (H. R. 11430) granting an increase of pension to Kate Riker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11431) granting an increase of pension to Cora A. Townsend; to the Committee on Invalid Pensions.

By Mr. DEMPSEY: A bill (H. R. 11432) for the relief of Felix Griego; to the Committee on Military Affairs.

By Mr. DISNEY: A bill (H. R. 11433) for the relief of Jennie May Lee; to the Committee on Claims.

Also, a bill (H. R. 11434) for the relief of Tom Kelly; to the Committee on Claims.

Also, a bill (H. R. 11435) granting a pension to Lena Edna Pollock; to the Committee on Pensions.

Also, a bill (H. R. 11436) for the relief of Mrs. Charles R. Warner; to the Committee on Claims.

By Mr. GASSAWAY: A bill (H. R. 11437) for the relief of W. Cooke; to the Committee on Claims.

By Mr. HOLLISTER: A bill (H. R. 11438) granting an increase of pension to Anna E. Kaney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11439) granting an increase of pension to Anna M. Parish; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11440) granting an increase of pension to Lulu H. Powers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11441) granting a pension to Emma Ferris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11442) granting a pension to Mary E. Hilles; to the Committee on Invalid Pensions.

By Mr. PARSONS: A bill (H. R. 11443) granting a pension to Ellen Edwards; to the Committee on Invalid Pensions.

By Mr. PFEIFER: A bill (H. R. 11444) for the relief of the parents of Benjamin Muzio; to the Committee on Claims.

By Mr. RANDOLPH: A bill (H. R. 11445) for the relief of Dorsey Costello Rosier; to the Committee on Military Affairs.

By Mr. REECE: A bill (H. R. 11446) for the relief of Estell Gregg; to the Committee on Naval Affairs.

By Mr. ROMJUE: A bill (H. R. 11447) for the relief of James M. De Witt; to the Committee on Naval Affairs.

By Mr. SADOWSKI: A bill (H. R. 11448) for the relief of Charles Bubyak; to the Committee on Military Affairs.

By Mr. SHANLEY: A bill (H. R. 11449) for the relief of Rose Stratton; to the Committee on Claims.

Also, a bill (H. R. 11450) granting compensation to Mary Weller; to the Committee on Claims.

By Mr. TINKHAM: A bill (H. R. 11451) for the relief of Philip Sadow; to the Committee on Naval Affairs.

PETITIONS, ETC.

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

10237. By Mr. AYERS: Petition of Walter F. Steeves and 76 other citizens, of Livingston, Clyde Park, Wilsall, and Cradbourn, Mont.; to the Committee on the Post Office and Post Roads.

10238. Also, petition of L. R. Anderson and 33 other patrons of star route no. 63366, Nibbe to Wanetta, Mont.; to the Committee on the Post Office and Post Roads.

10239. By Mr. DRISCOLL: Petition of patrons of star route no. 10219 from Oil City to Fertigs, Pa., petitioning Congress to enact legislation to indefinitely extend existing star-route contracts and increase the compensation thereon to an equal basis with that paid for other forms of mail transportation; to the Committee on the Post Office and Post Roads.

10240. By Mr. FOCHT: Petitions of citizens and patrons of star route no. 10560, reaching from McConnellsburg to Everett, a part of the Eighteenth Pennsylvania Congressional District, for legislation to extend all existing star-route contracts and increase the compensation thereon; to the Committee on the Post Office and Post Roads.

10241. Also, petitions of citizens and patrons of star route no. 10550, reaching from Harrisonville to Orbisonia, a part of the Eighteenth Pennsylvania Congressional District, for legislation to extend all existing star-route contracts and increase the compensation thereon; to the Committee on the Post Office and Post Roads.

10242. By the SPEAKER: Petition of the Junior Birdmen of America, of the Washington Wing; to the Committee on the District of Columbia.

10243. Also, petition of the Philadelphia Yearly Meeting of Friends; to the Committee on Interstate and Foreign Commerce.

10244. Also, petition of the Minnesota Bar Association; to the Committee on the Library.

10245. By Mr. BIERMANN: Petition of citizens of Calmar and Decorah, Iowa, asking for remedial legislation regarding star mail routes; to the Committee on the Post Office and Post Roads.

10246. By Mr. BLOOM: Petition of the laborers of Bayamon, P. R., favoring an amendment to the Organic Act in order that a public-welfare department may be created in Puerto Rico; urging that Puerto Rico be included in any new legislation in regard to relief which might be presented in the House of Representatives; and requesting an extension of the benefits of the Federal Social Security Act to Puerto Rico; to the Committee on Ways and Means.

10247. By Mr. CULKIN: Petition of the Parent-Teachers' Association of the Grade School of Wyncote, Pa., in support of bills which provide for Federal motion-picture commission to supervise production, distribution, and exhibition of pictures; to the Committee on Interstate and Foreign Commerce.

10248. Also, petition of the board of supervisors, Jefferson County, N. Y., favoring the Great Lakes-St. Lawrence seaway and power project; to the Committee on Interstate and Foreign Commerce.

10249. Also, petition of the Ladies' Auxiliary of the New York, Ontario, and Western Veterans' Association of the Northern Division, Norwich, N. Y., favoring passage of House bill 3263; to the Committee on Interstate and Foreign Commerce.

10250. By Mr. CURLEY: Petition of the Pulaski Memorial Committee, Bronx, New York city, in support of the naming of a Navy destroyer the *Pulaski*; to the Committee on Naval Affairs.

10251. By Mr. CULKIN: Petition of the Railroad Employees and Taxpayers Association of the State of New York, Chenango Unit, favoring House bill 3263 (Pettengill bill); to the Committee on Interstate and Foreign Commerce.

10252. By Mr. FORD of Mississippi: Petition of L. Harrison and 99 other citizens, of Grenada County, Miss., asking for remedial legislation regarding star routes; to the Committee on the Post Office and Post Roads.

10253. Also, petition of M. R. Langston, State president of the Star Route Carriers' Association, and four others, favoring remedial legislation regarding star routes; to the Committee on the Post Office and Post Roads.

10254. By Mr. FULMER: Memorial of the House of Representatives, South Carolina Legislature, memorializing Congress to refund to the farmers the tax paid under the Bankhead Act; to the Committee on Agriculture.

10255. Also, resolution of the House of Representatives, South Carolina Legislature, to memorialize Congress to ap-

propriate necessary funds for returning Paul Redfern from the jungles; to the Committee on Appropriations.

10256. By Mr. PFEIFER: Telegram of M. C. Keveny, president, Local 4, National Federation Federal Employees, New York City, concerning annual and sick leave bills; to the Committee on the Civil Service.

10257. By Mr. SADOWSKI: Petition of the directors of the Oil and Gas Association of Michigan, endorsing House bill 10483; to the Committee on Ways and Means.

10258. Also, petition of the Michigan Bakers' Association, Inc., protesting against any bill in Congress designed to impose any additional tax to replace the processing tax, whether retroactive or not; to the Committee on Ways and Means.

10259. By Mr. SCOTT: Petition of the Fontana Utopian Group, No. 72 A-12, opposing the exporting of any war materials or any such commodities which can be used to sustain a military organization of any foreign power which is waging a military campaign against another country or countries, and demanding the enforcement of the present embargo act, recently proclaimed by the President of the United States; to the Committee on Foreign Affairs.

10260. By Mr. SISSON: Petition of Joy MacLean and others of Sauquoit, Oneida County, urging the passage of the Kerr bill; to the Committee on Immigration and Naturalization.

10261. Also, petition of patrons of star route no. 7250, from Knoxboro to Oriskany Falls, N. Y., petitioning for enactment of legislation indefinitely extending all existing star-route contracts and increasing the compensation thereon to an equal basis with that paid for other forms of mail transportation; to the Committee on the Post Office and Post Roads.

10262. By Mr. STEFAN: Petition bearing the signatures of 59 citizens of Niobrara and Santee, Nebr., asking the Congress to enact legislation at this session to indefinitely extend all existing star-route contracts and increase the compensation thereon to an equal basis with that paid for other forms of mail transportation; to the Committee on the Post Office and Post Roads.

SENATE

TUESDAY, FEBRUARY 25, 1936

(Legislative day of Monday, Feb. 24, 1936)

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

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, February 24, 1936, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

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

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

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

Adams	Connally	Keyes	Overton
Ashurst	Coolidge	King	Pittman
Austin	Costigan	La Follette	Radcliffe
Bachman	Couzens	Lewis	Robinson
Bailey	Davis	Logan	Russell
Barbour	Dickinson	Lonergan	Schwellenbach
Benson	Donahey	Long	Sheppard
Bilbo	Duffy	McAdoo	Smith
Black	Frazier	McGill	Steiwer
Borah	George	McKellar	Thomas, Okla.
Brown	Gibson	McNary	Thomas, Utah
Bulkley	Glass	Maloney	Townsend
Bulow	Gore	Metcalf	Trammell
Burke	Guffey	Minton	Truman
Byrd	Hale	Murphy	Tydings
Byrnes	Harrison	Murray	Vandenberg
Capper	Hastings	Neely	Van Nuys
Caraway	Hatch	Norbeck	Wagner
Carey	Hayden	Norris	Wheeler
Chavez	Holt	Nye	White
Clark	Johnson	O'Mahoney	

Mr. LEWIS. I announce that the Senator from Alabama [Mr. BANKHEAD], the Senator from Florida [Mr. FLETCHER], and the Senator from Washington [Mr. BONE] are absent from the Senate because of illness, and that the Senator from Nevada [Mr. MCCARRAN], the Senator from New York [Mr. COPELAND], the Senator from New Jersey [Mr. MOORE], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Massachusetts [Mr. WALSH], the Senator from Kentucky [Mr. BARKLEY], the Senator from Idaho [Mr. POPE], the Senator from Rhode Island [Mr. GERRY], and the Senator from Illinois [Mr. DIETERICH] are unavoidably detained.

Mr. AUSTIN. I announce that the Senator from Minnesota [Mr. SHIPSTEAD] is necessarily absent.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 399. An act to amend sections 416 and 417 of the Revised Statutes relating to the District of Columbia; and

S. 3035. An act to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to each of the bills (H. R. 8458) to provide for vacations to Government employees, and for other purposes, and (H. R. 8459) to standardize sick leave and extend it to all civilian employees; asked conferences with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. RAMSPECK, Mr. SIROVICH, and Mr. LEHLBACH were appointed managers on the part of the House at the respective conferences.

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

H. R. 3254. An act to exempt certain small firearms from the provisions of the National Firearms Act;

H. R. 8886. An act to authorize the coinage of 50-cent pieces in commemoration of the sesquicentennial anniversary of the founding of the city of Columbia, S. C.; and

H. R. 10975. An act authorizing a preliminary examination of Marshy Hope Creek, a tributary of the Nanticoke River, at and within a few miles of Federalsburg, Caroline County, Md., with a view to the controlling of floods.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H. R. 9130) to authorize the incorporated city of Skagway, Alaska, to undertake certain municipal public works, and for such purpose to issue bonds in any sum not exceeding $12,000, and for other purposes, and it was signed by the President pro tempore.

PROPERTY IN CUSTODY OF DISTRICT PROPERTY CLERK

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 399) to amend sections 416 and 417 of the Revised Statutes relating to the District of Columbia, which were, on page 2, line 7, after the word "sale", to insert "having been retained by the said property clerk for a period of 3 months without a lawful claimant", and on page 2, line 7, after the word "shall", to insert "then."

Mr. KING. I move that the Senate concur in the House amendments.

The motion was agreed to.

ARREARS OF TAXES AND ASSESSMENTS IN THE DISTRICT

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3035) to provide for enforcing the lien of the District of Columbia upon real estate bid off in its name when offered for sale for arrears of taxes and assessments, and for other purposes, which were, on page 3, line 11, to strike out "pass" and insert "enter"; and on page 4, line 18, after the word "by", to insert "the."

Mr. KING. I move that the Senate concur in the House amendments.

The motion was agreed to.