2694. By Mr. SPARKMAN: Petition of Nancy Vintson and various other citizens of Madison County, Ala., urging the enactment of the old-age pension bill as embodied in House bill 2257, introduced by Representative WILL ROGERS, of Oklahoma; to the Committee on Ways and Means.

2695. Also, petition of Matilda Allen and various other citizens of Limestone County, Ala., urging the enactment of the old-age pension bill as embodied in House bill 2257, introduced by Representative WILL ROGERS, of Oklahoma; to the Committee on Ways and Means.

2696. Also, petition of Paul D. Blaxton and various other citizens of Lawrence County, Ala., urging the enactment of the old-age-pension bill as embodied in House bill 2257, introduced by Representative WILL ROGERS, of Oklahoma; to the Committee on Ways and Means.

2697. Also, petition of Sam Williams and various other citizens of Jackson County, Ala., urging the enactment of the old-age-pension bill as embodied in House bill 2257, introduced by Representative WILL ROGERS, of Oklahoma; to the Committee on Ways and Means.

2698. By Mr. WELCH: Resolution relative to memorializing the President and Congress to take such steps as may be necessary to cut a channel through the southerly end of the Coronado Silver Strand to allow seagoing vessels to enter the bay of San Diego at its southerly end; to the Committee on Rivers and Harbors.

2699. Also, resolution relative to memorializing the President and Congress to enact legislation relative to the conscription of wealth and industry in wartime and the effective barring of war profits; to the Committee on Foreign Affairs.

2700. By Mr. BUCK: Memorial of the State of California Legislature, Assembly Joint Resolution No. 10, relative to memorializing the Congress of the United States to designate Armistice Day as a holiday; to the Committee on Military Affairs.

2701. By Mr. WELCH: Resolution relative to memorializing the President of the United States and the Members of Congress to extend the life of the Federal Public Works Administration for a period of 2 years after next June 30, and further memorializing Congress to earmark the sum of $350,000,000 of the pending Federal relief appropriation for a continuance of loans and grants under Public Works Administration to local communities; to the Committee on Appropriations.

2702. Also, resolution relative to memorializing the President and the Congress of the United States to amend the Social Security Act so as to enable such States as may desire to do so to bring the employees of such State and the employees of its counties, cities, and other political subdivisions within the provisions of such act relating to old-age benefits; to the Committee on Ways and Means.

2703. Also, resolution relative to memorializing the Congress of the United States to designate Armistice Day as a holiday; to the Committee on Military Affairs.

2704. By Mr. WIGGLESWORTH: Petition of the Revere Post, No. 61, American Legion, urging the enactment of special legislation for the establishment of a lifetime annuity to Marie Antionette Connery, widow of the late Representative William P. Connery, Jr.; to the Committee on Pensions.

2705. By the SPEAKER: Petition of the United Spanish War Veterans, Washington, D. C., with reference to House bill 5030, affecting Spanish War veterans; to the Committee on Pensions.

2706. Also, petition of the Board of Aldermen of the city of Chelsea, Mass., protesting reported Works Progress Administration lay-offs; to the Committee on Appropriations.

2707. Also, petition of Revere Post, No. 61, American Legion, Massachusetts, memorializing the Congress to enact special legislation for the establishment of a lifetime annuity to Marie Antoinette Connery, widow of the late William P. Connery, Jr., a late Representative to Congress from the State of Massachusetts; to the Committee on Pensions.

2708. Also, petition of the Board of Aldermen of the city of Chelsea, Mass., urging elimination of the present reciprocity treaty; to the Committee on Ways and Means.

SENATE

TUESDAY, JUNE 22, 1937

(Legislative day of Tuesday, June 15, 1937)

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, June 21, 1937, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I note the absence of a quorum, and ask for a roll call.

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

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

Adams	Clark	Johnson, Colo.	Reynolds
Andrews	Connally	La Follette	Robinson
Ashurst	Copeland	Lee	Russell
Austin	Davis	Lewis	Schwartz
Bailey	Dieterich	Lodge	Schwellenbach
Bankhead	Duffy	Logan	Smathers
Barkley	Ellender	Longeran	Smith
Bilbo	Frazier	Lundeen	Steiwer
Black	George	McAdoo	Thomas, Okla.
Bone	Gerry	McGill	Thomas, Utah
Borah	Gibson	McKellar	Townsend
Bridges	Gillette	McNary	Truman
Brown, Mich.	Glass	Minton	Tydings
Brown, N. H	Guffey	Moore	Vandenberg
Bulkley	Harrison	Murray	Van Nuys
Bulow	Hatch	Neely	Wagner
Burke	Hayden	Nye	Walsh
Byrd	Herring	O'Mahoney	Wheeler
Byrnes	Hitchcock	Overton	White
Capper	Holt	Pittman	
Caraway	Hughes	Pope	
Chavez	Johnson, Calif.	Radcliffe	

Mr. LEWIS. I announce that the Senator from Utah [Mr. KING] and the Senator from Connecticut [Mr. MALONEY] are absent because of illness.

The Senator from Tennessee [Mr. BERRY], the Senator from Rhode Island [Mr. GREEN], the Senator from Ohio [Mr. DONAHEY], the Senator from Nevada [Mr. MCCARRAN], the Senator from Florida [Mr. PEPPER], and the Senator from Texas [Mr. SHEPPARD] are detained from the Senate on important public business.

Mr. POPE. I announce that the Senator from Nebraska [Mr. NORRIS] is detained from the Senate because of a slight illness.

Mr. AUSTIN. I announce that the Senator from Minnesota [Mr. SHIPSTEAD] is necessarily absent.

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

RETIREMENT OF RAILROAD EMPLOYEES

Mr. WAGNER. Mr. President, yesterday the House of Representatives, with but one dissenting vote, passed the bill (H. R. 7519) to establish a retirement system for employees of the railroads. As a similar Senate bill (S. 2395) has been reported by the Committee on Interstate Commerce and is now on the Senate calendar, the bill passed by the House, under our rules may be placed on the calendar without reference to the committee.

I desire to give notice, if Senators wish to study the bill, that on tomorrow, in the course of the day, I hope to bring the bill up for the consideration of the Senate. I do not anticipate any opposition to it in the Senate, since on two other occasions similar bills were passed by unanimous vote of the Senate.

REPORT OF RECONSTRUCTION FINANCE CORPORATION

The PRESIDENT pro tempore laid before the Senate a letter signed by the Chairman and secretary of the Reconstruction Finance Corporation, reporting, pursuant to law, relative to the operations of the Corporation for the first quarter of 1937, and also for the period from the organization of the Corporation on February 2, 1932, to March 31, 1937, inclusive, which, with the accompanying papers, was referred to the Committee on Banking and Currency.

PETITIONS AND MEMORIALS

The PRESIDENT pro tempore laid before the Senate the petition of Julio Villalobos and several other citizens of Colon, Republic of Panama, praying that compensation be granted them for lands acquired by the Government of the United States in connection with the acquisition of the Panama Canal Zone, which was referred to the Committee on Interoceanic Canals.

Mr. LODGE presented a petition of sundry citizens of Springfield, Mass., praying for the abolition of the Federal Reserve System as at present constituted, and also praying that Congress exercise its constitutional right to coin money and regulate the value thereof, which was referred to the Committee on Banking and Currency.

Mr. COPELAND presented a resolution adopted by the Herrick Labor Club (affiliated with the American Labor Party), of Richmond County, N. Y., protesting against the enactment of the bill (S. 25) to prevent profiteering in time of war and to equalize the burdens of war and thus provide for the national defense, and promote peace, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Fifth A. D. Bronx Branch of the American Labor Party, New York City, favoring declaration by the Government of the United States of the existence of a state of war between the Spanish Republic and the Governments of Germany and Italy, and also the placing of embargoes on all munitions and other implements of war against such alleged belligerents, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the Federal Bar Association of New York, New Jersey, and Connecticut, assembled in annual convention at Newark, N. J., favoring the enactment of the bill (H. R. 6391) to authorize the prompt deportation of criminals and certain other aliens, and for other purposes, which was referred to the Committee on Immigration.

He also presented a resolution adopted at a recent meeting in Albany, N. Y., by representatives of various civic organizations from the cities in which collegiate centers are located, favoring the appropriation of funds for the continuance of emergency collegiate centers in New York State, which was ordered to lie on the table.

DEDICATION OF CHAPELS AND OTHER WORLD WAR MEMORIALS

Mr. GLASS. From the Committee on Appropriations I report back favorably, without amendment, House Joint Resolution 415. It is a noncontroversial measure, proposing to appropriate $175,000 to the American Battle Monuments Commission for the dedication of chapels and other World War memorials in France.

The joint resolution also contains a transfer of $40,000 from one branch of the Department of Justice, which does not need it, to another branch, which does need it, and, further, it makes a correction of $80 in an engrossed act. I ask unanimous consent for the immediate consideration of the joint resolution.

Mr. ROBINSON. Mr. President, I presume it will be necessary to have the unfinished business temporarily laid aside, and I ask that that be done in order that the joint resolution may be considered.

The PRESIDENT pro tempore. Without objection, the unfinished business is temporarily laid aside. Is there objection to the request of the Senator from Virginia for the present consideration of the joint resolution reported by him?

There being no objection, the joint resolution (H. J. Res. 415) making an appropriation to defray expenses incident to the dedication of chapels and other World War memorials erected in Europe, and for other purposes, was considered, ordered to a third reading, read the third time, and passed, as follows:

Resolved, etc., That for the purpose of providing for the dedication of the chapels and other World War memorials erected in Europe under the authority of the act of March 4, 1923 (42 Stat. 1509), there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $175,000, to remain available until June 30, 1938, and to be available for expenditure by the American Battle Monuments Commission for such objects and in such manner as the Commission may deem necessary and proper to accomplish the purposes hereof without regard to the provisions of other laws or regulations relating to the expenditure of public funds except that this exemption shall not be construed as waiving the requirement for the submission of accounts and vouchers to the General Accounting Office for audit. The Commission may utilize the services, materials, supplies, equipment, and other facilities of any other agency of the Government when, in the discretion of such other agency, it is convenient and practicable to furnish the same, the cost thereof to be paid from this appropriation, except that when, in the discretion of the furnishing agency, the public interest will be subserved thereby such services, materials, supplies, equipment, and other facilities may be furnished free of charge to the Commission. The Commission may, within such limits and under such terms and conditions as it may prescribe, delegate to its chairman, secretary, or other designated representatives such of its authority as it may deem necessary and proper in carrying out the purposes hereof. The official delegation designated by the Commission to attend such dedication shall include three Members of the United States Senate, to be appointed by the Vice President or the President pro tempore of the Senate, and three Members of the House of Representatives to be appointed by the Speaker.

SEC. 2. The Secretary of the Treasury is hereby authorized and directed, upon the request of the Secretary of Commerce, to transfer, during the fiscal year 1937, from the appropriation "Salaries and general expenses for the Bureau of Marine Inspection and Navigation, fiscal year 1937", to the appropriation "Departmental salaries, Bureau of Marine Inspection and Navigation, fiscal year 1937", not to exceed $8,000.

SEC. 3. There is hereby transferred from the appropriation "Fees of jurors and witnesses, United States courts, 1937" to the appropriation "Pay of special assistant attorneys, United States courts, 1937", the amount of $40,000.

SEC. 4. The appropriation in the Legislative Branch Appropriation Act, 1938 (Public Act No. 94, 75th Cong.), for an assistant clerk at $2,800 for the Committee to Audit and Control the Contingent Expenses of the Senate, is hereby amended to make the salary of such assistant clerk read "$2,880."

SEC. 5. The Comptroller General of the United States is authorized and directed to approve payment for nine airplanes obtained from the Stinson Aircraft Corporation, Wayne, Mich., under contract Cc–2510, dated October 1, 1936, out of an allotment of $83,000 made by the President of the United States on March 23, 1937, for this purpose from the Emergency Relief Appropriation Act of 1935.

REPORTS OF COMMITTEES

Mr. WALSH, from the Committee on Naval Affairs, to which was referred the bill (S. 1918) to authorize the award of a decoration for distinguished service, namely, the Congressional Medal of Honor, to Acors Rathbun Thompson, reported it with amendments and submitted a report (No. 784) thereon.

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

S. 1762. A bill to add certain lands to the Rogue River National Forest in the State of Oregon (Rept. No. 785); and

S. 2221. A bill to facilitate the control of soil erosion and flood damage originating upon lands within the exterior boundaries of the Cache National Forest in the State of Utah (Rept. No. 786).

Mr. SMITH also, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 1998) to amend the act entitled "An act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture", approved June 24, 1936, reported it with amendments and submitted a report (No. 787) thereon.

Mr. LOGAN, from the Committee on the Judiciary, to which was referred the joint resolution (S. J. Res. 144) proposing an amendment to the Constitution of the United States prohibiting child labor, reported it with an amendment and submitted a report (No. 788) thereon.

Mr. VAN NUYS, from the Committee on the Judiciary, to which was referred the bill (H. R. 1507) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, reported it with an amendment and submitted a report (No. 793) thereon.

Mr. ADAMS, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 5394) to provide for the acquisition of certain lands for, and the

addition thereof to, the Yosemite National Park, in the State of California, and for other purposes, reported it with an amendment and submitted a report (No. 789) thereon.

He also, from the same committee, to which was referred the bill (H. R. 7021) validating and confirming certain mineral patents issued for lands situated in township 5 south, range 15 east, Montana principal meridian, in the State of Montana, reported it without amendment and submitted a report (No. 790) thereon.

Mr. O'MAHONEY, from the Committee on Irrigation and Reclamation, to which was referred the bill (H. R. 2512) to authorize an appropriation for the construction of small reservoirs under the Federal reclamation laws, reported it with an amendment and submitted a report (No. 791) thereon.

Mr. ELLENDER, from the Committee on Claims, to which was referred the bill (S. 972) for the relief of Ethel Smith McDaniel, reported it without amendment and submitted a report (No. 792) thereon.

Mr. RUSSELL, from the Committee on Immigration, to which were referred the following bills, reported them each without amendment and submitted a report thereon as indicated:

S. 2664. A bill to permit the temporary entry into the United States under certain conditions of alien participants and officials of the World Association of Girl Guides and Girl Scouts Silver Jubilee Camp to be held in the United States in 1937 (Rept. No. 794); and

H. R. 7206. A bill to permit the temporary entry into the United States under certain conditions of alien participants and officials of the World Association of Girl Guides and Girl Scouts Silver Jubilee Camp to be held in the United States in 1937.

BILLS INTRODUCED

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

By Mr. McNARY:

A bill (S. 2693) to add certain lands to the Siuslaw National Forest in the State of Oregon; to the Committee on Agriculture and Forestry.

A bill (S. 2694) granting an increase of pension to James S. Blankenship (with accompanying papers); to the Committee on Pensions.

By Mr. GUFFEY:

A bill (S. 2695) for the relief of A. D. Cummins & Co., Inc.; to the Committee on Claims.

By Mr. McKELLAR:

A bill (S. 2696) for the relief of certain postal employees at Knoxville, Tenn.; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 2697) for the relief of Paul Stolnitzky (also known as Max Stone), his wife and three children; to the Committee on Immigration.

By Mr. THOMAS of Oklahoma (by request):

A bill (S. 2698) to set aside certain lands in Oklahoma for the Cheyenne and Arapahoe Indians; to the Committee on Indian Affairs.

APPROPRIATIONS DISBURSED AT THE DISCRETION OF THE PRESIDENT

Mr. HOLT presented a statement of appropriations made by Congress and disbursed at the discretion of the President, which was ordered to lie on the table and to be printed in the RECORD, as follows:

[From the United States News]

Appropriations made by Congress to be disbursed at the discretion of the President

1789 TO MAR. 4, 1933

Foreign intercourse, act of Mar. 20, 1794	$1,000,000
Territorial possessions, act of Oct. 31, 1803 (as authorized under the act of Mar. 3, 1803)	1,500,000
Territorial possessions, act of Jan. 15, 1811	100,000
National defense, act of Mar. 3, 1839	10,000,000
Treaty with Mexico, act of Jan. 29, 1854	10,000,000
Civil War, act of July 31, 1861	2,000,000
Civil War, act of July 31, 1861	10,000,000
Yellow fever, joint resolution of Oct. 12, 1888	100,000
National defense, deficiency act of Mar. 9, 1898	50,000,000
Panama Canal, act of June 28, 1902	$10,000,000
Transportation of Americans in Europe (Public Resolution of Aug. 3, 1914)	250,000
Transportation of Americans in Europe (Public Resolution of Aug. 5, 1914)	2,500,000
Naval emergency fund, act of Mar. 4, 1917	115,000,000
National defense, act of Apr. 17, 1917 (extended by act of Dec. 15, 1917)	100,000,000
Emergency shipping fund, act of June 15, 1917	405,000,000
War expenditures, Oct. 6, 1917	635,000,000
Emergency housing, acts of June 4 and July 8, 1918	100,000,000
National defense, act of June 27, 1918	50,000,000
National defense, act of July 1, 1918	50,000,000
Emergency shipping, act of Nov. 4, 1918	34,662,500
European food relief, act of Feb. 25, 1919	100,000,000
Total	1,687,112,500

MAR 4, 1933, TO MAY 1937

Emergency conservation work, act of Mar. 31, 1933	$101,875,200
National Industrial Recovery Act, June 16, 1933	3,300,000,000
Gold Reserve Act of Jan. 30, 1934	2,000,000,000
Additional relief appropriation, act of Feb. 15, 1934	950,000,000
Investigation of electric rates, act of Apr. 14, 1934	
Silver Purchase Act of June 19, 1934	500,000
Relief, Farm Relief and Public Works Act of June 19, 1934	1,424,675,000
Reappropriated	500,000,000
Emergency Relief Act of Apr. 8, 1935	4,000,000,000
Reappropriated	534,448,615
Emergency Conservation Work Deficiency Appropriation Act of June 22, 1936	308,000,000
Emergency Relief, act of June 22, 1936	1,425,000,000
First Deficiency Appropriation Act, 1937	884,000,000
Total	15,428,498,815

Appropriations for making contracts for construction, etc., limited to $135,000,000 if Panama route was chosen, and $180,000,000 if Nicaragua route was chosen.

The President was given the authority to spend unobligated balances previously appropriated for public works plus a new appropriation equal to that amount plus unexpended balances remaining under the Emergency Relief and Construction Act of 1932. The figure here given is the actual amount expended.

This act made available such an amount as was necessary in the judgment of the President.

A total of $880,000,000 was reappropriated under this act but $345,551,385 of this amount was taken from unspent balances of earlier discretionary appropriations already listed.

MESSAGE FROM THE HOUSE

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

S. 119. An act to provide for the establishment of a Coast Guard station at or near Menominee, Mich.;

S. 187. An act providing for the suspension of annual assessment work on mining claims held by location in the United States;

S. 1374. An act to provide for the establishment of a Coast Guard station at or near Manistique, Mich.;

S. 1984. An act for the protection of the northern Pacific halibut fishery;

S. 2242. An act to further amend an act entitled "An act to authorize the collection and editing of official papers of the Territories of the United States now in The National Archives", approved March 3, 1925, as amended;

S. 2439. An act to extend the time for purchase and distribution of surplus agricultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation; and

S. J. Res. 111. Joint resolution to provide that the United States extend to foreign governments invitations to participate in the International Congress of Architects to be held in the United States during the calendar year 1939, and to authorize an appropriation to assist in meeting the expenses of the session.

The message also 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. 4. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the original Norfolk (Va.) land grant and the two hundredth anniversary of the establishment of the city of Norfolk, Va., as a borough; and

S. 102. An act to authorize the coinage of 50-cent pieces in commemoration of the seventy-fifth anniversary of the Battle of Antietam.

The message further announced that the House had receded from its disagreement to the amendment of the Senate to the bill (H. R. 6551) to establish a Civilian Conservation Corps, and for other purposes, and concurred therein with an amendment, in which it requested the concurrence of the Senate.

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

H. R. 1561. An act for the protection of oyster culture in Alaska;

H. R. 1961. An act to authorize the conveyance by the United States to the State of Wisconsin of a portion of the Twin River Point Lighthouse Reservation, and for other purposes;

H. R. 4011. An act to confer jurisdiction upon certain United States commissioners to try petty offenses committed on Federal reservations;

H. R. 4087. An act to reduce by 100,000 the number of 50-cent pieces authorized to be coined in celebration of the opening of the San Francisco-Oakland Bay Bridge, and to authorize the coinage of not to exceed 100,000, 50-cent pieces in celebration of the opening of the Golden Gate Bridge;

H. R. 4343. An act to amend section 77B of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended;

H. R. 4716. An act authorizing the construction and equipment of a marine hospital in the State of Florida;

H. R. 4721. An act relative to granting and giving instructions in civil and criminal cases in the district courts of continental United States;

H. R. 4852. An act to provide for the creation of the Saratoga National Historical Park in the State of New York, and for other purposes;

H. R. 5040. An act to provide for the establishment of a Coast Guard station at or near Beaver Bay, Minn.;

H. R. 5140. An act to provide for the establishment of a Coast Guard station at or near St. Augustine, Fla.;

H. R. 5963. An act providing for the establishment of a term of the District Court of the United States for the Northern District of New York at Malone, N. Y.;

H. R. 6176. An act to admit to the United States certain alien veterans of the World War;

H. R. 6358. An act to amend section 107, as amended, of the Judicial Code so as to eliminate the requirement that suitable accommodations for holding court at Columbia, Tenn., be provided by the local authorities;

H. R. 6453. An act to increase the minimum salary of deputy United States marshals to $2,000 per annum;

H. R. 6496. An act granting the consent of Congress to the State of Montana, or the counties of Roosevelt, Richland, and McCone, singly or jointly, to construct, maintain, and operate a free highway bridge across the Missouri River, at or near Poplar, Mont.;

H. R. 6607. An act to provide for the naturalization of certain alien spouses of citizens of the United States, and to validate the naturalization of certain persons;

H. R. 6636. An act granting the consent of Congress to the county of Carroll, in the State of Indiana, to construct, maintain, and operate a free highway bridge across the Wabash River at or near Lockport, Ind.;

H. R. 6693. An act to legalize a dike in the Missouri River 6⁹⁄₁₀ miles downstream from the South Dakota State highway bridge at Pierre, S. Dak.;

H. R. 6737. An act to amend the stamp provisions of the Bottling in Bond Act;

H. R. 6762. An act to amend the act known as the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, as amended;

H. R. 6920. An act granting the consent of Congress to the Commonwealth of Massachusetts, Middlesex County, and the city of Lowell, Mass., or any two of them, or any one of them, to construct, maintain, and operate a free highway bridge across the Merrimack River at Lowell;

H. R. 7017. An act to amend section 4450 of the Revised Statutes of the United States, as amended by the act of May 27, 1936 (49 Stat. 1380, 1383; U. S. C., 1934 ed., title 46, sec. 239);

H. R. 7328. An act to authorize an appropriation to carry out the provisions of the act of May 3, 1928 (45 Stat. L. 484), and for other purposes;

H. R. 7401. An act to authorize the Secretary of Commerce to convey to the Commissioners of the Palisades Interstate Park, a body politic of the State of New York, certain portions of the Stony Point Light Station Reservation, Rockland County, N. Y., including certain appurtenant structures, and for other purposes; and

H. R. 7519. An act to amend an act entitled "An act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes", approved August 29, 1935.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 713) to provide an appropriation for the payment of claims of persons who suffered property damage, death, or personal injury due to the explosion at the naval ammunition depot, Lake Denmark, N. J., July 10, 1926, and it was signed by the President pro tempore.

HOUSE BILLS REFERRED

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

H. R. 1561. An act for the protection of oyster culture in Alaska;

H. R. 1961. An act to authorize the conveyance by the United States to the State of Wisconsin of a portion of the Twin River Point Lighthouse Reservation, and for other purposes;

H. R. 4716. An act authorizing the construction and equipment of a marine hospital in the State of Florida;

H. R. 5040. An act to provide for the establishment of a Coast Guard station at or near Beaver Bay, Minn.;

H. R. 5140. An act to provide for the establishment of a Coast Guard station at or near St. Augustine, Fla.;

H. R. 6496. An act granting the consent of Congress to the State of Montana, or the counties of Roosevelt, Richland, and McCone, singly or jointly, to construct, maintain, and operate a free highway bridge across the Missouri River at or near Poplar, Mont.;

H. R. 6636. An act granting the consent of Congress to the county of Carroll, in the State of Indiana, to construct, maintain, and operate a free highway bridge across the Wabash River at or near Lockport, Ind.;

H. R. 6693. An act to legalize a dike in the Missouri River 6⁹⁄₁₀ miles downstream from the South Dakota State highway bridge at Pierre, S. Dak.;

H. R. 6920. An act granting the consent of Congress to the Commonwealth of Massachusetts, Middlesex County, and the city of Lowell, Mass., or any two of them, or any one of them, to construct, maintain, and operate a free highway bridge across the Merrimack River at Lowell;

H. R. 7017. An act to amend section 4450 of the Revised Statutes of the United States, as amended by the act of May 27, 1936 (49 Stat. 1380, 1383; U. S. C., 1934 edition, title 46, sec. 239); and

H. R. 7401. An act to authorize the Secretary of Commerce to convey to the Commissioners of the Palisades Interstate Park, a body politic of the State of New York, certain portions of the Stony Point Light Station Reservation, Rockland County, N. Y., including certain appurtenant structures, and for other purposes; to the Committee on Commerce.

H. R. 4011. An act to confer jurisdiction upon certain United States commissioners to try petty offenses committed on Federal reservations;

H. R. 4343. An act to amend section 77B of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, as amended;

H. R. 4721. An act relative to granting and giving instructions in civil and criminal cases in the district courts of continental United States;

H. R. 5963. An act providing for the establishment of a term of the District Court of the United States for the Northern District of New York at Malone, N. Y.;

H. R. 6358. An act to amend section 107, as amended, of the Judicial Code so as to eliminate the requirement that suitable accommodations for holding court at Columbia, Tenn., be provided by the local authorities; and

H. R. 6453. An act to increase the minimum salary of deputy United States marshals to $2,000 per annum; to the Committee on the Judiciary.

H. R. 4087. An act to reduce by 100,000 the number of 50-cent pieces authorized to be coined in celebration of the opening of the San Francisco-Oakland Bay Bridge, and to authorize the coinage of not to exceed 100,000, 50-cent pieces in celebration of the opening of the Golden Gate Bridge; to the Committee on Banking and Currency.

H. R. 4852. An act to provide for the creation of the Saratoga National Historical Park in the State of New York, and for other purposes; to the Committee on Public Lands and Surveys.

H. R. 6176. An act to admit to the United States certain alien veterans of the World War; and

H. R. 6607. An act to provide for the naturalization of certain alien spouses of citizens of the United States, and to validate the naturalization of certain persons; to the Committee on Immigration.

H. R. 6737. An act to amend the stamp provisions of the Bottling in Bond Act; to the Committee on Finance.

H. R. 6762. An act to amend the act known as the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, as amended; to the Committee on Agriculture and Forestry.

H. R. 7519. An act to amend an act entitled "An act to establish a retirement system for employees of carriers subject to the Interstate Commerce Act, and for other purposes", approved August 29, 1935; to the calendar.

COINAGE OF 50-CENT PIECES COMMEMORATIVE OF SEVENTY-FIFTH ANNIVERSARY OF BATTLE OF ANTIETAM

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 102) to authorize the coinage of 50-cent pieces in commemoration of the seventy-fifth anniversary of the Battle of Antietam, which were on, page 1, line 4, to strike out "a" and insert "one"; on page 1, line 4, after "mint", to insert "only"; and on page 2, line 10, after "Maryland", to insert "subject to the approval of the Director of the Mint."

Mr. TYDINGS. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

COINAGE OF 50-CENT PIECES COMMEMORATIVE OF THREE HUNDREDTH ANNIVERSARY OF ORIGINAL NORFOLK, VA., LAND GRANT, ETC.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4) to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the original Norfolk (Va.) land grant and the two hundredth anniversary of the establishment of the city of Norfolk, Va., as a borough, which were, on page 1, line 6, to strike out "a" and insert "one"; on page 1, line 7, after "mint", to insert "only"; on page 1, line 8, to strike out "twenty" and insert "twenty-five"; on page 2, line 2, after "appropriate", to insert "single"; on page 2, line 13, to strike out "five" and insert "twenty-five"; and on page 2, line 17, after "association" to insert "subject to the approval of the Director of the Mint."

Mr. GLASS. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

EXTENSION OF SECTION 7 (A) OF SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives on the amendment of the Senate to House bill 3687, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
June 14, 1937.

Resolved, That the House agree to the amendment of the Senate to the bill (H. R. 3687) to extend the period during which the purposes specified in section 7 (a) of the Soil Conservation and Domestic Allotment Act may be carried out by payments by the Secretary of Agriculture to producers, with the following amendment:

Omit the matter proposed to be inserted by said amendment, and on page 2, after line 9, of the House engrossed bill, insert:

"SEC. 2. Section 9 of such act is amended by inserting at the end thereof the following: 'The Secretary shall transmit to the Congress a report, for the fiscal year ending June 30, 1937, and for each fiscal year thereafter, of the operations for such year under sections 7 to 14, inclusive, of this act, which report shall include a statement of the expenditures made and obligations incurred, by classes and amounts.'"

Mr. SMITH. Mr. President, when this measure was before the Senate the Senate made one amendment. The House of Representatives has practically agreed to that amendment, adding a few clarifying words. Therefore I move that the Senate concur in the amendment of the House to the Senate amendment.

The motion was agreed to.

RELIEF APPROPRIATIONS

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the joint resolution (H. J. Res. 361) making appropriations for relief purposes.

Mr. VANDENBERG. Mr. President, on May 11 I introduced Senate bill 2390, to provide relief, work relief, and increase employment by grants to the States, Territories, and the District of Columbia, and for other purposes. The bill was referred to the Committee on Appropriations and has since been available to Senators for study. I shall now offer it as a substitute for the pending joint resolution. I have no illusions as to the reception which the proposed substitute will receive at the hands of the Senate. Previous roll calls have clearly disclosed the purpose of this body not only to cling to the existing relief system but also to defeat any economical limitations. But I am convinced that the substitute represents a philosophy of action which must one day be embraced if the Federal credit shall not ultimately be destroyed. Therefore, to preserve the continuity of the record—for I have offered similar substitutes before—I am presenting the proposal; but, in order to conserve the time of the Senate, which I should like to encourage to the earliest possible sine die adjournment, I shall content myself with the briefest possible argument, and I shall be satisfied with a viva-voce vote.

Mr. President, in a word, this substitute proposes to cure many of the challenging difficulties of the relief problem—difficulties that have been spectacularly emphasized in the debates of the past week—by returning responsibility for relief decisions and for relief administration to the States; and it proposes to save $250,000,000 for the harassed Treasury by making the lesser amount do the work of the larger sum after the needless burden of Federal bureaucracy has been eliminated. A nonpartisan Federal relief board, with the approval of the President, would make one annual allocation of available Federal relief funds to nonpartisan relief commissions in the States on the basis of population, financial resources, unemployment, and living costs. The only requirements would be that each State shall add at least 25 cents to each Federal dollar, and that it shall not divert Federal money to other than the relief program certified to Washington as its purpose. Each State, knowing the limit of its Federal aid for all types of relief, would map its own relief methods within the limitations of its own willingness to supplement the Federal funds. Out of the total Federal fund, $100,000,000 would be held back for emergency distribution. This condensed sketch will suffice for the purpose of this discussion.

Now, Mr. President, it seems to me that any realistic discussion of the matter falls under two headings. First, have we reached a point where Federal retrenchment in expenditures, including relief expenditures, is irresistibly necessary in the public interest and for that "general welfare" which has been so widely debated the last few days? Second, can we retrench in relief expenditures without unwarrantably penalizing those of our people who are legitimately entitled to relief? If both questions may be answered in the affirmative—and I undertake to say this is the fact—then the substitute is preferable to the pending joint resolution.

Let us deal with the initial question first.

Mr. President, the proof stands too clear for any need of repetition that we must start swiftly to conserve the financial resources of this Government in all aspects, including relief, unless we shall plead guilty to reckless speculation in the public credit. No one has a greater stake in such conservation than those who must depend upon Government for their subsistence, because a solid public credit is their sole reliance. Whenever this reservoir is exhausted, there will be no relief of any amount for anybody. Those who have most eloquently pleaded the cause of the unemployed upon this floor in this debate render grievous disservice to their intended beneficiaries if and when they ignore this axiom. Therefore, it is my deep conviction that the remaining victims of the late depression are best served, in the long view, by those of us who stress the necessity for a restoration of a larger measure of home responsibility and home construction as a means of forcing greater respect for the value of the relief dollar, and as a means of lightening the load upon a Treasury which, despite the greatest public revenue in all history, continues ominously in red ink, and which today faces a colossal debt in excess of 36 staggering billions of dollars.

As a matter of fact, Mr. President, I might say in passing that today America is "in the red" in more than one sinister meaning of the phrase.

I take the liberty of commending what has been bluntly said upon this subject during the last few days by the distinguished leader of the majority, the Senator from Arkansas [Mr. ROBINSON], and by the distinguished senior Senator from Idaho [Mr. BORAH], and by the distinguished junior Senator from South Carolina [Mr. BYRNES], and by the distinguished senior Senator from North Carolina [Mr. BAILEY], and others. They may not follow me in the proposal which I submit to implement their logic; but, in my view, their logic has been invincible; and a vital public service has been rendered in the presentation of it. They may disagree with my application of their admonitions, but I cannot escape the feeling that everything that has been said about our pressing need to protect the public credit and to rationally circumscribe relief expenditures argues for a fundamental change in relief methods so that we may economize at the expense of relief administrators and relief experimenters rather than at the expense of legitimate relief clients themselves. I simply assert my belief that their cogent arguments, carried to their logical, ultimate objective, sustain the philosophy of action which I am again proposing in this substitute.

Then, too, I wish approvingly to recall the timely address of the distinguished senior Senator from Illinois [Mr. LEWIS], who on May 24, at page 4971 of the RECORD, found in the Presidential message of that day an occasion to use the following language:

> I congratulate the President that he has found it agreeable now to sound, as it were, a tocsin and a warning that he expects the States to turn to the discharge of their duties in their local governments, and not sit idly by and attempt to put upon the Federal Government the necessity of maintaining them, their counties, their cities, their people out of the Federal Treasury, as though, sir, it were a source to be drawn on for favor or gratuity and ever to be imposed upon because it silently or cowardly accepts that status and yields to it.

But, Mr. President, I fail to understand how the President or any of the rest of us can "expect the States to turn to the discharge of their duties in their local governments", how we can expect to reestablish the vital American principle of home responsibility and home rule, how we can expect to shake loose from the plagues of seeping bureaucracy, how we can hope to circumscribe the false and fatal notion that Federal subsidies are manna from a benevolent heaven which never need be repaid—how we can do any of these things, not to mention a sometime balanced Federal Budget, if the existing relief formula goes on and on and on.

I cannot believe that any Senator will view with equanimity our persistent Federal operating deficits following one another for 7 straight years. In his address yesterday the distinguished senior Senator from Tennessee [Mr. MCKELLAR] recited numerous methods for balancing the Budget. Indeed, he said "the Budget can be easily balanced." But it is not balanced. Nothing is done about it. If it is an "easy" task, the more discredit to us that it does not happen. If recent Senate roll calls are any criterion, it will not be so "easy."

This year's deficit, despite the biggest Federal income in history, and despite a recovery index which crowds the peaks of 1929, will be larger—think of it—than last year.

Our estimated production index for May is 117 as compared with 119 in 1929. Employment is at the index at 102 as compared with 105 in 1929. Pay rolls are at 105 as compared with 109 in 1929. Yet the index of our national debt raced yesterday to an all-time high.

As the able senior Senator from Maryland [Mr. TYDINGS] has so well said, How can we ever hope to bring Uncle Sam within his income if it cannot be done under existing auspices, and how can we then ever hope to face another recession with unimpaired resources if we do not bring Uncle Sam within his income now? Indefinitely continued deficits, financed with bond-backed money, pile up the raw materials of a suicidal inflation and tear down the maintained confidence which is its only offset. The relief problem, and particularly experimental relief which too often wastes money on ambitious dreams, is inevitably a key part of this contemplation. Despite the fact that 10,000,000 workers have found jobs since 1933, Federal relief outlays are eight times as high as they were then, while State and local expenditures are twice as high. The increase is due, not to the increase of those in need of relief but to costly forms of work relief and other experiments.

It is all very well to be solicitous lest the fiscal resources of our States and cities and other subdivisions become inadequate to the burdens they must bear. It has been repeatedly reiterated this week that many of these subdivisions have limited their borrowing capacities by self-imposed constitutional restraints. But I do not accept this argument as final in respect to the measure of their relief resources and responsibilities, any more than I would agree that a State is entitled to wash itself free of all such obligation by the simple device of constitutionally saying for itself that it will not borrow for such purposes at all.

But shall those who are so solicitous of local credit entirely ignore the economic fact that there is, too, a limit beyond which the Federal credit may not be safely stretched? Is Federal credit inexhaustible? It is not. And I submit that it is sheer folly to measure the potency of this Federal credit by the superficial test that our new bond issues continue to be oversubscribed in a glutted money market where private investment is dangerously discouraged and where public securities, at any price, are about the only place that these swollen inflationary investment funds may go.

No, Mr. President, I venture the assertion that the Governors of the Federal Reserve bank will take no such easy view; on the contrary, they will tell you, as Governor Eccles did last March 15, that the time has come to quit talking about balancing the Federal Budget and actually to do something about it.

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

Mr. VANDENBERG. Will the Senator forgive me? I am speaking under limitation of time; and if I have any time left, I shall be glad to yield.

Mr. CONNALLY. Very well.

Mr. VANDENBERG. But we are asked, "Would you talk arithmetic when citizens are hungry?" No, Mr. President, although it is never prudent wholly to ignore arithmetic. "Would anyone measure money against human souls?" Again, and emphatically, no, although it would be the

greatest of all disservice to dependent human souls to one day exhaust the money that feeds and shelters them.

I take it that no Senator would put any obligation ahead of the necessity that none shall go unsheltered or unfed in the United States. That comes first. But, in the face of these associated problems, the practical, the realistic question is: Can we meet this obligation fully and adequately at less expense and with less hazard to the perpetuation of those resources upon which any sort of response to the obligation ultimately depends?

There is a large school of thought in America which answers "yes."

Of course, it is a matter of opinion. Indeed, it is entirely too much a matter of speculation and guesswork since there is persistent and successful resistance to any realistic census of the unemployed and to any adequate investigation of the means we have been federally using to dictate relief from Washington. So we are thrust into the field of opinion. I may be wrong; but I agree emphatically with those who believe that a restoration of State decisions, more substantial local contributions, and a complete restoration of basic State responsibility for relief administration, is the inevitable answer. At least it is worthy of a trial.

It will be resisted, as long as possible, by many local authorities which obviously find it easier to let us struggle with Federal deficits than to struggle with their own. It will be resisted, to the bitter end, by thousands upon thousands of happy bureaucrats who relatively enjoy a personal bonanza out of their well-paid attachment to the relief administrative pay rolls—and who, in some instances, are responsible for whipping up the mayoralty protests which have descended upon the Senate during the past few weeks. It will be resisted by those who might be termed professional relief clients, and who hope to make a life career out of their place upon the rolls. It will be resisted, of course, by all devotees of the authoritarian state. Then, too, it will be resisted in complete good faith by many, whose opinions I entirely respect, who sincerely believe that the existing plans are best.

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. VANDENBERG. I will proceed on the joint resolution.

I distinctly do not condemn our whole relief adventure. In the beginning it was unavoidably necessary to rush into experimental programs which were bound to involve elements of error. Many fine public works, too, dot this Nation as a result of what has been done. Both the President and Administrators Hopkins and Ickes have borne burdens in this connection almost beyond human endurance. I simply ask, in complete good faith, whether out of our long experience we have not learned some lessons which may now be helpfully capitalized for the benefit of the commonweal before it is too late.

These are some of the advantages which I would expect to flow from the philosophy of action which is embedded in the substitute that I am submitting to the Senate—a plan which would, through a bipartisan national commission, pro rate to bipartisan commissions in each State the State's share of the total Federal relief allotment, subject to a minimum State contribution of at least 25 cents out of each relief dollar; then leaving to each State the decision as to what kind of relief shall be provided, where, when, and how; and leaving to each State the responsibility of administration within its own prospectus.

First. I should expect that this decentralized simplification would relieve relief expenditures of a dreadful and costly burden of duplicated overhead which is inevitable in the existing dual set-up. There would be more of each dollar for the reliefers themselves, or, put differently, fewer dollars would buy the same relief results.

Second. I should expect this exercise of home authority to result in decisions far better suited to intimate local needs than is the case when we try to apply a national formula to local necessities, which cannot be thus regularized in so big and so complex a country as the United States. The very fact that there is such insistence upon earmarking portions of the lump-sum relief appropriation for specific purposes deemed intimately necessary to local and sectional needs is complete vindication of the idea that localized decisions are the wisest and most practical decisions. Thus, again, we may reasonably expect more results from less money.

Third. I should expect these intimate home responsibilities to obviate many interesting but costly sociological experiments in the name of relief, which are all very well if and when we can afford them, but which have no legitimate place in the naked relief challenge itself at a moment when new taxes are inevitable unless reduced expenditures can close our fiscal gap. Thus, again, it is my contention that less money would go just as far.

Fourth. I should expect such a system largely to obviate inequities in the distribution of Federal relief funds as between the various States, because the Federal distribution would be in cash rather than in projects—and the former is far more susceptible of rule of thumb than is the latter. There would be infinitely less chance for the invidious comparisons with which this debate has been studded.

Fifth. I should expect such a system to be better policed against exploitation, whether political or economic or otherwise, because, on the one hand, the power of neighborhood opinion would become effectively critical under the impulse of restored responsibility, and, on the other hand, the larger consciousness of local contribution would make it less likely that any sort of exploitation would be quite so complacently condoned. Thus, again, less money could buy more relief.

An infinity of examples could sustain the fifth contention. I content myself with one, indicating how decentralization, in lesser units, achieves this claimed advantage. I quote an editorial from the Columbia (Ohio) Despatch of June 7:

> The rapid decline in the relief rolls in Ohio since the General Assembly turned them back to the local communities brings forcefully to the public mind the excessive waste under the former Federal-State administration, designed in no small part for political purposes.
>
> Not only has the relief load been reduced from 71,000 cases, representing treble that number of individuals, to about 41,000 cases in the short space of 3 months, but what is more enlightening, this drastic reduction has been made without injury or suffering being reported in any case.

One additional significant paragraph may be worth reading:

> As part of this reasonable, economic, and efficient handling of the problem, Auditor Ferguson has instructed local officials now in direct charge of relief to compel prospective clients to reregister, which alone has caused the drop of thousands and to attempt to get work before applying for aid to which the response on the part of those formerly on relief has been gratifying.

It is my contention that the experience thus reported from Ohio—an experience that has been repeated under kindred circumstances in many other sections of the land—demonstrates to what an extent, under a reversion to home responsibility and home obligation, there can be a cleansing of the illegitimate in respect to relief, and the full meeting of legitimate relief at lower expense.

Mr. President, I shall not extend the argument. I have said enough fully to indicate the philosophy of action which my substitute addresses. I only add, in conclusion, that the substitute proposes a total Federal relief appropriation of $1,250,000,000, of which $100,000,000 shall be held back for allocation to emergencies, on the theory that the lesser sum, under such methods of administration, can buy as much, if not more, actual relief than the $1,500,000,000 expended under the existing system, which the President establishes as the measure of our need for the next fiscal year. In other words, it is not proposed to economize at the expense of those legitimately deserving relief. It is proposed to economize in the method and the spirit and the efficiency of the scheme of distribution and administration.

Therefore, Mr. President, I move to strike out all after the enacting clause of the joint resolution and to insert the matter which I send to the desk.

(Mr. VANDENBERG's amendment, in the nature of a substitute, is as follows:)

That to provide relief and work relief and to increase employment, there is hereby appropriated the sum of $1,250,000,000, which shall be available for the fiscal year ending June 30, 1938.

SEC. 2. (a) Not more than $1,150,000,000 of the sum appropriated by section 1 shall be available for grants-in-aid to States to assist them in financing and administering such forms of relief and work relief and methods of increasing employment as may be determined upon and undertaken by them. Such amount shall be allocated by the Federal Relief Board (hereinafter established), with the approval of the President, among the several States upon the basis of the Board's findings and conclusions with respect to the facts concerning and weight to be given to unemployment and living costs in, and population and financial resources of, the several States. Not more than 15 percent of such amount shall be paid to any State.

(b) The sum allocated to a State under subsection (a) shall be paid quarterly by order of the Federal Relief Board to the State if—

(1) The Governor (or in the case of the District of Columbia, the District Commissioners) has certified to the Federal Relief Board that there has been established a board of relief trustees in such State the membership of which is not composed solely of individuals who are members of the same political party, and that such board has the power and duty of receiving and disbursing sums which may be granted such State under this section;

(2) The State board has certified to the Federal Relief Board that the State, or its subdivisions, or both, have provided or are prepared to provide an amount equal to not less than 33⅓ percent of the amount allocated to it under this section for relief, work relief, or methods of increasing employment; and

(3) The State board has agreed to furnish to the Federal Relief Board such reports (respecting the administration of the relief, work relief, or methods of increasing employment with respect to which funds allocated to the State under this section are used) in such form and containing such information as the Federal Relief Board may from time to time require, and to comply with such provisions as the Federal Relief Board may from time to time find necessary to assure the correctness and verification of such reports.

(c) If the Federal Relief Board finds that any part of an amount granted to a State under this section has been diverted to a purpose not reasonably within the purpose of furnishing relief, work relief, or increasing employment, or that more than 75 percent of the amount devoted to such purposes has been expended out of grants under this section, the amount of future grants to be made to the State shall be reduced by an amount equal to the amount the Board determines has been diverted or the amount the Board determines to be such excess.

(d) The Federal Relief Board shall allocate, out of the sum specified in subsection (a), such sums as it deems necessary on the basis of the needs of Puerto Rico, the Virgin Islands, and the Canal Zone for relief, work relief, and increasing employment. Such sums shall be expended as the Board prescribes as necessary for such purposes and subject to such requirement, if any, as the Board may prescribe for contribution by the possessions to such purposes.

SEC. 3. Not more than $100,000,000 of the sum appropriated by section 1 shall be available to enable the Federal Relief Board, with the approval of the President, in its discretion and on its order, to make such grants or loans to States as it deems necessary in order to meet extraordinary and unforeseen emergencies, and such grants or loans shall be made without regard to the provisions of section 2. The sum specified in this section shall also be available for all administrative expenses of the United States in carrying out the provisions of section 2 and this section.

SEC. 4. (a) There is hereby established the Federal Relief Board, which shall be composed of three members appointed by the President, by and with the advice and consent of the Senate. Not more than two of the members of the Board shall be members of the same political party and the President shall designate one of the members as chairman. Each member shall receive a salary at the rate of $10,000 per annum.

(b) The Board shall have the power and duty of carrying out sections 2 and 3 of this act, and such powers and duties shall be exercised under the direction and subject to the approval of the President.

(c) The Board is authorized to make such expenditures, and, subject to the civil-service laws and rules and regulations made thereunder and the Classification Act of 1923, as amended, to appoint and fix the compensation of such officers and employees, as may be necessary to carry out its powers and duties.

SEC. 5. Any person who knowingly makes any false statement in connection with securing a grant or loan or making any report or furnishing any information under section 2 or 3, or who solicits or receives political contributions from any person who directly or indirectly receives any part of a grant or loan made under section 2 or 3, or any person who, in administering any such grant or loan, discriminates against any person on account of race, religion, or political affiliation shall, on conviction thereof, be deemed guilty of a misdemeanor and fined not more than $2,000 or imprisoned not more than 1 year, or both. For the purposes of this section, each payment made by a State to which a grant or loan has been made under section 2 or 3 for relief, work relief, or increasing employment shall be considered to consist one-fourth of funds of the State and three-fourths of funds of the United States.

SEC. 6. There is hereby appropriated the sum of $10,000,000, which shall be available for carrying out during the fiscal year ending June 30, 1938, the provisions of written contracts made prior to the date of the enactment of this act under authority of the Emergency Relief Appropriation Act of 1935, or the Emergency Relief Appropriation Act of 1936. Except the sums appropriated under this section, no part of the sums appropriated under this act shall be available for carrying out such acts. No contract shall be entered into under such act of 1935 or 1936 after the date of the enactment of this act.

SEC. 7. As used in this act the term "State" means the several States, Alaska, Hawaii, and the District of Columbia.

SEC. 8. This act may be cited as the "Relief Appropriation Act of 1937."

Mr. VANDENBERG. I think I have a few moments left, and I am now very happy to yield to the Senator from Texas.

Mr. CONNALLY. I do not care to interrupt the Senator at this time.

Mr. SCHWELLENBACH. Mr. President, I should like to ask the Senator a question.

Mr. VANDENBERG. I yield to the Senator from Washington.

Mr. SCHWELLENBACH. I should like to ask the Senator from Michigan, in connection with his argument, to discuss the facts which I presented here last week, to the effect that on direct relief handled by the States and the local communities, during the first 11 months of last year—I have the figures for the first 11 months totaled—a total of $494,000,000 was spent. Of that, $480,000,000 was spent in the first 11 months. Of that $484,000,000 spent on direct relief, only $401,000,000 went to the recipients of relief. Eighty-three million dollars was spent in administrative costs, or an administrative cost of 16 percent on direct relief handled by the States and communities, as compared with an administrative cost of 3.5 percent on Works Progress Administration projects handled by the Federal Government.

Further, I should like to have the Senator discuss the fact that direct relief handled by the States and local communities increased the number of persons on their rolls from 1,571,000 in June of 1936 to 1,725,000 in February of 1937, while at the same time W. P. A. rolls were being decreased.

Mr. VANDENBERG. Mr. President, I listened to the able Senator's presentation 2 or 3 days ago with a great deal of interest, and I found his figures very challenging. I made some inquiries respecting them. I am sorry I cannot respond conclusively. They are figures collected by Mr. Hopkins himself. Everything depends upon how books are kept.

Mr. SCHWELLENBACH. Mr. President, may I interrupt the Senator?

Mr. VANDENBERG. Certainly.

Mr. SCHWELLENBACH. It is true that the compilation of the figures was made by someone in W. P. A., but it was simply a compilation taken from the reports made by the various State and local agencies.

Mr. VANDENBERG. I understand that; but, of course, everything depends on the basis on which the figures are assembled and mobilized. I understand, for instance, that practically all the standard social-service functions in these communities, which would be in operation anyway, are included in the figures. I have no right to say that dogmatically; I am told that those statistics are part of the figures. That simply illustrates what I am saying about the impossibility of knowing what the figures mean except as we have the complete break-down.

Regardless of what the disparity may be, however, it seems to me it cannot be gainsaid that the existence of a dual system, a duplicated system, Federal and State, is bound to involve duplicated overhead; and I distinctly recall the evidence which was submitted a year ago to the Committee on Appropriations from a section of New York City which demonstrated, it seemed to me, beyond peradventure at that time, that the Federal system was almost a complete and often needlessly duplicated system of administration. So that whatever the disparity may be, still there must be duplication, it seems to me.

The PRESIDENT pro tempore. Let the Chair state the parliamentary situation. The Senator from Michigan has

offered an amendment in the nature of a substitute, which the Chair understands is the same as Senate bill 2390. The substitute is, of course, open to amendment. At the same time the text of the joint resolution is open to amendment. If such amendments are presented, they will be treated as in the nature of perfecting amendments and acted upon first. If amendments are not offered at this time, then the action will come immediately upon the proposed substitute.

Mr. VANDENBERG. I assume the substitute will not be presented until the original text has been perfected.

The PRESIDENT pro tempore. The Senator desires, however, to present it now?

Mr. VANDENBERG. To be held for submission at the proper parliamentary moment.

The PRESIDENT pro tempore. Under the parliamentary rule the substitute may be offered now; and, having been offered, it may be perfected, if the Senate sees fit, by adopting amendments to it. On the other hand, the text of the joint resolution is open to amendment at the same time. The presentation of such amendments would not make the substitute out of order but would permit both the substitute and the text to be perfected. So that there is no reason why the Senator should not offer the substitute now if he sees fit to.

Mr. McNARY. Mr. President, the Chair is unquestionably correct in the statement of the rule, but the Senator from Michigan does not desire to offer the substitute at this time. It may be offered later, after the joint resolution now before the Senate shall have been perfected.

Mr. CONNALLY. Mr. President, the Senator from Michigan is always interesting and sometimes fascinating. I regret that on account of an enforced absence I missed much of the debate on the pending measure which occurred during the last few days. However, I was present yesterday and voted for the amendment offered by the Senator from Arkansas [Mr. ROBINSON].

I am as anxious as is any Senator in this Chamber that the necessity for Federal expenditures in behalf of unemployment and the Works Progress Administration shall decrease as rapidly as possible. After all, the objective of this legislation is to get rid of itself. The objective is to get men back into private employment as soon as possible. Therefore it is a sort of a suicide club within the organization, if properly administered.

What the Senator from Michigan proposes is, after we have conducted Federal relief measures and organizations over a considerable period, and as we are preparing to draw in the lines and reduce expenditures for such purposes, with the hope of demobilizing the organization, that we adopt a wholly new plan, abolish the Federal system and the Federal organization which is supposed to have learned something from experience during the past 3 or 4 years, and turn over Federal grants to the States, so that they may then establish new organizations, without experience in this particular line of work, or without much experience, and start all over.

I submit that that is not sound business. I marvel that a Senator from a great industrial State, which has grown rich and great on business organization and new theories of developing business organizations, should propose in the Senate the abandonment of what we have been doing with a large measure of success, and setting up an entirely new system of State administration.

I quite agree with the theory of the amendment offered by the Senator from Arkansas. I believe that if we can put a reasonable part of the relief burden on the local communities, we will thereby decrease the urge for getting unneeded appropriations, and we will impart to each project a local character and a local interest, through the contributions of the people's own tax money, which will give a good flavor to the whole administration. But a proposal to turn over a billion and a quarter dollars of Federal money to State political and other machines throughout the country for their administration through untried organizations ought never to receive the approval of the Senate; and that is what the Senator's amendment would do.

The Senator says he wants a nonpartisan board. If there has ever been a nonpartisan board in history I have not seen it. Some of them may be called nonpartisan, but someone is going to predominate; one group is going to outvote the other group, and if this activity were put entirely under State administration, all the cheap politics in disbursing the Federal money that has been seen in America would result. I do not say that at present the administration of relief is without some political color or taint; of course not. We are in political life, and practically every one in this country is more or less in political life; but, so far as possible, we ought to keep the political angle out of this matter.

If the management of this activity is put into the hands of a local administrator in Michigan, for instance, or Texas, or anywhere else, we are going to see that Federal money is very easily spent, and we are going to find out that the "boys who vote right", and all that, are not going to be neglected. That may be the theory of the Senator from Michigan, but it is not the theory of the Senator from Texas.

If relief is a Federal responsibility, then the Federal Government ought to keep its hands on the purse strings, and see where the money goes. It is all right to talk about local responsibility and local contributions. We had them prior to 1933. I regret that the Federal Government ever had to enter the field of providing relief; but it entered that field because local responsibility had fallen down, and because local funds had been exhausted. It went into the business of providing relief because the marvelous things which, it is said, would be accomplished in case the amendment of the Senator from Michigan should be adopted failed to materialize; and the local people had to come to Washington with their hands out asking for Federal money. So long as it is Federal money, the Federal responsibility is on us, and we would be derelict in our duty if we should delegate to State authorities the right to squander and spend Federal money. If it is to be squandered, let us squander it, because then we will be the ones responsible; then we will be the ones the people can hold accountable. Let us not "pass the buck", as it were, to someone else, and say, "Well, we were kind of depending on local responsibility, and we turned the money over to them, and if they squandered it, it is their fault." We cannot shirk the responsibility. It is here on our desks.

There is always someone like the Senator from Michigan who thinks that, no matter what is being done, we ought to do it in some other way. If I remember, the Senator from Michigan did not vote for the last relief bill. Is that correct?

Mr. VANDENBERG. Yes.

Mr. CONNALLY. Did the Senator vote for the first one?

Mr. VANDENBERG. The Senator voted for the first two emergency relief measures, and voted against the $5,000,000 grab-bag bill.

Mr. CONNALLY. The Senator voted against the last relief bill, and it is therefore to be assumed that he is against the whole movement. When I am having a house built I want someone to build it who wants the house built. I do not want sabotage; I do not want someone aiding me in work who does not believe in it, who does not favor it, and does not want my plan to work.

So I am not going to be led off into the miasma of the swamp by the Senator from Michigan. His heart is not in the present plan of relief. He does not believe in it. He is against it. Why should he now ask the Senate to follow his plan of relief? He ought to vote against it all. I do not want a doctor fooling with me who does not believe in recovery. [Laughter.] I do not want a surgeon operating on me who believes in predestination and that nothing can be done about it. [Laughter in the galleries.]

The PRESIDENT pro tempore. There must not be any expressions of approval or disapproval or demonstrations of any sort in the galleries.

Mr. CONNALLY. Mr. President, the Senator from Michigan complains about bureaucrats. I am just as strongly

against the bureaucrats as is the Senator from Michigan, but my observation is that a bureaucrat is some official in a department who does not do what you want him to do [laughter]; and an official in a department who does do what you want him to do is a wonderful executive and a marvelous administrator.

Mr. President, we are all against bureaucrats. The present Congress and other Congresses have given to many bureaus power which I wish had never been conferred upon them; but who conferred the power upon them? They did not get their power anywhere but here. If there is in existence a bureau which can use power it is because Congress, the representatives of the people—and we speak of being the representatives of the people when we beat our breasts on picnic occasions—gave it to them. In the final analysis the power belongs, of course, to the people themselves. But we are their representatives here, and every little bureaucrat in the departments who is exercising authority can trace his title to that authority from the sovereignty of the Senate and the sovereignty of the House of Representaitves. That is where he got it. Let us not do what is proposed to be done by the amendment of the Senator from Michigan. If bureaucrats have more power than they ought to have, let us take it away from them.

Yesterday I voted for the amendment of the Senator from Arkansas [Mr. ROBINSON] to put on a little hobble and to slow down relief agencies, and to make the local communities contribute something toward their maintenance, but I am not going to be misled by the Senator from Michigan, who right in the middle of the creek wants to change the whole basis of the administration of relief, and put it in the States and their subdivisions. If the States and their subdivisions want to undertake relief and W. P. A. they have a perfect right to do it. The States are sovereign. If they have the money with which to do it, let them do it, but when they come to the Federal Government and ask the Federal Government to furnish the money they ought to be willing for the Federal Government to exercise some control not only over the expenditure of those funds but over the organization which disburses them. That is what we are trying to do. We have built up such an organization. Whether it is better than it used to be I do not know, but it ought to be better. It should have learned something in the last 3 or 4 years. Shall we dissipate whatever experience it has gained and now go out and recruit 48 separate State organizations from the boys over in ward 5 and some of them from ward 6, and put them on the local boards of administration, simply because they know how to get the boys to the ballot box on election day?

It is said that relief is not a national project. Perhaps it ought not to be, but it is. The Senator from Michigan comes from a great industrial State. He comes from a State which contains the city of Detroit, the great automobile center—the great, rich city.

Do Senators mean to say that the taxpayers of that city should not contribute anything in the way of income taxes to aid in the relief of a needy individual in South Carolina or in Colorado or in the State of Washington? Detroit does not live on the products coming from the soil within its city limits. It is not nourished only by the land of Michigan, but flowing into Detroit is the wealth that comes from the sweat and the blood of every man who runs an automobile, when probably he ought to be buying something to eat. However, everyone who runs an automobile pays his tribute into the coffers of those who live in Michigan.

I am not prepared to go back and tell that man, when he loses his job, when he is hungry, and when he is naked, that he must rely on a justice of the peace in precinct no. 8 in some poor little county to provide relief for him, and deny the Federal Government any power to reach up to the bloated billionaires and millionaires of Michigan and take back a little, in the form of taxation, of the inordinate profits they have extorted with high-pressure jacks from the little fellows all over the United States who are running their automobiles, and who with every pulsation of the old engine are adding a little more wealth to Michigan and to Detroit.

No, Mr. President; I cannot vote for the amendment of the Senator from Michigan.

Mr. LODGE. Mr. President, to House Joint Resolution 361, I offer the amendment which I send to the desk and ask to have read, and I ask to speak on it briefly.

The PRESIDENT pro tempore. The Clerk will read the amendment.

The LEGISLATIVE CLERK. On page 3, line 4, after the figures "$380,000,000", it is proposed to insert a comma and the following: "of which sum not more than $20,000,000 shall be allocated for a national census of population, employment, and unemployment to be taken at the earliest date, for the purpose of obtaining authentic information as to the number of persons in each of the several States and all subdivisions thereof who are employed and unemployed, classified by sex, age, customary occupation, and such other pertinent standards as may be advisable of all such employed and unemployed persons, and the causes and duration of such unemployment."

Mr. LODGE. Mr. President, there can be no doubt that necessity demands a continuation of Federal relief. Unemployment is still with us, but the extent is still unknown.

It is fundamental that in order to improve and correct our relief system, making it more humane, more economical, and more just, we must have all the facts. Not estimates, not guesswork, not an average struck from the compilation of statistics gathered from varied official and unofficial sources—but information gathered thoroughly and completely from an official source.

It is obvious that neither in our private nor in our public affairs can we decide wisely without a knowledge of the facts. It is little short of astounding that in the United States of America we still do not know the facts on our most important single national problem—the problem of the man and woman who are willing and able to work but cannot find a job. We do not know how many of them there are, where they are, or what the nature of their unemployment is.

The result of this lack of knowledge is plain in every corner of the United States. We see waste of money in one place and lack of money in others. We see men and women who are trained for some particular line of work put to work on something entirely different, with misery to themselves and a wastage of their possible contribution to the community.

If I thought for even a single moment that this amendment which I am offering would jeopardize the employment of a single person in need of relief, I would be the last person to propose it. But it does no such thing. To the contrary, it provides that the person who cannot do manual labor but who is fitted for this type of work can be suitably employed in a real constructive job which will be of lasting benefit to the unemployed of this Nation. The elderly educated person no longer wanted in private employment, the young school and college graduate who finds no place for himself or herself in the business world, the clerk, the professional man and woman who cannot perform work that requires a strong muscular body, can once again find courage in the knowledge that here is work which justifies the drawing of pay and is a definite contribution to a major problem.

My proposal is in agreement with many of the authorities in governmental employ and others who are familiar with the national problem of unemployment and relief who desire a census.

Until we have the facts we can never deal with this problem, either in the interest of the taxpayer or in the interest of the unemployed man and woman. As long as we are in ignorance, this question will continue to frighten us and we shall be like ships lost in the fog. I say give light and we will find our way. Let us get the facts on this problem. We can then apply the magnificent resources of the United States to its solution.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. AUSTIN. Mr. President, the announcement of the Senator from Michigan [Mr. VANDENBERG] and the address

by the Senator from Texas [Mr. CONNALLY] excite me to make a statement at this time. I judge that probably I shall have no chance to register my vote on the proposal of the Senator from Michigan. Therefore, I wish to say that on a viva-voce vote or any other form of vote taken on that measure I shall support it by my vote. I shall do so because I seek, as I know all other Members of the Senate do, the great objective of economy, though I disagree with some of my colleagues with respect to what will effectuate economy, and I shall so vote also because I believe in decentralization of authority and the return of the control of a purely domestic affair to the several States.

With respect to economy, it has always appeared to me whenever a trustee or any other person is given a very large sum of money to expend upon the happening of an emergency or upon the happening of an event, that usually the emergency or the event happens and the money is expended. I believe that it is almost simple in its accuracy to state that if one desires to economize in the management and expenditure of other people's money he must do it, in part, by limiting the amount of the money to be devoted or appropriated to the use. Therefore, I think that the most simple step toward economy for us to take is one which reduces the total amount that may be expended for the purpose of relief. We differ about what is required; we differ about how much reduction can be made; but I believe that an appropriation limited to $1,000,000,000 would be huge enough to take care of the necessary relief.

As to changing the method of administering this fund, I favor a return to the several States of the administration of relief because I believe that the local administrator has infinite acquaintance with the people to whom relief is granted, knows their circumstances, and is less likely to be imposed upon than is an administrator here in Washington undertaking to administer relief all over this great continent.

It is, of course, possible that such administration of relief might be tainted with some politics, but let us not omit to consider what the special committee of the Senate found with respect to the administration of relief as it is now conducted. I think this matter has not as yet been called to the attention of the Senate and that it is worthy of consideration. The sixth recommendation of the committee, which will be found at page 137 of Report No. 151 of the investigation of campaign expenditures in 1936, reads as follows:

VI

It should be made unlawful for any person, corporation, group, organization, association, or for any officer, director, or agent of any corporation, or for any officer, director, or agent of any organization or association, unincorporated, or for any person holding a position, office, or employment, under or by the Government of the United States or any bureau, department, or agency thereof, to influence or attempt to influence through fear, intimidation, or coercion, the vote of any person employed by them, or of any person who is dependent on public funds, in connection with an election at which Presidential and Vice-Presidential electors, or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for.

Mr. President, that recommendation was founded upon the studies of the special committee, which I can testify were very impartially made. The committee, of course, was composed in such manner that a majority of its membership consisted of Democrats, and I testify that they viewed this whole problem, in my opinion, with great fairness, and studied the evidence with deliberation.

I will not take the time of the Senate to read, but I will epitomize what appears on page 19 of the report, and ask unanimous consent to have the portion which I have marked inserted in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. Without objection, the matter may be inserted in the RECORD.

The matter referred to is as follows:

Literature to Civilian Conservation Corps camps: After the election the special committee received information regarding the mailing of literature to educational advisers of the Civilian Conservation Corps, relating to procedure for absentee voting, and decided to make inquiry to determine whether such literature, sent out by the Democratic National Committee in mimeograph form, operated improperly to influence members of the corps with respect to their voting franchise.

Two letters, in particular, were called to the committee's attention, and are set forth as follows:

The Democratic National Committee, through its secretary, on September 17, 1936, mailed to all camp educational advisers of the Civilian Conservation Corps camps a mimeographed letter of the following substance:

"MY DEAR SIR: In connection with our general circularization of bulletins to the absentee voters here in the District and throughout the various States, it has occurred to us that the bulletins giving information regarding the necessary requirements for the registration of a voter, the payment of poll tax (if necessary), and the qualifications of voters in the different States would be of interest to the enrollees in the Civilian Conservation Corps camps.

"Since you probably have a large number of absentee voters in your camp, as well as "first voters", we are attaching hereto for the general information of your department some printed bulletins which will answer the usual questions regarding qualifications of a voter, registration dates, and dates on which to apply for absentee ballots.

"If you consider this plan of any value as information bulletins we shall, of course, appreciate your posting same.

"Yours very truly,

"_____ _____."

On September 21, 1936, the Democratic National Committee sent a letter to Democratic city chairmen and to Democratic county chairmen in certain States and counties where Civilian Conservation Corps camps were located reading as follows:

"MY DEAR SIR: We note from our mailing list that you have in your county a Civilian Conservation Corps camp, and we are writing to suggest that you contact all the absentee voters from the various States in this camp. In order to assist in furnishing information on the various State voting laws, we are attaching an information sheet showing whether or not they can vote absentee.

"We feel sure from the experience we have had in the past that it will be more effective for you as local representative of your Democratic Party to contact these camps locally and urge the voters to make application in ample time to receive their absentee ballots from their respective official.

"If there is any information we can furnish from our bureau, please write us immediately and we shall be glad to assist you further in this connection.

"Sincerely yours,

"_____ _____."

There were attached to the letters above quoted four sheets of information showing in what States one could vote by mail, in what States absentee voting was not allowed, in what States voting was permitted by registered mail, and also information relating to States where registration was still possible by mail and otherwise before the Presidential election, together with instructions relating to registration and voting.

The secretary of the national committee, responding to inquiry by this committee, wrote in part:

"This information was posted as a bulletin in various Civilian Conservation Corps camps, making it available in a nonpartisan manner to any interested enrollees of the Civilian Conservation Corps of voting age. No attempt whatsoever was made to coerce the enrollees or force them to vote and the information contained in the bulletin was made available as mere factual data for those who might care to vote in the election by absentee ballot.

"Since it is more or less considered as a patriotic duty for every citizen of voting age to exercise his franchise as guaranteed him by the Constitution, I feel sure that our thoughtfulness in making this information available to the enrollees of the Civilian Conservation Corps camps, without any attempt to influence their decisions, ties in admirably with the educational programs being promoted by the Civilian Conservation Corps."

Mr. AUSTIN. Epitomized, it appeared to us that, among other political misuses of the unfortunate position of people on relief and of organizations and a vast amount of money that was in the hands of the Democratic administration in Washington, that the National Democratic Party reached into one of those organizations, the Civilian Conservation Corps, and made use of it politically in the following manner. I read from a letter, dated September 21, 1936, the letter having been sent by the Democratic National Committee to Democratic city chairmen and Democratic county chairman in certain States and counties where Civilian Conservation Corps camps were located. The letter reads as follows:

MY DEAR SIR: We note from our mailing list that you have in your county a Civilian Conservation Corps camp, and we are writing to suggest that you contact all the absentee voters from the various States in this camp. In order to assist in furnishing information on the various State voting laws we are attaching an information sheet showing whether or not they can vote absentee.

We feel sure, from the experience we have had in the past, that it will be more effective for you as local representative of your Democratic Party to contact these camps locally and urge the

voters to make application in ample time to receive their absentee ballots from their respective official.

If there is any information we can furnish from our bureau, please write us immediately and we shall be glad to assist you further in this connection.

Sincerely yours.

Mr. President, I need not discuss that letter. There is not a Senator on the floor who does not fully understand its import, however artfully the letter was drawn. That and many other things, which I will not take the time of the Senate to refer to, caused this recommendation to be made by the committee.

A man must undress in the dark who lives in a glass house; it does not behoove a distinguished member of the Democratic Party to stand here and charge in advance that there may be some political use of the powers of an administrator in a State of this Union if the method of administration of relief were changed from the centralized form which we now have to a decentralized form in which the administrators will know the people with whom they are dealing and the circumstances in which they live and will know the need they have for help.

Mr. President, I have said perhaps more than I intended to say. The principal objective I have is to register myself not against relief, for I shall vote for the pending relief measure when the time comes to vote upon the main issue, but I am glad to have an opportunity to vote for the proposed substitute, and I record my position in this manner.

Mr. McKELLAR. Mr. President, just a word about the amendment offered by the Senator from Massachusetts [Mr. LODGE]. The Senate a few days ago adopted a resolution providing for the appointment of a committee to investigate the number of unemployed and all questions relating to unemployment. So it is certainly not necessary to order another investigation by a provision attached to the pending joint resolution to do exactly the same thing. The resolution to which I have referred was submitted, as I recall, by the Senator from New Mexico [Mr. HATCH] and the Senator from Montana [Mr. MURRAY], and I am quite sure that resolution will bring out the facts and that it will be unnecessary to duplicate the work of the special committee by providing that another agency shall engage in a similar undertaking. I hope the amendment of the Senator from Massachusetts will be voted down.

Mr. LODGE. Mr. President——

Mr. McKELLAR. I yield to the Senator from Massachusetts.

Mr. LODGE. I should merely like to point out that according to the Bureau of the Census it would take between $17,000,000 and $20,000,000 to make a census of the unemployed. My amendment does not seek to appoint a committee to study the question of unemployment relief at all. I think that the committee of which the Senator speaks has a very useful function to fulfill, but with the small appropriation at the command of the special committee—which I think is $10,000, quoting the figure from memory—they cannot possibly undertake to make a census in the way the Bureau of the Census could make it.

Mr. McKELLAR. The Senate resolution to which I have referred reads, in part, as follows:

That a special committee consisting of five Senators, to be appointed by the Vice President, is hereby authorized and directed to study, survey, and investigate the problems of unemployment and relief, including an estimate of the number of persons now unemployed by reason of the use of labor-saving devices, mechanical and otherwise, in operation in the United States, and obtaining all facts possible in relation thereto.

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

Mr. McKELLAR. I will yield in a moment.

In addition to that, the Senate has passed a joint resolution introduced by the Senator from Montana [Mr. MURRAY] and the Senator from New Mexico [Mr. HATCH] which covers the same objective as that suggested by the amendment of the Senator from Massachusetts. It seems to me that under the Senate resolution we will be more likely to get the facts.

Mr. HATCH. Mr. President, will the Senator from Tennessee yield to me for a moment?

Mr. McKELLAR. I promised to yield to the Senator from Massachusetts. Then I will yield to the Senator from New Mexico.

Mr. LODGE. Mr. President, as the Senator from Tennessee says, the resolution authorizing the appointment of a senatorial committee provides for an "estimate" of unemployment, which is entirely different from a census. We have had hundreds of estimates.

Mr. McKELLAR. That is all any report would be.

Mr. LODGE. Whereas the amendment submitted by me provides for a census. As I have said, the special committee has a useful function to fulfill, but an estimate by a senatorial committee having an appropriation of only $10,000 at its command is not the same thing as a census of unemployment conducted by the Bureau of the Census with an appropriation of $20,000,000.

Mr. McKELLAR. I now yield to the Senator from New Mexico.

Mr. HATCH. I have some remarks I desire to make, and I will wait until the Senator from Tennessee concludes.

Mr. McKELLAR. Mr. President, I have said about all I wanted to say. An investigation having already been provided for, I do not see the necessity for providing for another one by the pending joint resolution and earmarking the enormous sum of $20,000,000 for the work. I do not think the committee appointed under the resolution submitted by the Senator from New Mexico and the Senator from Montana will experience any difficulty in obtaining the information, and they will probably obtain it for a very much less sum. Therefore, I hope the Senate will vote down the pending amendment.

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

Mr. McKELLAR. Certainly.

Mr. McNARY. What is the present status of the resolution to which the Senator refers?

Mr. McKELLAR. As I understand, the Senator from New Mexico [Mr. HATCH] is now about to take the floor, and, inasmuch as it is his resolution, I will let him answer the Senator's inquiry.

Mr. HATCH. Mr. President, I will answer first the question of the Senator from Oregon [Mr. McNARY]. He desires to know the present status of the Senate special committee. The committee has been appointed by the Vice President. After the appointment was made I submitted another resolution increasing the size of the committee by two members. That latter resolution was referred to the special committee and has not yet been reported by that committee. As yet no meetings of the committee have been held. I am quite sure they will begin work shortly. I think probably the consideration of the present relief bill has tended to delay the commencement of the work of the committee.

Mr. BORAH. Mr. President, may I ask the Senator the kind and extent of the work contemplated by the committee?

Mr. HATCH. I am going to comment a little upon that in connection with the pending amendment of the Senator from Massachusetts [Mr. LODGE]. I want to say first that I am in hearty accord with the idea of the Senator from Massachusetts and the assembling of the information he seeks to assemble through his amendment. I doubt the efficacy of the amendment. I doubt whether the amendment in its present form prescribes the definitions and other matters which are necessary to assemble the information which he wants.

The resolutions to which the Senator from Tennessee [Mr. McKELLAR] has referred do not provide for a census of unemployed.

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

The PRESIDENT pro tempore. Does the Senator from New Mexico yield to the Senator from Massachusetts.

Mr. HATCH. Certainly.

Mr. LODGE. The wording of my amendment is based on information which I received from Mr. Isador Lubin,

Commissioner of Labor Statistics of the United States Department of Labor. In a letter to me dated March 22, 1937, he said:

> There is no doubt but that there is an essential need for authentic information on the number of persons unemployed in the United States at the present time.
>
> In order adequately to assess the extent of the unemployment problem it will be necessary not only to secure the number of unemployed but also the number who are employed and their relationship to the total population. Accordingly, I should like to recommend to you that the census, if taken, should be one of population, employment, and unemployment.

That is the language I followed in preparing my amendment. If the census cannot be taken by the Bureau of the Census under the terms of the language indicated by the Commissioner of Labor Statistics, then I do not see how a census of anything can ever be taken.

Mr. HATCH. I understand the position of the Senator from Massachusetts in reference to his amendment. As I have said, I am not at all in disagreement as to the desirability of obtaining all the information he seeks, and a great deal more besides. That was the purpose, I may say to the Senator from Idaho [Mr. BORAH], in asking for the senatorial investigation, in order that the Congress for itself, through its committee, might study the entire problem of unemployment and relief, and assemble all the information possible not only from every agency of the Government engaged in work along such lines but from industry, from labor, and from every available source so that the Congress might legislate on the subject and lay down the program to be followed by the executive department.

Yesterday I voted against both of the amendments offered, the one by the Senator from South Carolina [Mr. BYRNES] and the other by the Senator from Arkansas [Mr. ROBINSON], but not because I was not in sympathy with reducing expenditures and economizing and with placing a proper share of the burden on the local subdivisions of government. All those objectives, I agree, are exceedingly desirable and certainly we all want to balance the Budget. But are we in a position at this time to write into this appropriation bill provisions which may fundamentally change the whole system of relief without first making a study and making the investigation to which the Senator from Tennessee [Mr. MCKELLAR] has referred in the resolutions which he mentioned.

I believe not, and that is the reason why I voted against the amendments yesterday. I believe they involved a proposal to place the cart before the horse. I believe that throughout the past years we have established a policy of appropriating sums of money and turning them over to the executive department and telling the executive to take care of the relief situation. Until we investigate and until we know that some other system is better, it is my belief that we must continue to follow the recommendations of the executive department.

I do not believe that should be our permanent policy. I believe that we must act, that it is our duty as legislators to examine into all the factors involved, including the problems recited the other day by the Senator from Washington [Mr. BONE] in his address.

We talk about the national credit and the possible bankruptcy of our credit and the downfall of the Nation through inflationary methods. I do not see that prospect now, but unless we can so arrange our economic order that men who want to work can find the opportunity to work, I cannot say how long our experiment in democracy will last. That, I may say to the Senator from Idaho [Mr. BORAH], is another one of the reasons why I have urged a study and investigation of the entire problem of unemployment and relief.

To the Senator from Massachusetts [Mr. LODGE] I will say that I should like very much to have his amendment referred to our committee, together with other resolutions and bills which have been introduced and are now pending before this body, in order that we may recommend some form of census of unemployed and employed, together with all the other elements necessary to give us real information.

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

Mr. HATCH. Certainly.

Mr. LODGE. May I ask the Senator whether he is in favor of the adoption of the amendment at this time?

Mr. HATCH. I do not favor the adoption of the amendment at this time.

Mr. LODGE. Will the Senator tell me why?

Mr. HATCH. As I have said, I want the committee now studying the question of unemployment not only to consider the thought set forth in the amendment of the Senator from Massachusetts but also the plan suggested by the Senator from Connecticut [Mr. MALONEY], whose resolution is pending before one of the committees of the Senate, together with other resolutions and bills looking toward doing exactly what the Senator from Massachusetts asks.

Mr. MCNARY. Mr. President——

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

Mr. HATCH. Certainly.

Mr. MCNARY. I do not see the practicability of the Senator's proposal. The distinguished Senator from Massachusetts [Mr. LODGE] wants to divert, from the sum of $380,000,000 appropriated for educational purposes, $20,000,000 to make the survey he suggests. It does not propose to take any more money out of the Treasury. It does not contemplate a new appropriation. It is a diversion of funds from one particular line to another, the two being similar in their nature.

The amendment could not properly be referred to the special committee. That committee can only hold meetings and consider matters for the purpose of framing legislation. The amendment of the Senator from Massachusetts does not in any way contemplate the work to be done under the resolutions mentioned by the Senator from Tennessee [Mr. MCKELLAR] a moment ago, but it does authorize a bureau of the Government to make a census of employment and unemployment, the cost of which has been estimated by the authority in charge of that work to be about $20,000,000. That is the basis for the amendment of the Senator from Massachusetts and he has asked to divert only $20,000,000 for this specific purpose.

Therefore the attitude of the Senator from New Mexico is not, in my opinion, consistent. He favors the resolution and I favor the resolution to increase the personnel of the special committee, but that resolution has not as yet been reported to the Senate. That special committee has for its purpose the acquiring of data upon which we may base future legislation. The amendment of the Senator from Massachusetts simply proposes to take part of a sum already authorized to be appropriated and use it in making a census of employed and unemployed, a wholly unrelated duty to be performed. I think it is idle to have the amendment of the Senator from Massachusetts referred to the special committee, because that committee could not do anything with it in any event.

Mr. HATCH. I am not saying that it ought to be referred to that committee, but I think one of the first objects of the committee should be to go into the question of a census of unemployed, to determine the kind, nature, and method of taking such a census. That is one of the studies to be made by the special committee.

Mr. MCNARY. I realize that. That is confirmatory of what I have said. The committee must go into that matter for the purpose of determining whether they shall recommend legislation of that kind.

Mr. HATCH. That is the purpose.

Mr. MCNARY. That is as far as the committee can go; but that is not what the amendment of the Senator from Massachusetts contemplates. His amendment proposes to have a census made in the usual form by the Bureau of the Census, which has the power and the ability to do that work.

Mr. HATCH. And my point is that I object to the amendment being offered to the joint resolution at this time because of the many complications that present themselves in taking a census of the unemployed.

In that connection, without taking the time of the Senate unduly, I wish to read, just briefly, part of a letter from

the chairman of the Central Statistical Board, Dr. Rice, which was published in the New York Times recently, pointing out some of the difficulties that a mere census would encounter and how inconclusive some of the facts assembled would be:

To begin with, unemployment is a subjective phenomenon. The mere lack of a job does not of itself make a person unemployed. If he lives on income from investments; if he is a student in college; a small farmer or a small tradesman on the road to bankruptcy, he is not, in the usual sense, unemployed. But if the retired investor seeks to get back into harness; if the student decides to supplement the family income; if the small farmer and tradesman give up the struggle, they become unemployed.

And many other instances are given here by Dr. Rice. He concludes with a discussion of the Johnson plan. General Johnson has proposed some sort of a plan for registration at noon by all the unemployed; and this is the conclusion of Dr. Rice's article:

The Nation needs such a census, but it would be much more than a census of unemployment. The time at which a special census of this kind could be taken profitably has now passed, and it has become a simple matter of good judgment to wait until the established decennial enumeration of 1940.

I am presenting this especially for the benefit of the Senator from Massachusetts to show the differences of opinion regarding this matter. It may be that the census we would take now, and for which we would spend $20,000,000, would be out of date and would be really ineffectual in accomplishing the object the Senator desires to accomplish.

It is for that reason that I oppose the amendment at this time. Later on, after the committee shall have made a thorough study of those matters, I may support the identical amendment which the Senator today proposes; but, like the Senator from Tennessee [Mr. McKELLAR], I believe that the Senate having authorized this investigation and study by the Senate committee, we should not now set aside $20,000,000 for a census of the unemployed.

At this point I ask unanimous consent to have printed in the RECORD not only the letter by Dr. Rice but also the editorial of the New York Times which appears on the same page.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The letter is as follows:

[From the New York Times of May 15, 1937]

CENSUS OF THE UNEMPLOYED—STATISTICAL BOARD CHAIRMAN POINTS OUT DIFFICULTIES IN THE WAY

To the EDITOR OF THE NEW YORK TIMES:

The proposal to take a census of unemployment has become the "houn' dawg" of the New Deal. Few public issues have been so persistently "kicked aroun'," and few have been more consistently misunderstood by advocates and opponents alike. As Chairman of the Central Statistical Board, a Federal agency charged with the duty of planning and promoting the improvement, development and coordination of governmental statistical services, I believe it is timely to remove some of the misconceptions.

The term "census of unemployment" is a misnomer. It implies that the unemployed may be counted without reference to any other class of persons, just as children would be counted in a school census. Actually, such a count is feasible only in connection with a general census.

Beyond doubt there will be a census of unemployment as a part of the 1940 population census. To take a special census as early as it could now be provided for—in the spring of 1938—would be practicable only on the condition that the 1940 census be deferred at least 2 years. Only so could administrative and technical conflicts be avoided. But this would introduce important new issues. To comply with the Constitution, the special census would have to become the Sixteenth Decennial Census and be used as a basis for the next congressional reappointment. The "regular" census, if taken after 1940, would legally become a special census. It is doubtful whether general approval for such an arrangement could be secured.

A special census of population, to include data on employment status, would have been highly useful in 1935, 1936, or even in the spring of the present year. It was provided for by the Lozier bill, which passed the House of Representatives with administrative support in the Seventy-third Congress, but was crowded off the Senate calendar at the end of that session.

DIFFICULTIES TO BE MET

It may be useful to consider some of the difficulties that will be encountered if and when the unemployed are counted.

To begin with, unemployment is a subjective phenomenon. The mere lack of a job does not of itself make a person unemployed. If he lives on income from investments, if he is a student in college, a small farmer or a small tradesman on the road to bankruptcy, he is not, in the usual sense, unemployed. But if the retired investor seeks to get back into harness, if the student decides to supplement the family income, if the small farmer and tradesmen give up the struggle, they become unemployed.

Consider the case of an employed father, his wife in the home and his daughter in high school. He loses his job, the wife and daughter seek work. Can we say in this case that the number of unemployed has been increased by one or by three? One employee has been displaced, but the subjective effect is that three people start looking for jobs, to glut an already oversupplied labor market.

Similarly, many men and women who are "unemployable" because of age or physical or mental handicaps are nevertheless looking for work. Are they "unemployed"? As a matter of economic and psychological fact, employability is largely a matter of labor demand; and this is true, as well, of the "work shy", who appear to be avoiding employment.

Unemployment is not only subjective; it is also negative. It is a state of not doing something. Employment, by contrast, is positive. It is much easier to record and count the things people do, such as work, than to record and count what they do not do. Only by the most careful definition of the "universe", within which people might be doing something but actually are not, can we count the number of persons who are un-anything.

JOHNSON PLAN DISAPPROVED

The proposal to conduct a census through self-registration of the unemployed, as proposed by Gen. Hugh S. Johnson, attempts to escape these difficulties by evading them. It asks each individual to answer for himself whether or not he is unemployed. No available inducements would bring about the self-registration of all genuinely unemployed persons. If jobs could be offered to all registrants, the appeal to register might be effective; but the implication that jobs or relief would be forthcoming would infinitely harass all concerned with the program.

On the other hand, many who were not genuinely unemployed would register. Many who are not actively in the labor market, as well as many who hope to secure better jobs, would place their names on the registration lists. The net result would defy analysis.

A positive national policy for the collection of information needed by government, business, and the public generally would include three requirements:

1. A complete census of population, occupations, employment, unemployment, and other data related thereto should be taken once in every 5 years.

2. This census should secure an account of the employment status of every potentially employed person. Data on unemployment is not enough. Employment is most usefully regarded as a variable, not as a fixed, condition. One may work overtime, full time, part time, occasionally, or not at all. Hence unemployment, instead of being the antithesis of employment, is one extreme on the scale of employment status. We are essentially interested, not in the lack of work per se, but in the human miseries and the social problems that such a lack brings forth. These are not confined to unemployment.

3. The census should be so tied to existing current data as to provide a base line or benchmark for the periodic revision and correction of the latter. If this tie-up were perfected, there would exist a satisfactory means of estimating the volume of employment and unemployment at frequent intervals. This would dispose of the oft-repeated argument that the results of a census would be out of date as soon as they were issued. Current data to which the census might be attached by statistical methods would include the employment and pay-roll figures of the Bureau of Labor Statistics, the active files of applicants for jobs maintained by the United States Employment Service, and the industrial returns for covered establishments now being developed by the Social Security Board.

The Nation needs such a census, but it would be much more than a census of unemployment. The time at which a special census of this kind could be taken profitably has now passed, and it has become a simple matter of good judgment to wait until the established decennial enumeration of 1940.

STUART A. RICE,
Chairman, Central Statistical Board.

WASHINGTON, D. C., *May 10, 1937.*

The editorial is as follows:

[From the New York Times of May 15, 1937]

MEASURING "UNEMPLOYMENT"

We print on this page today an important and unusually interesting letter from Stuart A. Rice, chairman of the Central Statistical Board, regarding the question of an unemployment census. Dr. Rice points to the inherent difficulties of counting the "unemployed" at any time, and argues that, while a census would have been valuable in 1935, 1936, or even in the spring of the present year, the time has now passed when a special census could usefully be undertaken without conflicting with the regular census of 1940.

With Dr. Rice's insistence that unemployment is a negative and partly a "subjective" phenomenon the Times is in full agreement. It has frequently called attention to the difficulty of defining "unemployment" for census purposes, and has contended that a useful census would be primarily one of employment, which, however, in addition to determining how many persons were employed

and in which industries, would also classify the unemployed in several groups according to the length of time they had been out of work, the length of time, if any, that they had been on relief, and their status in other respects. Such classifications might not yield any single group all of whom could confidently be called "unemployed", but it would certainly throw greatly needed light on the nature and extent of our unemployment and relief problem.

Whether it is now too late, as Dr. Rice contends, to undertake a census of employment and unemployment without serious conflict with the regular census of 1940 is for the officials of the Bureau of the Census and other statistical experts to determine. Their opinions on the point should be obtained promptly and made public. If it is really too late, then responsibility for failure to obtain an earlier census must rest with the administration. Dr. Rice speaks of a bill for the purpose which came to grief in the Seventy-third Congress. But that was in 1933 and 1934, and there have been many opportunities since to push such a bill. This newspaper has been editorially urging a census of employment since 1935.

If we must now wait until 1940 to determine how many employed and unemployed there are, what are we to say meanwhile of the various estimates that are still so confidently cited as if they were factual? Who are these 9,721,575 persons which the American Federation of Labor declared to be unemployed in February of this year? Who are the 8,914,000 persons said to be unemployed by the National Industrial Conference Board? What are we to say of assertions emanating from the W. P. A. that there will always be at least 4,000,000 unemployed in the United States, even at the peak of prosperity? Here is the head of the Federal Government's Central Statistical Board declaring that we could not be sure who the unemployed really were even after we had asked and counted them. And here is another Government agency, the W. P. A., which without a count seems willing to predict exactly how many unemployed there are going to be. There is a lack of coordination somewhere.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Mexico yield to the Senator from Massachusetts?

Mr. HATCH. I yield.

Mr. LODGE. Does not the Senator think it would be helpful to the committee if they obtained the facts with relation to the subject they are going to study?

I desire to refer briefly to certain opinions which have been expressed by persons who are prominent in the administration.

The Secretary of Commerce, Daniel C. Roper, under date of March 9, 1937, said:

It would seem essential to the proper solution of this national problem that specific information be gathered as to the causes of unemployment, experience of the unemployed, their occupational aptitude and availability for absorption in other phases of industry.

Harry L. Hopkins is quoted in the Washington Star of January 7 of this year as follows:

One major obstacle in the path of meeting the problem of unemployment has been the absence of really adequate unemployment figures. I am convinced that we ought to find out about this by taking an unemployment census. The job must be done.

Frances Perkins, Secretary of Labor, is quoted as saying, on March 22, 1937:

It seems to me desirable that comprehensive and accurate determination be made both of the number of unemployed and, so far as possible, of the reasons for their idleness. As you know, a start in this direction was made in the census of 1930; that survey was, however, not designed to be a comprehensive one and the figures assembled are far from complete. No other authoritative census has been made.

There are a great many other official statements from persons in official life; and I cannot get out of my head the idea that in the case of a committee that is going to study the question of unemployment relief and recommend improvements in the present system it would be useful to have the facts as the committee goes along.

Mr. HATCH. Mr. President, I think we shall have to have the facts; but does the Senator from Massachusetts believe that the amendment which he offers outlines the manner and method of determining all these questions? Who is to decide what is an unemployed person, under the amendment?

Mr. LODGE. Such questions would be determined by the Bureau of the Census.

The PRESIDENT pro tempore. The time of the Senator from New Mexico on the amendment has expired.

Mr. HATCH. I will speak on the joint resolution, if I have any more time. And all these other complicated and conflicting questions will be decided by the Bureau of the Census?

Mr. LODGE. The amendment sets forth the general precept, the general end we have in mind. It is the result of conferences that I have had with Government authorities on the question. I do not believe we want to be too specific and bind the administrative branch too much in carrying out this precept.

Mr. HATCH. My idea is that the Congress itself should lay down the specifications and the definitions for whatever census is undertaken if that census is to afford much information to the Congress. Frankly, I do not now possess the information necessary to draft the definitions and specifications which I believe to be necessary. I think we would get only a general census under this amendment, spend $20,000,000, and it might not be of a great deal of worth to the Congress by the time they received it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. LODGE].

Mr. McNARY and other Senators called for the yeas and nays, and they were ordered.

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

The legislative clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a session pair with the Senator from Minnesota [Mr. SHIPSTEAD], which I transfer to the Senator from Utah [Mr. KING], and will vote. I vote "yea."

The roll call was concluded.

Mr. WHITE. I desire to announce the unavoidable absence of my colleague [Mr. HALE]. I understand that on this amendment he has a pair with the Senator from Texas [Mr. SHEPPARD]. If present and at liberty to vote, my colleague would vote "yea." I am informed that the Senator from Texas would vote "nay."

Mr. BARKLEY. I desire to announce the unavoidable absence of the Senator from Arkansas [Mr. ROBINSON] on important business, and further to announce that if present he would vote "nay."

Mr. POPE. The Senator from Nebraska [Mr. NORRIS] is absent on account of illness.

Mr. McKELLAR. My colleague the junior Senator from Tennessee [Mr. BERRY] is unavoidably detained from the Senate. If present, he would vote "nay."

Mr. MINTON. I announce the absence of the Senator from Utah [Mr. KING] and the Senator from Connecticut [Mr. MALONEY] because of illness.

The Senator from Texas [Mr. SHEPPARD], the Senator from Florida [Mr. PEPPER], the Senator from Rhode Island [Mr. GREEN], the Senator from Nevada [Mr. McCARRAN], the Senator from Ohio [Mr. DONAHEY], the Senator from Arizona [Mr. ASHURST], the Senator from Iowa [Mr. HERRING], the Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. OVERTON], the Senator from Indiana [Mr. VAN NUYS], and the Senator from Montana [Mr. WHEELER] are absent on important public business.

Mr. AUSTIN. The Senator from Minnesota [Mr. SHIPSTEAD] is necessarily absent.

The result was announced—yeas 30, nays 48, as follows:

YEAS—30

Austin	Davis	Johnson, Calif.	Steiwer
Bailey	Duffy	La Follette	Townsend
Borah	Frazier	Lodge	Tydings
Bridges	Gerry	Lonergan	Vandenberg
Byrd	Gibson	McNary	Walsh
Capper	Gillette	Nye	White
Clark	Glass	Pittman	
Copeland	Holt	Smith	

NAYS—48

Adams	Byrnes	Hughes	O'Mahoney
Andrews	Caraway	Johnson, Colo.	Pope
Bankhead	Chavez	Lee	Radcliffe
Barkley	Connally	Logan	Reynolds
Bilbo	Dieterich	Lundeen	Russell
Black	Ellender	McAdoo	Schwartz
Bone	George	McGill	Schwellenbach
Brown, Mich.	Guffey	McKellar	Smathers
Brown, N. H.	Harrison	Minton	Thomas, Okla.
Bulkley	Hatch	Moore	Thomas, Utah
Bulow	Hayden	Murray	Truman
Burke	Hitchcock	Neely	Wagner

NOT VOTING—18

Ashurst	Herring	Norris	Shipstead
Berry	King	Overton	Van Nuys
Donahey	Lewis	Pepper	Wheeler
Green	McCarran	Robinson	
Hale	Maloney	Sheppard	

So Mr. LODGE's amendment was rejected.

Mr. McKELLAR. Mr. President, on page 10 of the joint resolution, line 8, I move to strike out the word "No" and insert "So far as not inconsistent with efficient administration, no."

I have talked with Senators who have varying views of the matter, and the explanation of the amendment is that there appears to be some little conflict between the paragraphs immediately preceding and those immediately following the place where I have offered the amendment, and for that reason it is offered at this place.

Mr. McNARY. Mr. President, is not that the language which was suggested by the Comptroller General?

Mr. McKELLAR. No; this is not the amendment to which the Senator refers. This is largely a clarifying amendment.

Mr. McNARY. It is not the one about which the Senator spoke to me?

Mr. McKELLAR. No; I will offer that amendment in a moment and call the Senator's special attention to it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Tennessee.

The amendment was agreed to.

Mr. McKELLAR. I offer virtually the same amendment on page 11, line 20, after the word "Hereafter", to insert a comma and the words "so far as not inconsistent with efficient administration" and a comma.

The amendment was agreed to.

Mr. McKELLAR. On page 12, after the word "preference", in line 7, I move to insert a comma and the words "as nearly as good administration will warrant" and a comma. That is substantially the same amendment as the others offered.

The amendment was agreed to.

Mr. McKELLAR. I have one other amendment to offer. On page 4, lines 9 and 10, I move to strike out the words "adequate provision has been made or is assured for financing" and to insert "the sponsor has made a written agreement to finance."

The reason for the amendment is that the General Accounting Office thinks these are the proper words to be employed. I have spoken to the chairman of the subcommittee in regard to the matter, and we think it best to take these words to conference and work out a proper provision.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CONNALLY. Mr. President, I offer an amendment on page 3. I have consulted the Senator from Colorado [Mr. ADAMS], and I think he will have no objection to the amendment. It merely clarifies the point which was brought out yesterday in the debate. Senators think the language of the joint resolution is sufficient as it is, but I have consulted the Accounting Office, and the officials of that Office suggested that the language I have suggested would be an improvement over the language now in the measure. It does not change the amount.

The PRESIDENT pro tempore. The clerk will state the amendment.

The CHIEF CLERK. On page 3, line 9, it is proposed to strike out the word "thereof" and to insert "or for completion of flood-control projects already begun and for which other relief money has heretofore been allocated."

Mr. BARKLEY. A parliamentary inquiry. Was the committee amendment at this place agreed to or did it go over? The amendment offered by the Senator from Texas is to a committee amendment, I understand, which already has been agreed to.

The PRESIDENT pro tempore. That is the situation.

Mr. CONNALLY. I ask unanimous consent that the vote by which the committee amendment on page 3, line 6, was agreed to be reconsidered.

The PRESIDENT pro tempore. Is there objection. The Chair hears none; and the vote is reconsidered.

Mr. ADAMS. Mr. President, I have discussed the matter with the Senator from Texas, but I do not like to have the amendment inserted in this particular section of the bill. It seems to me it ought to go in the general list of projects which are appropriate for expenditure under the joint resolution. In this particular section we endeavor to place limitations upon the use of money.

Mr. CONNALLY. Mr. President, that is exactly why the Senator from Texas wants it done in this way. The Senator from Colorado suggests that the amendment be placed in the general flood-control provision, but the language on page 3 is a limitation on every project mentioned later on. I should like to have the Senator take the amendment to conference and work it out there. All I want is to be sure that the joint resolution covers the point.

Mr. ADAMS. The difficulty is that the implication of putting it in at this place is that it is not for relief or work relief.

Mr. CONNALLY. Not necessarily. I hope the Senator will exercise his usual graciousness and permit the amendment to go to conference.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Texas to the committee amendment.

The amendment to the amendment was agreed to.

Mr. ADAMS. Mr. President, I desire to offer an amendment to this section before the amendment as amended is acted on.

Mr. President, this amendment had placed a limit upon the amount which may be expended for administrative purposes. It has been called to my attention that the United States Employment Service of the Department of Labor performs a very essential part of the relief work in certifying those who are available and who are qualified for employment for relief work. Therefore I move as an amendment to this proviso that in line 15, after the word "Commission", there be added as an additional exception "the United States Employment Service of the Department of Labor."

Mr. McKELLAR. Mr. President, I am not opposed to the amendment. Yesterday I offered a similar amendment with respect to the Bureau of Air Commerce of the Department of Commerce, but the amendment was left out on the understanding that it would be perfectly proper to put it into the joint resolution when it went to conference if there was a reason for it. I am just wondering if the Senator from Colorado would not let his proposed amendment take the same course. I favor his amendment. I think it should go in the joint resolution, but I should not like to have that course taken with regard to one amendment and not with the other.

Mr. ADAMS. Mr. President, the course suggested by the Senator from Tennessee is entirely agreeable to me. The Senator from Kentucky [Mr. BARKLEY] I know had another amendment having to do with the National Emergency Council. All three amendments can be handled together and worked out in conference. I think it would be much better to do it in that way.

Mr. BARKLEY. I did not know that the Senator from Tennessee had suggested such an amendment. Yesterday my attention was called by the Bureau of Air Commerce to the fact that if that Bureau were not included in this exception it would be left out entirely.

Mr. McKELLAR. I offered an amendment with reference to that Bureau yesterday, and I think, as does the Senator from Colorado [Mr. ADAMS], that it can be taken care of in conference.

Mr. BARKLEY. The same situation exists with respect to the National Emergency Council. Instead of leaving a large number of exceptions to be considered by the conference committee, inasmuch as exceptions have been made in the amendment offered by the Senator from Colorado, and the amendment offered yesterday by the Senator from Tennessee, and the one that I am now suggesting as to the

National Emergency Council, I think they ought to be included with the exceptions now provided in the measure.

Mr. McKELLAR. I have no objection to whatever course is taken with respect to them. I think all three will probably be put into the joint resolution.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. ADAMS. I yield.

Mr. LA FOLLETTE. I desire to point out to the Senators interested in including other agencies in the exceptions that, in my opinion, unless they are included in this amendment it will not be within the power of the conference committee to add them. This is a Senate amendment, and the only opportunity the conference will have to deal with the proposals will be through the Senate excepting some of these departments, and having the House accept the amendments. If they are to be considered in conference I think they should be incorporated in the amendment before it is agreed to.

Mr. McKELLAR. Mr. President, there can be no objection to that. I will ask the Senator from Colorado [Mr. ADAMS] to include in his amendment the Bureau of Air Commerce of the Department of Commerce and the organization referred to by the Senator from Kentucky [Mr. BARKLEY].

Mr. BARKLEY. There should be included in the proposal of the Senator from Colorado the Bureau of Air Commerce of the Department of Commerce and the National Emergency Council.

Mr. ADAMS. I will accept those two and ask that they be added to my proposed amendment.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Colorado, as modified, to the committee amendment will be read.

The CHIEF CLERK. On page 3, line 15, after the word "Commission", it is proposed to insert "the United States Employment Service of the Department of Labor, the Bureau of Air Commerce of the Department of Commerce, the National Emergency Council."

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Colorado, as modified.

The amendment, as modified, was agreed to.

The PRESIDENT pro tempore. If there are no further amendments to be proposed to the committee amendment which has just been amended, the question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The PRESIDENT pro tempore. Are there any other amendments to be offered?

Mr. BILBO. I offer an amendment in section 6, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. In section 6, on page 10, in line 22, after the word "who", it is proposed to add the words "holds or"; and in the same section, in line 25, after the word "salary", it is proposed to add "or per diem."

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

Mr. BRIDGES. I offer an amendment, which I send to the desk and ask to have read.

The PRESIDENT pro tempore. The amendment will be read.

The CHIEF CLERK. On page 2, in line 2, it is proposed to strike out "$1,500,000,000" and insert "$1,000,000,000."

Mr. BRIDGES. Mr. President, there has been a good deal of talk in the last few months, and particularly in the last few days, about economy, both by the administration and by different Members of both branches of Congress. I have no idea that the amendment which I offer will be agreed to. However, I should like to give the Senate an opportunity of voting either for or against a legitimate reduction in this relief appropriation on the basis that this is the one spot where a substantial reduction in Federal expenditures may be made.

The PRESIDING OFFICER (Mr. DUFFY in the chair). The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was rejected.

Mr. DAVIS. Mr. President, I offer the amendment which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 9, line 14, after the word "Administration", it is proposed to insert "The Administrator of the Works Progress Administration shall upon request make available to representatives of the public the names, positions, and salaries of all administrative personnel heretofore or hereafter appointed by the Works Progress Administration, or any subdivision or adjunct thereof, whose annual compensation is $1,000 or more."

Mr. DAVIS. Mr. President, for the last 18 months I have been endeavoring in every possible way consistent with my office to persuade Mr. Hopkins to make available to authorized representatives of the public and to the newspapers the names, addresses, and positions of all the administrative personnel of the W. P. A. whose salaries are $100 a month or more. I have repeatedly written to Mr. Hopkins on this point. I have addressed a communication to him through the Secretary of the Senate, but my petition has consistently been disregarded.

When pressed for an explanation, Mr. Hopkins has said that I seek to make political capital out of the use of these names. Therefore he justifies himself in withholding them. Irrespective of the motive which he attributes to me, I ask if such an answer would be acceptable if made by any State, county, or municipal administrator of public affairs? Would it be possible for a governor, a mayor, or a county commissioner to carry the names of their appointees on the public pay roll without permitting the taxpayers to know who were being employed and for what purpose? Obviously not, and I see no reason why the information which concerns the Federal Government should be withheld, unless it be that Mr. Hopkins fears the investigation of appointments which such listing would bring.

I wish to make it clear, as I have always done in the past, that I am not asking for the names of those who are receiving relief or the small-salaried person on work relief. I have no desire to bring unwanted publicity to the average person on relief. I do, however, maintain that the names and positions of all persons on W. P. A. who exercise administrative authority, whether it be large or small, and who have an opportunity to exert political influence because of the jobs they hold, be made available to the public immediately.

I have consistently asked for this information, and I have asked for it many times. Mr. Hopkins indicated last year during the election campaign that I had asked for it as a campaign publicity measure. The fact is that I had often asked for it long before the November election, and I have continued to ask for it ever since. By withholding this essential information, Mr. Hopkins has placed himself in the light of desiring it kept as a permanent campaign issue, for I expect to continue to ask for it until some adequate explanation be given why these names are kept from the public. Not only that, Mr. President, but I have tried time and again to get the names of the political appointees in Pennsylvania, and I have been unable to get them.

Mr. McKELLAR. Mr. President——

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

Mr. DAVIS. I yield.

Mr. McKELLAR. I see no objection whatsoever to the amendment of the Senator from Pennsylvania, and, if he is willing and other Senators are willing, I see no reason in the world why it should not be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Pennsylvania.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is still before the Senate and open to further amendment.

Mr. THOMAS of Oklahoma. Mr. President, referring to page 18, I am advised that the House of Representatives had an estimate of the amount of money necessary to take care of the projects already promised in the sum of $340,000,000. The Senator from Arizona in drafting this amendment divided the item and eliminated $40,000,000 and made one item $200,000,000 and the other item $100,000,000. In order to take care of the projects that have been approved or tentatively approved, as I understand, it may require more than $300,000,000; and inasmuch as the joint resolution is to go to conference, I shall offer an amendment to increase the appropriation to the amount suggested by the House of Representatives in the total sum of $340,000,000. The matter could be adjusted then in conference so as to take care of such projects as have been approved and contemplated in this act.

I submit an amendment increasing the figure in line 4 on page 18 to $220,000,000, and likewise the figures in line 5, on page 18, from $100,000,000 to $120,000,000. That will make it necessary to increase two items on page 19 in line 21, namely, the item of $58,000,000 should be increased to $70,000,000, and the appropriation of $7,000,000 should be increased to $22,000,000.

The PRESIDING OFFICER. As the Chair understands, the Senator is seeking to amend a committee amendment, which has been agreed to. Therefore, it will be necessary to reconsider the vote by which the committee amendment was agreed to. Without objection, the vote is reconsidered.

Mr. THOMAS of Oklahoma. I submit this amendment for the conferees to consider, and, if necessary, to adjust.

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

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

Mr. THOMAS of Oklahoma. I yield.

Mr. McNARY. Do these items increase the total sum above a billion a half dollars?

Mr. THOMAS of Oklahoma. No.

Mr. McKELLAR. The amendment comes in title II relating to the P. W. A. It does not refer to the billion-and-a-half-dollar appropriation.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Oklahoma to the amendment reported by the committee.

Mr. ADAMS. Mr. President, I gather from his remarks that the Senator from Oklahoma is proposing the amendment by reason of some commitments made in the House. At the same time it does not seem to me that we are necessarily obligated to abide by the commitments that have been made in the House. These matters have been considered by the Senate Appropriations Committee, and it is my understanding that the amounts recommended by the committee were satisfactory to the Public Works Administration and would cover the items which would seem to be necessary. Of course, there are various projects in various sections of the country which could be constructed with $340,000,000, but which could not be constructed with $300,000,000. The same argument would apply if the amount were raised to $400,000,000. It is just a question whether or not the Senate wants to spend $40,000,000 more. It is true the amendment would go to conference, but I think, as a practical matter, the House having voted for $340,000,000 in an independent measure, if we go to conference with a $340,000,000 item there is not much doubt that the outcome of the conference will be a $340,000,000 appropriation; and I am very reluctant to see the amount increased.

Mr. BULKLEY. Mr. President, the amounts provided in the joint resolution are adequate to cover all commitments that the committee reported to the Senate. By adopting an amendment yesterday at the instance of the Senator from Oklahoma—and I have no objection to his amendment—we have increased somewhat the class of projects which are recognized as moral obligations, and, in order to follow out the committee's policy of providing sufficient funds to meet all moral commitments the increases now suggested by the Senator from Oklahoma are necessary. I hope the Senator from Colorado [Mr. ADAMS] will not object to carrying this amendment to conference. I am sure that the Senator from Arizona [Mr. HAYDEN] recognizes that this amendment is needed.

Mr. HAYDEN. Mr. President, there is a distinction between what the House of Representatives and the Senate propose to do with respect to these amounts. As I read the House bill (H. R. 7363) it would increase to $340,000,000 the amount that might be used for grants by the Public Works Administration.

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

Mr. HAYDEN. Yes.

Mr. McKELLAR. That was in a separate bill, and the increase would not be binding on the conferees. They would have the power to fix the appropriation at any amount between that they wished. Is not that true?

Mr. HAYDEN. Yes; but the next question, of course, is what is a moral obligation? As the Senator from Oklahoma stated in connection with his proposal yesterday, the reason why the project in his State could not qualify under class (b) in the committee amendment is that under this Oklahoma situation the State legislature has created an authority that could issue bonds without an election; that they had submitted a project; that it had the approval of the three divisions of the Public Works Administration and was in every manner qualified, except that no bond election was required. For that reason the Senator from Oklahoma thought that the project ought not to be considered among the other moral obligations. Whether the House will agree when the joint resolution goes to conference that the sum total of money made available should be the same remains to be determined. I think the Senator in charge of the measure will find that the House proposition for $340,000,000 is not a combination of grants and loans but relates to grants only and includes sums heretofore allocated to grants for projects now under construction.

Mr. ADAMS. I suggest to the Senator from Arizona that if we go to conference with a $340,000,000 appropriation, all the House will do will be to say, "We concur in the Senate amendment." In other words, there is not much opportunity for us to debate it; they will merely agree to the increase in the appropriation made by the Senate.

Mr. BARKLEY. Mr. President, the parliamentary situation, though, in the conference will be that, the House joint resolution containing no provision whatever on this subject, and the Senate measure providing $300,000,000, the only ground for a conference will be somewhere between nothing and $300,000,000. The conferees could not go above three hundred million. If we put in $340,000,000 now they could reduce it, but without the amendment they could not go beyond $300,000,000. Therefore the amendment ought to go in now, so that the $40,000,000 will be in conference.

Mr. HAYDEN. That is a correct statement of the parliamentary situation, but I want to make clear to the Senate that $340,000,000 as listed by the House does not mean $340,000,000 in the same way as provided in title II of this joint resolution. When this joint resolution goes to conference there will be arguments with the House conferees as to what are moral obligations. The moral obligations set out by the Senate are not exactly the same moral obligations that were contemplated by the House. If the House desires to go as far, and only so far, as was stated to the House by the majority leader and by those in charge of the joint resolution in the course of the debate on the measure that has passed the House, the ultimate amount for both loans and grants may be less than $340,000,000. I am satisfied of that, because there is not the latitude in the House joint resolution that there now is in the pending joint resolution with respect to the use of money from the revolving fund of the Public Works Administration.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Oklahoma to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. THOMAS of Oklahoma. Mr. President, there is some question in the minds of many as to whether or not the funds made available in the pending measure will be open to our Indian citizens or Indian wards. In order to make that matter clear I tender an amendment. On page 5, line 8, after the word "persons", I suggest an amendment by inserting two words "including Indians." Then there can be no question that the funds appropriated will be available for Indians in the event the President sees fit to make allocations.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is still before the Senate and open to further amendment.

Mr. VANDENBERG. Mr. President, I ask for a vote on the amendment in the nature of a substitute presented by me early in the day.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute proposed by the Senator from Michigan.

The amendment was rejected.

Mr. ADAMS. I ask unanimous consent that the Secretary may be authorized to renumber the sections.

The PRESIDING OFFICER. Without objection, consent is granted.

If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time and passed.

APPROPRIATIONS FOR WAR DEPARTMENT

Mr. COPELAND. I move that the Senate proceed to the consideration of House bill 6692, being the War Department appropriation bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 6692) making appropriations for the Military Establishment for the fiscal year ending June 30, 1938, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. COPELAND. I ask unanimous consent that the formal reading of the bill may be dispensed with and that it be read for amendment, the amendments of the committee to be first considered.

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

The clerk will state the first amendment reported by the Committee on Appropriations.

The first amendment of the Committee on Appropriations was, on page 1, after line 6, to insert the following:

Title I—Military activities and other expenses of the War Department incident thereto.

The amendment was agreed to.

The next amendment was, under the heading "Military activities—Contingencies of the Army", on page 7, line 17, after the word "proper", to insert a comma and "and his determination thereon shall be final and conclusive upon the accounting officers of the Government", so as to read:

For all emergencies and extraordinary expenses, including the employment of translators, and exclusive of all other personal services in the War Department or any of its subordinate bureaus or offices in the District of Columbia, or in the Army at large, but impossible to be anticipated or classified, and for examination of estimates of appropriations and of military activities in the field, to be expended on the approval or authority of the Secretary of War, and for such purposes as he may deem proper, and his determination thereon shall be final and conclusive upon the accounting officers of the Government, $17,500.

The amendment was agreed to.

Mr. McNARY. Mr. President, I am obliged to leave the Chamber for a few moments. Would the Senator object to considering the amendment on page 53 at this time? I have a telegram from Gen. George A. White, a prominent officer of the National Guard in my State, to the effect that the proviso found on page 53 is unsatisfactory to the National Guard. The amendment provides for the extension of the camp at Fort Sill, Okla. Can the Senator from New York advise me as to that?

Mr. COPELAND. In answering the Senator from Oregon I can answer several other Senators who have asked about the matter.

Mr. McNARY. Would the Senator rather take it up later?

Mr. COPELAND. No; I shall be very glad to do so now.

The House exceeded the Budget estimate by $1,468,310 in one item. The Department had been given very liberal appropriations all along the line, and then the House succeeded in going beyond the estimate by that amount. We were not willing to do this because we desired to keep the amount of the bill under the Budget estimate, but we found that we could go half way with the House, so we decided to strike from the bill $734,000 which had been appropriated in excess of the Budget estimate. With that in reserve we had appeals made to us by the War Department and others to take care of the Fort Sill project, and so that was added and the necessary amount taken out of the sum saved, as I have suggested.

The National Guard is not going to suffer. There will be the same number of members as contemplated, but the sums of money which were distributed all through the bill in the House for construction and maintenance at camps, for gas and oil, correspondence courses, articles of uniform, ammunition, band music, and various other items, enabled us to make this reduction in order that the Budget estimate might be preserved.

The PRESIDING OFFICER. The next amendment will be stated.

The next amendment of the Committee on Appropriations was, under the subhead "Finance Department—Pay, etc., of the Army", on page 10, line 15, after the word "thousand", to strike out "one hundred and seventy-five" and insert "six hundred and fifty-three"; in line 16, after the word "officers" and comma, to strike out "$34,329,995" and insert "$34,843,745"; in line 19, after the word "exceed", to strike out "five" and insert "thirty-six"; in line 20, after the word "officers" and the comma, to strike out "$2,270,900" and insert "$2,398,304"; on page 11, line 2, after the word "Scouts" and the comma, to strike out "$67,042,594" and insert "$67,798,594"; in line 8, after the word "exceed", to strike out "eleven" and insert "twelve"; in line 9, after the word "duty" and the comma, to strike out "$14,234" and insert "$14,831"; in line 18, after the word "available" and the comma, to strike out "$6,343,960" and insert "$6,418,349"; in line 19, after the word "allowances" and the comma, to strike out "$6,150,421" and insert "$6,221,925"; and on page 12, line 2, after the words "in all" and the comma, to strike out "$161,548,460" and insert "$163,092,107", so as to read:

For pay of not to exceed an average of 12,653 commissioned officers, $34,843,745; pay of officers, National Guard, $100; pay of warrant officers, $1,371,836; aviation increase to commissioned and warrant officers of the Army, including not to exceed 36 medical officers, $2,398,304, none of which shall be available for increased pay for making aerial flights by nonflying officers at a rate in excess of $1,440 per annum, which shall be the legal maximum rate as to such nonflying officers; additional pay to officers for length of service, $9,610,595; pay of an average of 165,000 enlisted men of the line and staff, not including the Philippine Scouts, $67,798,594; pay of enlisted men of National Guard, $100; aviation increase to enlisted men of the Army, $574,798; pay of enlisted men of the Philippine Scouts, $1,050,447; additional pay for length of service to enlisted men, $5,170,468; pay of the officers on the retired list, $12,999,525; increased pay to not to exceed 12 retired officers on active duty, $14,831; pay of retired enlisted men, $13,521,730; pay not to exceed 60 civil-service messengers at

not to exceed $1,200 each at headquarters of the several Territorial departments, corps areas, Army and corps headquarters, Territorial districts, tactical divisions and brigades, service schools, camps, and ports of embarkation and debarkation, $72,000; pay and allowances of contract surgeons, $46,320; pay of nurses, $933,340; rental allowances, including allowances for quarters for enlisted men on duty where public quarters are not available, $6,418,349; subsistence allowances, $6,221,925; interest on soldiers' deposits, $45,000; payment of exchange by officers serving in foreign countries, and when specially authorized by the Secretary of War, by officers disbursing funds pertaining to the War Department, when serving in Alaska, and all foreign money received shall be charged to and paid out by disbursing officers of the Army at the legal valuation fixed by the Secretary of the Treasury, $100; in all, $163,092,107; and the money herein appropriated for "Pay of the Army" shall be accounted for as one fund.

The amendment was agreed to.

The next amendment was, on page 12, line 17, after the word "Academy", to insert "or to Filipinos in the Army Transport Service", so as to make the further proviso read:

Provided further, That no part of this or any other appropriation contained in this act shall be available for the pay of any person, civil or military, not a citizen of the United States, unless in the employ of the Government or in a pay status under appropriations carried in this act on July 1, 1937, nor for the pay of any such person beyond the period of enlistment or termination of employment, but nothing herein shall be construed as applying to instructors of foreign languages at the Military Academy, or to Filipinos in the Army Transport Service, or to persons employed outside of the continental limits of the United States except enlisted men of the Regular Army, other than Philippine Scouts, upon expiration of enlistment.

The amendment was agreed to.

The next amendment was, under the subhead "Travel of the Army", on page 15, line 1, before the word "which", to change the appropriation for travel allowances and travel in kind, as authorized by law, for persons traveling in connection with the military and nonmilitary activities of the War Department from $2,250,000 to $2,486,150.

The amendment was agreed to.

The next amendment was, under the subhead "Quartermaster Corps", on page 19, line 6, after the words "in all" and the comma, to strike out "$29,329,150" and insert "$29,601,900", so as to read:

Subsistence of the Army: Purchase of subsistence supplies: For issue as rations to troops, including retired enlisted men when ordered to active duty, civil employees when entitled thereto, hospital matrons, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners but for whose subsistence appropriation is not otherwise made), Indians employed by the Army as guides and scouts, and general prisoners at posts; ice for issue to organizations of enlisted men and offices at such places as the Secretary of War may determine, and for preservation of stores; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army Transport Service; meals for recruiting parties and applicants for enlistment while under observation; for sales to officers, including members of the Officers' Reserve Corps while on active duty, and enlisted men of the Army. For payments: Of the regulation allowances of commutation in lieu of rations to enlisted men on furlough, and to enlisted men when stationed at places where rations in kind cannot be economically issued, including retired enlisted men when ordered to active duty. For payment of the regulation allowance of commutation in lieu of rations for enlisted men, applicants for enlistment while held under observation, civilian employees who are entitled to subsistence at public expense, and general prisoners while sick in hospitals, to be paid to the surgeon in charge; advertising; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per annum; and for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; in all $29,601,900.

The amendment was agreed to.

The next amendment was, on page 22, line 8, after the word "reasons" and the comma, to strike out "$11,851,320" and insert "$11,901,320", so as to read:

Clothing and equipage: For cloth, woolens, materials, and for the purchase and manufacture of clothing for the Army, including retired enlisted men when ordered to active duty, for issue and for sale; for payment of commutation of clothing due to warrant officers of the mine planter service and to enlisted men; for altering and fitting clothing and washing and cleaning when necessary; for operation of laundries, existing or now under construction, including purchase and repair of laundry machinery therefor; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; for equipment and repair of equipment of existing dry-cleaning plants, salvage and sorting storehouses, hat repairing shops, shoe repair shops, clothing repair shops, and garbage reduction works; for equipage, including authorized issues of toilet articles, barbers' and tailors' material, for use of general prisoners confined at military posts without pay or allowances and applicants for enlistment while held under observation; issue of toilet kits to recruits upon their first enlistment, and issue of housewives to the Army; for expenses of packing and handling and similar necessaries; for a suit of citizen's outer clothing and when necessary an overcoat, the cost of all not to exceed $30, to be issued each soldier discharged otherwise than honorably, to each enlisted man convicted by civil court for an offense resulting in confinement in a penitentiary or other civil prison, and to each enlisted man ordered interned by reason of the fact that he is an alien enemy, or, for the same reason, discharged without internment; for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, $11,901,320, of which amount not exceeding $60,000 shall be available immediately for the procurement and transportation of fuel for the service of the fiscal year 1938, and not exceeding $50,000 shall be available exclusively for increasing the compensation of employees in laundries and dry-cleaning establishments whose compensation on June 30, 1937, is at a rate of $600 per annum or less or $1 per diem or less.

The amendment was agreed to.

The next amendment was, on page 22, line 15, after the word "less", to strike out the colon and the following proviso:

Provided, That laundry charges, other than for service now rendered without charge, shall be so adjusted that earnings in conjunction with the value placed upon service rendered without charge shall aggregate an amount at least equal to the cost of maintaining and operating laundries and dry-cleaning plants.

The amendment was agreed to.

The next amendment was, on page 24, line 4, after the word "to", to strike out "$819,520" and insert "$829,520", so as to read:

Army transportation: For transportation of Army supplies; of authorized baggage, including packing and crating; of horse equipment; and of funds for the Army; for transportation on Army vessels, notwithstanding the provisions of other law, of privately owned automobiles of Regular Army personnel upon change of station; for the purchase or construction, not to exceed $282,700, alteration, operation, and repair of boats and other vessels: *Provided,* That the amount authorized for the purchase or construction of vessels in the appropriation for "Army transportation", contained in the War Department Appropriation Act, fiscal year 1937, is hereby increased from $786,000 to $829,520; for wharfage, tolls, and ferriage; for drayage and cartage; for the purchase, manufacture (including both material and labor), maintenance, hire, and repair of pack saddles and harness; for the purchase, hire, operation, maintenance, and repair of wagons, carts, drays, other vehicles, and horse-drawn and motor-propelled passenger-carrying vehicles required for the transportation of troops and supplies and for official military and garrison purposes; for hire of draft and pack animals; for travel allowances to officers of National Guard on discharge from Federal service as prescribed in the act of March 2, 1901 (U. S. C., title 10, sec. 751), and to enlisted men of National Guard on discharge from Federal service, as prescribed in amendatory act of September 22, 1922 (U. S. C., title 10, sec. 752), and to members of the National Guard who have been mustered into Federal service and discharged on account of physical disability; in all, $12,580,000, of which amount not exceeding $250,000 for the procurement and transportation of fuel for the service of the fiscal year 1938, and not exceeding $1,000,000 for the procurement of motor vehicles, shall be available immediately.

The amendment was agreed to.

The next amendment was, under the subhead "Military posts", on page 27, line 1, after the word "For", to insert "work authorized by the act of June 4, 1936 (49 Stat. 1462), at Edgewood Arsenal, Md., $854,000; for work authorized by the act approved May 6, 1937, at Fort Niagara, N. Y., $54,000; for work authorized by the act approved May 14, 1937, at Camp Stanley, Tex., $578,050, and at Savanna Ordnance Depot, Savanna, Ill., $861,190; for"; in line 14, after the name "Virginia", to strike out "$338,000" and insert "$258,000"; and in line 15, after the words "in all", to strike out "$8,756,000" and insert "$11,023,240", so as to read:

For construction and installation of buildings, flying fields, and appurtenances thereto, including interior facilities, fixed equipment, necessary services, roads, connections to water, sewer, gas, and electric mains, purchase and installation of telephone and

radio equipment, and similar improvements, and procurement of transportation incident thereto, without reference to sections 1136 and 3734, Revised Statutes (U. S. C., title 10, sec. 1339; title 40, sec. 267); general overhead expenses of transportation, engineering, supplies, inspection and supervision, and such services as may be necessary in the office of the Quartermaster General; and the engagement by contract or otherwise without regard to section 3709, Revised Statutes (U. S. C., title 41, sec. 5), and at such rates of compensation as the Secretary of War may determine, of the services of architects or firms or corporations thereof and other technical and professional personnel as may be necessary; to remain available until expended and to be applied as follows: For work authorized by the act of June 4, 1936 (49 Stat. 1462), at Edgewood Arsenal, Md., $854,000; for work authorized by the act approved May 6, 1937, at Fort Niagara, N. Y., $54,000; for work authorized by the act approved May 14, 1937, at Camp Stanley, Tex., $578,050, and at Savanna Ordnance Depot, Savanna, Ill., $861,190; for work authorized by the act of August 12, 1935 (49 Stat. 610–611): At Bolling Field, District of Columbia, $746,000; at Northwestern air base, Washington, $625,000; at Albrook Field, Panama Canal Zone, $717,000; at Hickam Field, Hawaii, $3,250,000; at Air Corps depot, Sacramento, Calif., $3,000,000; at Langley Field, Va., $258,000; and at Barksdale Field, La., $80,000; in all $11,023,240.

The amendment was agreed to.

The next amendment was, under the subhead "Acquisition of land", on page 27, after line 16, to strike out "For the acquistion of land, as authorized by the act of August 12, 1935 (49 Stat. 610): Vicinity of Mitchel Field, N. Y., 342 acres, more or less, to be used exclusively for runways and to cost not to exceed $1,520,000, $750,000" and insert "For the acquisition of land, as authorized by the act of August 12, 1935 (49 Stat. 610): Vicinity of Mitchel Field, N. Y., 342 acres, more or less, $500,000: *Provided*, That in addition to the amount herein appropriated the Secretary of War may acquire by condemnation or may enter into contracts for the acquisition of the above land in the vicinity of Mitchel Field to an additional amount not in excess of $1,020,000, and his action in so doing in either case shall be deemed a contractual obligation of the Federal Government for the payment thereof"; and on page 28, line 19, after the words "in all" and the comma, to strike out "$1,202,000" and insert "$952,000", so as to read:

For the acquisition of land, as authorized by the act of August 12, 1935 (49 Stat. 610): Vicinity of Mitchel Field, N. Y., 342 acres, more or less, $500,000: *Provided*, That in addition to the amount herein appropriated the Secretary of War may acquire by condemnation or may enter into contracts for the acquisition of the above land in the vicinity of Mitchel Field to an additional amount not in excess of $1,020,000, and his action in so doing in either case shall be deemed a contractual obligation of the Federal Government for the payment thereof; vicinity of Kelly Field, Tex., $2,000; vicinity of Tacoma, Wash., to be available immediately, $60,000; and for the acquisition of all privately owned land and rights within the boundaries of the area in San Bernardino and Kern Counties, Calif., reserved and set aside for the use of the War Department as a bombing and gunnery range by Executive Order No. 6588, dated February 6, 1934, and, in addition, all privately owned land and rights within an area of approximately 59,163 acres of land adjacent to the tract described in such Executive order, located in San Bernardino, Kern, and Los Angeles Counties, Calif., $390,000; in all, $952,000.

The amendment was agreed to.

The next amendment was, on page 28, after line 20, to strike out:

For the acquisition of land in the vicinity of West Point, N. Y., as authorized by the act approved March 3, 1931 (46 Stat. 1491), $150,000, and such sum, in conjunction with the appropriation of $431,000 for a like purpose, contained in the War Department Appropriation Act for the fiscal year 1937, without regard to the proviso attached to such former appropriation, shall be available solely for the acquisition of the tracts of land designated as priorities 1 to 9, both inclusive, on the map on file in the office of the Quartermaster General, designated as "Map 'C', tract locator", and dated June 22, 1936.

And in lieu thereof to insert:

For the acquisition of land in the vicinity of West Point, N. Y., as authorized by the act approved March 3, 1931 (46 Stat. 1491), $431,000, and such sum, in conjunction with the appropriation of $431,000 for a like purpose contained in the War Department Appropriation Act for the fiscal year 1937 without regard to the proviso attached to such former appropriation, shall be available until expended: *Provided*, That in addition to the amount herein appropriated the Secretary of War may acquire by condemnation or may enter into contracts for the acquisition of land in the vicinity of West Point to an additional amount not in excess of $638,000, and his action in so doing in either case shall be deemed a contractual obligation of the Federal Government for the payment thereof: *Provided further*, That no land shall be acquired east of the west boundary of the Highway 9–W, or east of the west boundary of the Highway 9–W as it may be relocated by the State of New York prior to the acquisition of this land.

The amendment was agreed to.

The next amendment was, under the subhead "Signal Corps—Signal Service of the Army", on page 35, line 8, after the word "required" and the comma, to change the appropriation for "Telegraph and telephone systems: Purchase, equipment, operation, and repair of military telegraph, telephone, radio, cable, and signaling systems, etc.", from $5,702,920 to $5,894,520.

The amendment was agreed to.

The next amendment was, under the subhead "Air Corps—Air Corps, Army", on page 38, line 5, after the name "Secretary of War" and the comma, to strike out "$60,500,000" and insert "$57,745,300", so as to read:

For creating, maintaining, and operating at established flying schools and balloon schools courses of instruction for officers, students, and enlisted men, including cost of equipment and supplies necessary for instruction, purchase of tools, equipment, materials, machines, textbooks, books of reference, scientific and professional papers, instruments, and materials for theoretical and practical instruction; for maintenance, repair, storage, and operation of airships, war balloons, and other aerial machines, including instruments, materials, gas plants, hangars, and repair shops, and appliances of every sort and description necessary for the operation, construction, or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith and the establishment of landing and take-off runways; for purchase of supplies for securing, developing, printing, and reproducing photographs in connection with aerial photography; improvement, equipment, maintenance, and operation of plants for testing and experimental work, and procuring and introducing water, electric light and power, gas, and sewerage, including maintenance, operation, and repair of such utilities at such plants; for the procurement of helium gas; for travel of officers of the Air Corps by air in connection with the administration of this appropriation, including the transportation of new aircraft from factory to first destination; salaries and wages of civilian employees as may be necessary; transportation of materials in connection with consolidation of Air Corps activities; experimental investigations and purchase and development of new types of airplanes, autogyros, and balloons, accessories thereto, and aviation engines, including plans, drawings, and specifications thereof, and the purchase of letters patent, applications for letters patent, and licenses under letters patent and applications for letters patent; for the purchase, manufacture, and construction of airplanes and balloons, including instruments and appliances of every sort and description necessary for the operation, construction (airplanes and balloons), or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith; for the marking of military airways where the purchase of land is not involved; for the purchase, manufacture, and issue of special clothing, wearing apparel, and similar equipment for aviation purposes; for all necessary expenses connected with the sale or disposal of surplus or obsolete aeronautical equipment, and the rental of buildings, and other facilities for the handling or storage of such equipment; for the services of not more than four consulting engineers at experimental stations of the Air Corps as the Secretary of War may deem necessary, at rates of pay to be fixed by him not to exceed $50 a day for not exceeding 50 days each and necessary traveling expenses; purchase of special apparatus and appliances, repairs, and replacements of same used in connection with special scientific medical research in the Air Corps; for maintenance and operation of such Air Corps printing plants outside of the District of Columbia as may be authorized in accordance with law; for publications, station libraries, special furniture, supplies and equipment for offices, shops, and laboratories; for special services, including the salvaging of wrecked aircraft; for settlement of claims (not exceeding $250 each) for damage to persons and private property resulting from the operation of aircraft at home and abroad when each claim is substantiated by a survey report of a board of officers appointed by the commanding officer of the nearest aviation post and approved by the Chief of Air Corps and the Secretary of War, $57,745,300, of which $10,669,786 shall be available under the appropriation "Air Corps, Army, 1937", for payments under contracts for the procurement of new airplanes and of equipment, spare parts, and accessories for airplanes, as authorized by said appropriation.

The amendment was agreed to.

The next amendment was, on page 38, line 18, after the word "of", to strike out "$17,245,300" and insert "$20,000,000", so as to make the further proviso read:

Provided further, That in addition to the amounts herein appropriated the Chief of the Air Corps, when authorized by the Secretary of War, may enter into contracts prior to July 1, 1938, for the procurement of new airplanes and for the procurement of equipment, spare parts, and accessories for airplanes to an

amount not in excess of $20,000,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof.

The amendment was agreed to.

The next amendment was, under the subhead "Ordnance Department—Ordnance service and supplies, Army", on page 43, line 23, after the figures "$22,137,000" and the comma, to strike out "and, in adidtion, $144,000 of the appropriation 'Ordnance service and supplies, Army, 1937', which is hereby reappropriated", and on page 44, line 1, after the word "available", to strike out "$288,000" and insert "$144,000", so as to read:

For manufacture, procurement, storage, and issue, including research, planning, design, development, inspection, test, alteration, maintenance, repair, and handling of ordnance material, together with the machinery, supplies, and services necessary thereto; for supplies and services in connection with the general work of the Ordnance Department, comprising police and office duties, rents, tolls, fuel, light, water, advertising, stationery, typewriting and computing machines, including their exchange, and furniture, tools, and instruments of service; to provide for training and other incidental expenses of the ordnance service; for instruction purposes, other than tuition; for the purchase, completely equipped, of trucks, and for maintenance, repair, and operation of motor-propelled and horse-drawn freight and passenger-carrying vehicles; for ammunition for military salutes at Government establishments and institutions to which the issues of arms for salutes are authorized; for services, material, tools, and appliances for operation of the testing machines and chemical laboratory in connection therewith; for the development and procurement of gages, dies, jigs, and other special aids and appliances, including specifications and detailed drawings, to carry out the purpose of section 123 of the National Defense Act, as amended (U. S. C., title 50, sec. 78); for publications for libraries of the Ordnance Department, including the Ordnance Office, including subscriptions to periodicals; for services of not more than four consulting engineers, as the Secretary of War may deem necessary, at rates of pay to be fixed by him not to exceed $50 per day for not exceeding 50 days each, and for their necessary traveling expenses, $22,137,000, and of the total sum hereby made available $144,000 shall be available exclusively for equipping 75-millimeter guns with high-speed adapters.

The amendment was agreed to.

The next amendment was, on page 44, line 12, after the word "chemical", to strike out "warfare", so as to make the subhead read:

Chemical Service.

The amendment was agreed to.

The next amendment was, under the subhead "Seacoast defenses", on page 47, line 16, after the name "United States" and the comma, to strike out "$2,443,410, of which not less than $200,000 shall be applied to the procurement of mobile antiaircraft guns and mounts" and insert "$2,243,410"; in line 19, after the word "departments" and the comma, to strike out "$1,092,710" and insert "$992,710"; in line 20, after the word "than", to strike out "$300,000" and insert "$200,000"; in line 22, after the word "Canal" and the comma, to strike out "$1,467,200" and insert "$1,367,200"; in line 23, after the word "than", to strike out "$300,000" and insert "$200,000"; and in line 25, after the words "In all" and the comma, to strike out "$5,003,320" and insert "$4,603,320", so as to read:

For all expenses incident to the preparation of plans and the construction, purchase, installation, equipment, maintenance, repair, and operation of fortifications and other works of defense, and their accessories, including personal services, ammunition storage, maintenance of channels to submarine-mine wharves, purchase of lands and rights-of-way as authorized by law, and experimental, test, and development work, as follows:

United States, $2,243,410;

Insular departments, $992,710, of which not less than $200,000 shall be applied to the procurement of mobile antiaircraft guns and mounts;

Panama Canal, $1,367,200, of which not less than $200,000 shall be applied to the procurement of mobile antiaircraft guns and mounts;

In all, $4,603,320.

The amendment was agreed to.

Mr. COPELAND. Mr. President, we have just stricken out the word "warfare" in line 12, page 44. I ask unanimous consent that the word "warfare" be stricken out wherever it appears in the bill in the phrase "chemical-warfare service", so it will read "chemical service" instead of "chemical-warfare service."

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

Mr. LEWIS. Mr. President, since interruption of the consideration of amendments has been permitted by the able Senator from New York in charge of the bill, I seek at this time to obtain information from him, first by informing him that I had a similar protest in the nature of an inquiry from members of the National Guard of my State of Illinois as that referred to by the Senator from Oregon [Mr. McNARY]. It appears that the appropriation necessary for their welfare has been limited to a degree which they feel is harmful.

I have replied that there is nothing in the measure which prevents the application for some future relief, should such become necessary, either from the War Department direct or through a special measure before this honorable body in what may be called a deficiency bill.

I ask the able Senator from New York, who is in charge of the bill, if such statement is correct and may be relied upon as one upon which they can likewise rely?

Mr. COPELAND. The statement of the Senator from Illinois is entirely correct.

Mr. REYNOLDS. Mr. President, I should like to have permission to bring to the attention of the able Senator from New York [Mr. COPELAND], in charge of the bill, several communications I have had in the form of letters and telegrams.

I have before me a telegram from R. C. McClelland, of Wilmington, N. C., reading as follows:

WILMINGTON, N. C., *June 21, 1937.*

Hon. R. R. REYNOLDS:

War Department appropriation bill unsatisfactory to States and urge your assistance as follows: Restore amount to House figures in line 1, page 53; strike out entire proviso reference construction camp at Fort Sill, four-hundred-odd-thousand dollars in line 17, page 53; restore item to House figures in line 5, page 67.

R. S. MCCLELLAND.

In addition to that I have a telegram from J. Van B. Metts, president of the Adjutant Generals' Association, sent to me from Raleigh, N. C., and reading as follows:

RALEIGH, N. C., *June 18, 1937.*

Senator ROBERT R. REYNOLDS,

United States Senate:

War Department appropriation bill unsatisfactory to States and urge your assistance as follows: Restore amount to House figures in line 1, page 53; strike out entire proviso reference construction camp at Fort Sill, four-hundred-odd-thousand dollars in line 17, page 53; restore item to House figures in line 5, page 67. All other States will be penalized to provide this construction of benefit only to Oklahoma.

J. VAN B. METTS,
President the Adjutant Generals' Association.

I also have a telegram from Don E. Scott, brigadier general of the National Guard of North Carolina, at Graham, in that State, reading as follows:

GRAHAM, N. C., *June 21, 1937.*

Senator ROBERT R. REYNOLDS,

Senate Chamber:

War Department appropriation bill unsatisfactory to State and urge your assistance as follows: Restore amount to House figures in line 1, page 53; strike out entire proviso reference construction camp at Fort Sill, four hundred-odd thousand dollars in line 17, page 53; restore item to House figures in line 5, page 67. All other States will be penalized to provide this construction of benefit to Oklahoma.

DON E. SCOTT,
Brigadier General, N. C. N. G.

I wanted to bring these telegrams to the attention of the Senator in charge of the bill and ask if there is not some way he can suggest that we can make restoration of the amount originally appropriated for the benefit of the National Guard.

Not only are the National Guard men of North Carolina interested in the item, but it is my understanding, from the information I have derived from other Members of this body, that the National Guard men of other States are equally interested.

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

Mr. REYNOLDS. Gladly.

Mr. WHITE. May I say at that point that I have had similar protests from the adjutant general of Maine with respect to this action of the committee? The complaint is substantially the same as that made by the Senator from North Carolina. I join with him in the expression that there will be some satisfactory explanation of the amendment made by the committee, and I express also the hope that something may be done to preserve the interests of the National Guard.

Mr. REYNOLDS. I thank the Senator from Maine very much for his contribution. I am confident that if the Senator from New York in charge of the bill will make inquiry, he will find a great number of the Members of this body have received similar complaints.

Mr. WALSH. Mr. President——

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

Mr. REYNOLDS. I am glad to yield.

Mr. WALSH. Apparently every Member of the Senate has received from members of the National Guard of his State telegrams similar to the ones presented by the Senator from North Carolina. In order that we may properly inform the adjutants general of our States, I think it is quite essential that an explanation should be made of the reduction in the amount in line 1, page 53, the amendment in the middle of page 53, and the amendment on page 67. The complaint about the amendment on page 53 seems to be based not on opposition to the expenditure in Oklahoma, but on opposition to the amount being taken out of the regular National Guard funds. The telegram which my colleague and I have received protest against the funds of the National Guard being used for the construction work which is proposed by the amendment.

Mr. THOMAS of Oklahoma. Mr. President, this amendment was incorporated in the bill at my request, as I happened in part to represent Oklahoma, and the Fort Sill Reservation is immediately adjacent to my home. The request came to me from the adjutant general of my State, General Barrett, and I presented the request, and the committee kindly accepted it.

In the event that this fund is to be taken from the fund that serves the National Guard of the Nation, and in the event it is disclosed that this appropriation will diminish the funds available for such purpose, I shall not urge it. In that event I shall be glad to withdraw it. If the Senate shall see fit to let this amendment go into the bill and into conference, if the National Guard authorities object to it, it will be entirely agreeable to me to have it withdrawn.

Mr. WALSH. Mr. President, the position taken by the Senator from Oklahoma is an exceedingly fair one. In view of his statement, I think the amendment should be adopted. Nothing could be fairer than the statement of the Senator from Oklahoma.

Mr. COPELAND. Mr. President, not only has each Senator had a telegram from his National Guard unit but I have had telegrams from every National Guard unit in the United States. Knowing the source of the telegrams, I did not reply to them all, but I talked by telephone with the man who facilitated these expressions, General Reckord, of Baltimore, and he now understands the situation.

Mr. WALSH. He is referred to in my telegram as one who is interested in and leading the movement.

Mr. COPELAND. Let me tell Senators the explanation. I had already explained it for the benefit of the Senator from Oregon, but I wish to have all Senators understand it. There is no relationship whatever between the Fort Sill project and this reduction, except that we use $400,000 of the reduction to pay for the Fort Sill project. If we had not taken it in that way, we would have taken it elsewhere; but that is the reason why we made the reduction.

Mr. LA FOLLETTE. Mr. President——

Mr. COPELAND. I yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. I desire to ask the Senator how it can be said, then, that the Fort Sill appropriation is not affected by or does not come out of the appropriation intended for the National Guard of the country?

Mr. COPELAND. If we had made no appropriation for Fort Sill, we still would have reduced the item $734,000. Let me tell the Senator why.

After the National Guard had received very generous treatment in the bill about armory drills and increased equipment and everything they wanted, they succeeded in the House in adding $1,468,000 above the Budget estimate. They had everything that the Budget Bureau had given them; the Budget Bureau had been very generous; but the House added $1,468,000. The Senate committee decided that it could not go along with the House to the extent of going above the Budget estimate for the National Guard nearly a million and a half dollars, so we decided that we would reduce the amount; we would cut it in two in the middle, and we would go along and give them half of it.

Senators all know how bills are made up. Having made that cut, and being desirous of building the Fort Sill camp—which, by the way, is helpful to the National Guard—we took some of the money that we saved there to build the Fort Sill camp. If the Fort Sill camp should be taken out, the National Guard would not get any more money. Do Senators see what I mean? They would be just where they are now.

Mr. WALSH. So it is apparent that those who communicated with the various Senators did not know all the facts.

Mr. COPELAND. They did not.

Mr. WALSH. They assumed that the cost of the Oklahoma camp project was deductible from the total appropriation for the National Guard, and that is not the fact.

Mr. COPELAND. The Senator is correct.

Mr. LA FOLLETTE. Mr. President, if the Senator will yield, I may say that I cannot subscribe to the statement that there is no relation between the cut in the National Guard appropriation as allowed by the House and the $625,000 added for Fort Sill, because the Senator from New York has just stated that "we all know how bills are made up", and that having slashed this amount from the appropriation for the National Guard the committee proceeded to give it to Oklahoma. If the Senator from Massachusetts can say that there is no relation between the two, it is all right so far as he is concerned; but I do not want that to stand as my understanding of what happened.

Mr. WALSH. I do not know the method of making up bills in the Committee on Appropriations.

Mr. COPELAND. Suppose we put it in another way. It would have been more tactful if we had just cut $734,000 off this item, and then had put Fort Sill in some other part of the bill where provision is made for construction. That could have been done, and then there would not have been a flood of telegrams relative to Fort Sill.

Mr. LA FOLLETTE. If the Senator will yield further, may I inquire, is it not also a fact that the cut in the National Guard item is one of the reasons why the committee felt that it could add $625,000 for some work at Fort Sill?

Mr. COPELAND. That is one reason.

Mr. LA FOLLETTE. Is it not the primary reason? The committee would not have liked to come in here with a bill adding $625,000 to the appropriations contained in the House bill, would it?

Mr. COPELAND. We came in here determined to have a bill under the Budget estimate, and we succeeded in doing so.

Mr. LA FOLLETTE. Therefore, insofar as the members of the committee were very desirous of adding $625,000 for Fort Sill, it put under a lot of pressure any items that were lying around which the committee felt could be cut. I have always noticed that the committee feels that it can slash the National Guard with a little more immunity than it can slash items of the regular service. I, therefore, still contend that it cannot be said that there is no connection or relation between these two items, and I still believe that there is something to be said in behalf of the protests which have come up from the adjutant generals all over the United States.

Mr. COPELAND. Mr. President, I desire to say to the Senator from Wisconsin that I do not care how devoted he

is to the National Guard; I am more devoted, or certainly as devoted. There is not any arm of the service which makes such a strong appeal to me as that, perhaps, unless it is the R. O. T. C. I would rather spend money for the National Guard and the R. O. T. C. than to spend it anywhere else; and I know just as well as I know anything that when the bill goes back to the House they will insist upon this appropriation, and we will put it back.

But there is another reason why some money can be taken from the National Guard. They have something that no other arm of the service has; they have 100-percent interchangeability in their appropriations. If they do not spend money for equipment here, they can spend it for uniforms there. There is not any other branch where that can be done.

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

Mr. COPELAND. I yield.

Mr. WHITE. Is it not a fact that whatever may have been the purpose, however it was done, the practical effect is that something was taken away by the Appropriations Committee from the National Guard of North Carolina and Massachusetts and Maine and other States?

Mr. COPELAND. And New York—$50,000 from New York.

Mr. WHITE. And New York; and a portion of that which was taken away from us was given to the Fort Sill project. In other words, we lost and Fort Sill will have the money.

Mr. COPELAND. The Fort Sill project would have been in the bill anyway; and, of course, if I had to do it over again, I would put it in at a different place.

Mr. WALSH. Mr. President, may I inquire of the Senator from New York if the amount of money allotted to the National Guard in the Senate bill is more than or equal to the sum allowed by the Budget Bureau?

Mr. COPELAND. Oh, yes; it is equal to it, and is far in excess of last year's appropriation.

Mr. WALSH. The House increased the Budget allowance?

Mr. COPELAND. It went a million and a half dollars beyond it.

Mr. WALSH. The Senate committee removed a portion of that increase—half of it?

Mr. COPELAND. That is correct.

Mr. WALSH. And, in addition to the amount allowed in the Budget, the Senate committee provided an appropriation for Fort Sill, Okla.?

Mr. COPELAND. Because there are other savings in the bill beside the one here.

Mr. BANKHEAD. Mr. President, was the appropriation which was made for Fort Sill included in the Budget estimate?

Mr. COPELAND. I am not sure that it was.

The PRESIDING OFFICER. The clerk will state the next amendment of the Committee on Appropriations.

The next amendment was, under the subhead "Arms, uniforms, equipment, etc., for field service, National Guard", on page 52, line 20, after the word "trucks" and the comma, to insert "motorcycles,", so as to read:

To procure by purchase or manufacture, and issue from time to time to the National Guard, upon requisition of the Governors of the several States and Territories or the commanding general, National Guard of the District of Columbia, such military equipment and stores of all kinds and reserve supply thereof as are necessary to arm, uniform, and equip for field service the National Guard of the several States, Territories, and the District of Columbia, including animals, motortrucks, motorcycles, field ambulances, and station wagons and to repair such of the aforementioned articles of equipage and military stores as are or may become damaged when, under regulations prescribed by the Secretary of War, such repair may be determined to be an economical measure and as necessary for their proper preservation and use, etc.

The amendment was agreed to.

The next amendment was, on page 53, line 1, to strike out "$12,360,591" and to insert "$12,032,229", so as to read:

ARMS, UNIFORMS, EQUIPMENT, ETC., FOR FIELD SERVICE, NATIONAL GUARD

To procure by purchase or manufacture and issue from time to time to the National Guard, upon requisition of the Governors of the several States and Territories or the commanding general, National Guard of the District of Columbia, such military equipment and stores of all kinds, and reserve supply thereof as are necessary to arm, uniform, and equip for field service the National Guard of the several States, Territories, and the District of Columbia, including animals, motortrucks, motorcycles, field ambulances, and station wagons and to repair such of the aforementioned articles of equipage and military stores as are may become damaged when, under regulations prescribed by the Secretary of War, such repair may be determined to be an economical measure and as necessary for their proper preservation and use $12,032,229, of which $500,000 shall be available exclusively for defraying the cost of increasing the strength of the National Guard from approximately 200,000 to not exceeding an average of 205,000 officers and men, and all of the sums appropriated in this act on account of the National Guard, except the subappropriation of $8,952,290 for expenses, camps of instruction, etc., and the subappropriation of $14,194,000 for pay of National Guard (armory drills), shall be accounted for as one fund, and of the total of all sums appropriated in this act on account of the National Guard, $1,500,000 shall be available immediately.

Mr. LA FOLLETTE. Mr. President, I have no interest in this matter so far as the amendment reported by the committee, beginning on line 12, which provides $625,000 for some construction work at Fort Sill, Okla., is concerned, but I think it is very clear from the discussion that went on prior to the time we reached this committee amendment on line 1, page 53, which cuts the National Guard appropriation from $12,360,591 to $12,032,229, that one of the reasons why the committee cut this National Guard item was that it desired to provide an additional sum of money to complete the construction work at Fort Sill, Okla.

It seems to me that no argument can be made in favor of the committee reducing the total for the National Guard on the ground that the House exceeded the Budget estimate when it has just been stated by the Senator from New York, in charge of the bill, that the item of $625,000 for the construction work at Fort Sill, Okla., was not estimated for by the Budget Bureau. Therefore, so far as these two items are concerned in relation to Budget estimates, they stand on exactly the same footing.

As I stated a moment ago, so far as I am concerned, I have no objection to the item providing $625,000 for Fort Sill, Okla., but I believe that the Senate should reject the committee amendment reducing the National Guard's appropriation, and I hope that we may have a record vote on that amendment before it is disposed of.

Mr. TYDINGS. Mr. President, does the Senator know whether or not in this reduction the amount for the National Rifle Association matches, in which the National Guard and the Army engage, was reduced?

Mr. LA FOLLETTE. As I understand, that is a separate item. What the committee did was to reduce the total, on the theory that the National Guard has the privilege of interchangeability of appropriations, and that, therefore, all they had to do was to reduce the total. What I am contending for is that we should separate the two items, and pass on each one on its merits, and not in relation to the other. I fear that that policy was not followed by the committee, and I hope the committee amendment on line 1, page 53, will be rejected.

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

Mr. LA FOLLETTE. I yield.

Mr. POPE. I desire to ask the Senator whether he knows why the item in line 1 at the top of page 53 has been reduced by the committee?

Mr. LA FOLLETTE. The Senator from New York stated that the reason why the committee reduced the item for the National Guard was that the House had gone above the Budget estimates for the National Guard.

Mr. POPE. Was it reduced to the Budget estimate?

Mr. LA FOLLETTE. No; they cut it in two. My contention is that the two amendments should not be considered in conjunction with each other, that each ought to stand on its own merits. I hope the Senate will reject the committee amendment in line 1, page 53.

Mr. THOMAS of Oklahoma. Mr. President, before action is taken on this amendment I think a short explanation is in order.

Fort Sill is a Regular Army establishment. It is the site of the school of fire for small artillery. On this reservation, which covers a large area, there is a National Guard

camp. The National Guard camp is the residue of old Camp Donovan, which was established there during wartimes, and the National Guird which assembles on this reservation is using to a large extent Federal equipment.

Fort Sill is headquarters for the Forty-fifth National Guard area, embracing Kansas, Colorado, New Mexico, Missouri, and, I think, Arkansas. The National Guard of these several States are sent to Fort Sill to train, and frequently the National Guard from two or three States are there at the same time.

It is the desire of the Army board representing all these States to have this camp improved. At the present time the tents have no floors excepting old wooden floors, and the item before us is to complete some concrete floors for the tents used when the guard is in camp in the summertime, and for the construction of some mess halls. The amendment specifies what the money is to be used for.

An Army board was assembled to consider this matter, and it went on record as favoring the improvements. Then the project was approved by the War Department. Colonel Chaffee was before the committee and recommended that this item be included in the bill. Of course, he did not state that of his own motion, but upon inquiry he made the statement.

The item was not in the Budget estimate, it is true; but the Department is for it, and with the understanding we had when the committee met that it would do no substantial injustice to any other State, the committee saw fit to include this item in the bill because it had been recommended by the War Department.

As I suggested a moment ago, if this money was to come from other States, I would not stand upon the floor and ask that money be taken from outside our area in order to make improvements in my State, and if it should be disclosed in the conference that the money will come from other States' allocations or quotas, I would ask the conferees on behalf of the Senate to withdraw the item from the bill entirely.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. THOMAS of Oklahoma. I yield.

Mr. LA FOLLETTE. The only way by which those of us who do not desire to have the National Guard provide this money for Fort Sill can make sure that it will come out of some other item is to reject the committee amendment on line 1, page 53, and adopt the House provision. Then when the conference committee come to produce the $625,000 for the improvement at Fort Sill, it will not take it out of the National Guard.

If the Senator will yield further, let me say that I am not opposing his amendment. All I want to make sure of is that if we reject the committee amendment in line 1, page 53, the conferees will not take the $625,000 out of the appropriation which the House granted the National Guard. So far as improvements are concerned there are many other States in the Union which are in need of construction work at their National Guard encampment posts. If we reject the committee amendment, the committee can find the $625,000 for Fort Sill somewhere else.

Mr. LODGE. Mr. President, I have received a number of communications on this subject, as have other Senators. I should like to ask the Senator from New York what the effect of the reduction in line 1, page 53, would be on the National Guard, and whether I am correct in my understanding that the reason for the reduction is that the House figure was above the Budget estimate.

Mr. COPELAND. Mr. President, the National Guard was given an appropriation far in excess of last year's appropriation. Besides that, the Senate committee recommended them $734,000 more than the Budget estimate. If this bill shall be passed in its present form, the National Guard will have more than it had last year; it will have all that the Budget Bureau estimates for this year, and, besides that, it will have $734,000. That is pretty generous treatment.

I admit that we would have been more tactful if we had put the provision for Fort Sill somewhere else in the bill, but I wish to speak about Fort Sill in order to show its justification in connection with the National Guard appropriation.

The concurrent camp at Fort Sill is a semipermanent plant, which accommodates the summer training of C. M. T. C., R. O. T. C., Organized Reserves, and the National Guard. The investment there now is $427,490, which has been gradually built up from C. M. T. C., R. O. T. C., and Organized Reserve funds, the National Guard bearing very little of the cost.

The extension described in this amendment involves $405,638, instead of $625,000. The Senator from Wisconsin was talking about the privilege of transfer, but he will find at the end of the item that the amount is $405,638. As I have said, very little of the money for the building up of the camp at Fort Sill has come from the National Guard. The extension which is provided for in the amendment before us is to build mess halls, concrete tent floors in the camp, camp headquarters building, assembly buildings, canteen buildings, and regimental infirmary, together with roads, trackage, and grading sufficient to allow an entire division of the National Guard troops to be accommodated there each summer for a period of training.

Since the existing camp is large enough for the purpose of training organizations other than the National Guard, it is proper that the National Guard appropriation should bear the cost of the extension. The point I make there is that the camp is now large enough.

Mr. LA FOLLETTE. The Senator is now arguing, as one of the reasons for the reduction in this item, that the National Guard should bear the expense of the extension.

Mr. COPELAND. No, no, Mr. President. If the Senator from Wisconsin will just be patient, and not get the idea that I am seeking to frustrate the desires of the Senate and particularly the desires of the Senator from Wisconsin, he will be happier, and so will I. I am simply trying to convey to the Senate what we saw in the committee.

Mr. President, in one sense the present arrangement at Camp Sill is sufficient for the C. M. T. C. and the R. O. T. C.; but since the camp is to be made large enough for an entire division of the National Guard in that section of the country, it certainly should bear the cost of the extension. The National Guard division which trains in this camp is composed primarily of Texas and Oklahoma troops. The amount allowed is based on an estimate by Regular Army and National Guard officers, and has been reduced by the War Department to absolutely essential items.

I think the Senator from Oklahoma [Mr. THOMAS], when he presented this matter, asked for nearly a half million dollars, as I recall; but the Army engineers went over the estimate and found that $405,000 would be sufficient.

Mr. THOMAS of Oklahoma. Then there was a provision for a swimming pool, and a hostess house, and some other items.

Mr. COPELAND. Yes. I presume, from what has been said, that there is no objection to the Fort Sill item; but it is for the Senate to determine whether it desires to go twice as far as the committee went in the appropriation for the National Guard in this respect.

Bear in mind, now, that for the National Guard there is provided all that the Budget Bureau estimated, and then we have given it in this bill $734,000 above the estimate. We have the testimony of the Army that the appropriation which is proposed will not cause the reduction by a single man of those in training in the National Guard. The proposal applies simply to a miscellaneous lot of items such as band music, gas, and oil, and that sort of thing to the extent of $1,468,000; and, as I said, we thought in the subcommittee and in the full committee that we were very liberal if we gave them half that amount in excess of the estimate.

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

Mr. COPELAND. I yield.

Mr. TYDINGS. Then, this reduction, as I understand, in view of the Senator's explanation, has nothing to do with the rifle training of the National Guard?

Mr. COPELAND. No; it has not.

Mr. TYDINGS. While I am on my feet, and in order not to punctuate debate further, may I ask the Senator, then, why on page 67 the appropriation was cut from $700,000 to $645,726?

Mr. COPELAND. It was cut $54,000.

Mr. TYDINGS. Why was that?

Mr. COPELAND. The rifle matches which will be eliminated by that reduction do not affect the National Guard or the R. O. T. C. The ones affected are the members of Schutzenbunds and shooting clubs, and white-haired men like myself who like to go there and shoot.

Mr. TYDINGS. Will the national rifle matches be disturbed?

Mr. COPELAND. They will not be disturbed in the least.

Mr. TYDINGS. Is the Senator certain that no National Guard activities of that kind will be eliminated?

Mr. COPELAND. Absolutely.

Mr. TYDINGS. This is only to eliminate private rifle shooting?

Mr. COPELAND. This is only to eliminate private rifle shooting and giving free ammunition to men who like to practice shooting.

Mr. TYDINGS. It applies only to private individuals?

Mr. COPELAND. It applies only to private individuals. It has nothing whatever to do with the Army.

Mr. TYDINGS. Then the rifle training for the National Guard and the Reserve organizations will continue to be just as thorough?

Mr. COPELAND. Yes; just the same.

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

Mr. COPELAND. I yield.

Mr. CLARK. On that point, I do not wish to divert the discussion from the matter to which the Senator from Wisconsin has called attention, but since the question of the national rifle matches has been injected into the debate, does not the Senator know that when facilities are afforded a member of the National Guard who devotes himself to the Guard, and gives up time on Saturday afternoon and Sunday to train himself in rifle practice, with the possibility that he may some day be on one of the teams participating in a national rifle match, such facilities provide the very greatest and cheapest incentives which have ever been devised in this country toward the improvement of musketry in the National Guard?

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

Mr. COPELAND. I yield.

Mr. TYDINGS. As I understand from what the Senator from New York told me at his desk several days ago, and which he has just reiterated on the flood, none of those activities of the National Guard will be impaired at all.

Mr. COPELAND. Not a particle.

Mr. TYDINGS. In other words, under the appropriation herein provided they can practice on Saturdays and receive free ammunition with which to develop their skill, and if they are sufficiently proficient they can participate in the national rifle matches.

Mr. COPELAND. We have made a very generous appropriation, an appropriation of $645,000, to take care of the rifle practice for the National Guard and the R. O. T. C., and it also provides for the national rifle matches. The reduction merely cuts out the old fellows.

Mr. TYDINGS. The reason I mentioned this matter, I may say to the Senator from New York, is that, as he probably knows, the impression has gone abroad that the opportunity for rifle training which the National Guard has expected in connection with the rifle matches has been denied because of this reduction in the appropriation. I do not want to have any question about it. I doubt very much that the Senate would want to maintain the National Guard in part and not permit it to have rifle practice, because we then would have many soldiers, but they would have no training in shooting.

Mr. COPELAND. Mr. President, let me answer the Senator again. This provision does not eliminate any of the regular work. The Budget estimates which were reduced would have provided additional gratuitous ammunition for the members of civilian rifle clubs. The provision does not affect in any way the Organized Reserve or the National Guard.

Mr. REYNOLDS. Mr. President, I am in thorough accord with what has just been stated by the Senator from Wisconsin [Mr. LA FOLLETTE] in reference to this appropriation. I am desirous of seeing the appropriation left as it originally was, at $12,360,591. But, as the Members of the Senate will note, in line 1, page 53, the committee saw fit to reduce that amount to $12,032,229. I desire to have the first amount restored, because I do not want the present members of the National Guard, or those who may be inclined later to become members of the National Guard, to become discouraged.

I think the National Guard is one arm of our national defense service which unquestionably should be given as much consideration as is given to the members of the Regular Army by way of providing them with substantial and pleasurable conveniences. In using the words "pleasurable conveniences" I wish to mention the fact that a moment ago my friend the Senator from Oklahoma [Mr. THOMAS] stated that as a result of the appropriation to be provided by this bill, amongst other improvements there would be a swimming pool, and likewise a hostess house would be constructed. I recognize the fact that there is nothing more enjoyable during hot weather than a plunge in a swimming pool, and I likewise recognize the fact that the erection of a hostess house at Fort Sill would be indeed a very attractive addition. At the same time, Mr. President, we must take care of our National Guard units.

As I stated a moment ago when I brought this matter to the attention of the Senator from New York [Mr. COPELAND], who is in charge of the bill, I not only received a communication by telegraph from the adjutant general of my State but I likewise received other telegrams from those who were interested in the subject. After having brought the subject to the attention of the Senator from New York I was very happy to learn that most of my colleagues received similar telegrams, and as a consequence they are as much interested in this matter as I am, because they recognize that we must give due attention and consideration to the members of the National Guard. We must do that because we are all interested at the present time in national defense. We all know that we should interest ourselves in national defense, for the reason that the whole world is preparing for war, and one of these days we shall be involved in war. That date will not come until after there have passed to the Great Beyond all the mothers who lost sons beyond the seas; but regardless of what the sentiment is now, and regardless of what any of us may say, there will come a time when we shall be involved in another war.

The best way to keep out of war, as all Senators will agree, is to be prepared for war; and in the preparation for war we must consider our National Guard. To our National Guard must be given as much consideration as we give to the Regular Army, for this reason: Of the 2,000,000,000 persons constituting the population of the earth's surface today, there are 55,000,000 men in uniform and under arms; and with the 55,000,000 men in uniform and under arms and ready for war and in preparation for war, I am ashamed to say that the Regular Army of our country, which is the richest and the most prosperous on earth, stands nineteenth in the list of the armies of the world.

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

Mr. REYNOLDS. I yield.

Mr. CLARK. Would the Senator be willing to make the comparison on the basis of expenditures? We certainly do not rank nineteenth on the basis of expenditures.

Mr. REYNOLDS. No; we do not.

Mr. CLARK. No country in the world squanders more money in preparation for war than does the United States, as is demonstrated by this bill.

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

Mr. REYNOLDS. I yield to the Senator from Maryland.

Mr. TYDINGS. I think the Senator might very well point out, in connection with his argument, that maintenance of the National Guard is the most economical kind of defense which we can have, because the National Guard is not constantly either on the pay roll or constantly in training. The training of the National Guard is very limited, and if we had no National Guard we would have to have a standing army much larger than we now have, as we would have no partially prepared force to fill the gap in case of emergency.

Mr. REYNOLDS. I thank the Senator from Maryland very much for his contribution; and in connection therewith I recall the contribution made a moment ago by the Senator from Missouri in reference to rifle-range practice. In pursuance of the subject in which we are all interested, I wish to repeat that, from the standpoint of the number of men under arms, we stand nineteenth in relation to the armies of all the other countries of the earth. It is my recollection on that point that Russia today has more men in uniform and under arms than has any other nation in the world, despite the fact that Russia has a population of only 178,000,000 it has more than a million men in uniform and under arms.

Returning to the question of appropriations, it is my recollection that last year the seven Soviet states comprising the Union of Soviet Socialist Republics of Russia made what was the largest peacetime appropriation for war preparation that had ever theretofore been made, an expenditure in the sum of $3,000,000,000.

In further pursuance of the question as to the amount of money expended and appropriated by the various governments of the earth, it is my recollection that Great Britain now has under advisement an appropriation of $7,000,000,000 to be expended over a period and duration of 5 years.

Mr. FRAZIER. Mr. President——

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

Mr. REYNOLDS. I yield.

Mr. FRAZIER. The Senator from North Carolina was referring to the nations that are best prepared, and suggested that the best method of keeping out of war is preparedness for war. History hardly bears out that statement. If we go back to the time of the World War, we find that the nations best prepared were the ones which got into that war first.

Mr. REYNOLDS. In that connection, I should like to say to the Senator that if on April 6, 1917, we had been properly prepared for war the occasion never would have arisen for us to have declared war or to have sent our men to Europe, where we lost 50,334 men and had 250,000 injured in battle. As a further result of our entry into the World War, in addition to the lives lost and the men who were wounded, it is going to cost us a hundred billion dollars before we get through paying for that war. That sum may seem a little large, but the Senator from North Dakota, who was here when President Coolidge, who was a very conservative man, was at the head of the Government, said—the statement may have been made after he had retired from the office of President of the United States—that before we got through the World War would cost us $100,000,000,000. I believe the records will reveal that up to date the World War has cost us about $53,000,000,000 of the $100,000,000,000 that we may count on paying.

Mr. FRAZIER. And we are not yet through paying.

Mr. DAVIS. We have not as yet begun to pay.

Mr. REYNOLDS. No; we have not as yet begun to pay. I believe in being well prepared, for I believe that if we are well prepared nobody is going to attack us. To bring that down to the personal standpoint, in other words, I know if Jack Dempsey or Braddock were out here in the corridor I would not pick a fight with either one of them. I would be as nice and pleasant to them as I could be.

Mr. FRAZIER. There are, however, many people who would pick fights with them.

Mr. REYNOLDS. So it is in the case of nations, because, after all, a nation is nothing but an aggregation of individuals.

Mr. FRAZIER. If the Senator was as well prepared as Jack Dempsey he would be ready to take him on, and that is the way with nations.

Referring to the World War and preparedness in 1917, as I recall Hon. William Jennings Bryan, who was well informed on the war situation at that time, having been Secretary of State a short time previously, said, in substance, that the nations that were best armed were the nations that got into the war, and he said further, if the United States had been as well armed as the big Army and Navy crowd had advocated, undoubtedly the United States would have been in the war among the first instead of getting into it, as it did, 2 or 3 years later.

Mr. REYNOLDS. Mr. President, I am not in accord with that contention. As I said a moment ago, I believe that if we had been properly prepared in April 1917 it never would have been necessary for the United States to have sent any men to foreign shores, because we could have delivered word to Germany to the effect that, unless the war was brought to an end, we would participate, and the Germans would have known that we would have been in a position to have stopped the war. However, Germany knew in April 1917 that we were not prepared, and, as a result, just a mere statement of our position would not have had any effect. We never would have had to have sent any transports over there, the first of which, I believe, went over on June 14, 1917, if we had been prepared at the time.

Getting back to the question of the National Guard, I think that is one arm of our service of defense that we should develop, because, as the Senator from Missouri has said, and likewise as has been stated by the Senator from Maryland, the men who participated in the activities of the National Guard are not paid. They join the service merely as a result of their patriotism, and we should lend encouragement to them and not reduce the appropriation, as it has been reduced in this instance.

I am in accord and agreement with my colleague from Oklahoma. I should like to see him get $1,000,000 for Oklahoma, because I know how he loves his State and how the people of Oklahoma love him. I know how thoroughly and sincerely interested he is in the State of Oklahoma. The people there could not have a representative here who would work harder in their interest or be of any greater benefit to them than is the Senator from Oklahoma, and I should like to see him have the money for his State; but, at the same time, I do not want to see any money taken away from my State of North Carolina or any other State of the Union. I want the National Guard to have the benefit of the money, and I am going to ask the Senate to reject the committee amendment in line 1, page 53.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on line 1, page 53.

Mr. BORAH. Mr. President, I should like to ascertain if I understand the question properly. As I understand, the committee has recommended an appropriation for the National Guard to the full amount allowed by the Bureau of the Budget?

Mr. COPELAND. And $734,000 in addition.

Mr. BORAH. I was going to ask how much was the amount which the Bureau of the Budget allowed for the National Guard.

Mr. COPELAND. The Bureau of the Budget allowed $1,468,000 less than we have in the bill, to put it the other way, for it is a little difficult for me to answer without having a break-down of the figures.

Mr. BORAH. In any event, the bill carries what the Bureau of the Budget allowed and $734,000 in addition?

Mr. COPELAND. That is correct.

Mr. President, I wish to say a word to the Senator from Oklahoma. He is no more guilty in this case than is the Senator from North Carolina. He made an appeal for Fort Sill, so effective an appeal that it reached the hearts of the committee, and that is doing pretty well. He did not have any idea where we were going to put the amendment in the bill and neither did I; the experts did that; but, anyway, we decided, separate and apart and independent of Fort Sill

and everything else, that the House had gone too far when it exceeded the Budget by nearly a million and a half dollars.

There are those in this Chamber who believe in some degree of economy. I do. I do not want it to be in connection with the National Guard, but the National Guard is not going to be hurt at all. It may have a little less band music when it wants it; it may have a little less gasoline for the officers' cars; but the National Guardsmen, the human beings who make up the rank and file, will be exactly the same in number; they will have the same subsistence; they will have the same uniforms; they will have the same travel pay. There will not, however, be the frills and other things which would be provided if we went beyond the needs of the Guard, and provided a million and a half dollars more. So, in our wisdom or lack of it, whichever way you may care to put it, we said, "Here is a place where we can save several hundred thousand dollars", and we proceeded to do so.

Then when the experts wrote the bill they placed the amendment of the Senator from Oklahoma [Mr. THOMAS] in this unfortunate place, and he is being "damned from hell to breakfast" for something he did not have anything to do with, and which has nothing to do with the matter at issue. [Laughter.]

So far as the Senate is concerned, if it wants to vote more money for the National Guard and exceed the Budget estimate by that amount, that is a matter for the Senate to determine for itself.

The PRESIDING OFFICER. The question is on the committee amendment on page 53, line 1, striking out "$12,360,591" and inserting "$12,032,229."

The amendment was rejected.

The next amendment of the Committee on Appropriations was, on page 53, line 12, after the word "immediately", to insert a colon and the following proviso:

Provided, That the subappropriation for expenses, camps of instruction, etc., may be increased not to exceed $625,000 by transfer from other sums appropriated in this act under the heading "National Guard", exclusive of pay for armory drills: *Provided further*, That there shall be expended for the extension of the concurrent camp, Fort Sill, Okla.: For construction and installation of buildings and appurtenances thereto, including interior facilities, fixed, movable, and office equipment, necessary services, roads, swimming pool, connections to water, sewer, gas, and electric mains, purchase and installation of telephone equipment, and similar improvements, and procurement of transportation incident thereto, without reference to sections 1136 and 3734 of the Revised Statutes, including general overhead expenses of transportation, engineering, supplies, inspection, and supervision, travel connected therewith, and such services as may be necessary in the office of the Quartermaster General, not to exceed $405,638.

Mr. FRAZIER. Mr. President, I have a telegram from the adjutant general of North Dakota, in which he states:

Fort Sill camp item unfair to all States except Oklahoma, and all other States will be penalized to make up total amount for this construction.

That is apparently the way the National Guard of North Dakota feel about this appropriation for Oklahoma. They feel that if Oklahoma is going to have money for a fine National Guard swimming pool and all that, they should have as much in their States. I am inclined to think the adjutant general of North Dakota is right.

Mr. COPELAND. Mr. President, that has just been taken care of by rejecting the committee amendment on page 53, line 1. Let us leave Oklahoma alone. That is taken care of in the natural way, and, so far as I am concerned, I am very happy over the whole arrangement. If I had not been in charge of the bill I should have voted to reject the amendment, but I did the best I could, and I hope the RECORD shows that I did.

Mr. McKELLAR. Mr. President, in connection with the amendment just adopted, and for which I voted, I want to place in the RECORD as a part of my remarks sundry telegrams concerning the matter which has just been settled, as I understand, in accordance with the wishes of the senders of the telegrams.

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

MEMPHIS, TENN., *June 22, 1937.*

Senator K. D. MCKELLAR,
United States Senate, Washington, D. C.:

Appropriation bill, War Department, unsatisfactory in three items. Page 53, line 1, please restore amount to House figures. Page 53, line 17, please strike out entire provision. Page 67, line 5, please restore House figures. All States except Oklahoma would be penalized in favor Fort Sill item if item for construction is voted as therein proposed. Thanks for consideration.

WRAY C. REEVES.

MEMPHIS, TENN., *June 21, 1937.*

Senator K. D. MCKELLAR,
United States Senate, Washington, D. C.:

Appropriation bill, War Department, unsatisfactory in three items. Page 53, line 1, please restore amount to House figures. Page 53, line 17, please strike out entire provision. Page 67, line 5, please restore House figures. All States except Oklahoma would be penalized in favor Fort Sill item if item for construction is voted as therein proposed. Thanks for consideration.

WM. L. TERRY,
One Hundred and Fifteenth Field Artillery.

JACKSON, TENN., *June 21, 1937.*

Senator K. D. MCKELLAR,
Washington, D. C.:

The War Department appropriation bill not agreeable in following items: Page 53, line 1, restore amount to House figures. Page 53, line 17, strike out entire proviso, reference construction camp, Fort Sill. Page 67, line 5, restore item to House figures. The Fort Sill camp item unfair to all States except Oklahoma, and we would be penalized to make up total amount for this construction. Urge your attention to this matter in accordance with above, as best interests of entire National Guard demands same.

Col. R. H. BOND.
Maj. HU I. MAINORD.
Maj. LEE F. WARE.
Capt. A. U. TAYLOR.
Capt. W. L. FRANKLAND.
Capt. A. P. REASONOVER.
Capt. G. R. WINDROM.

Mr. POPE. Mr. President, I ask permission to have inserted in the RECORD at this point a telegram from Frederick C. Hummell, president of the Idaho National Guard Association, in opposition to the Fort Sill appropriation.

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

BOISE, IDAHO, *June 19, 1937.*

Senator JAMES P. POPE,
Senate Office Building, Washington, D. C.:

Request your influence in making following changes Army appropriation bill: Page 53, line 1, restore amount to House figures; page 53, line 17, strike out entire proviso reference construction camp Fort Sill, $405,638; page 67, line 5, restore item to House figures. Fort Sill camp item unfair to all States except Oklahoma; all other States will be penalized to make up total amount for this construction.

FREDERICK C. HUMMEL,
President, Idaho National Guard Association.

Mr. McNARY. Mr. President, in the same connection I ask permission to have inserted in the RECORD at this point a message of protest from Gen. George A. White, of the Oregon National Guard.

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

SALEM, OREG., *June 18, 1937.*

Hon. CHARLES L. MCNARY,
United States Senate:

War Department appropriation bill unsatisfactory to National Guard in three items. Will appreciate your help to accomplish following: Page 53, line 1, restore amount to House figures; page 53, line 17, strike out entire proviso reference construction camp Fort Sill, $405,638; page 67, line 5, restore item to House figures. The Fort Sill item unfair to all States except Oklahoma, since other States would be penalized to make up amount for this construction. Will appreciate your cooperation.

Regards,

Gen. GEORGE A. WHITE.

Mr. NEELY. Mr. President, I, too, have received telegrams relating to this provision in the bill. I ask unanimous consent that they may be inserted in the RECORD at this point.

There being no objection, the telegrams were ordered to be inserted in the RECORD, as follows:

CHARLESTON, W. VA., *June 18, 1937.*

Senator MATTHEW M. NEELY,
Washington, D. C.:

Respectfully request that War Department appropriation bill, page 53, line 1, be restored to House figures. Also proviso

reference construction of camp at Fort Sill, Okla., be stricken out; unfair to all States except Oklahoma. Further request page 67, line 5, be restored to House figures. Your assistance in this matter urgently requested.

H. B. CORNWELL,
Executive Officer,
One Hundred and Fiftieth Infantry.

CHARLESTON, W. VA., *June 18, 1937.*

Senator MATTHEW M. NEELY:

War Department appropriation bill very unsatisfactory to West Virginia; urge that page 53, line 1, be restored to House figures. Also that the proviso reference construction of camp at Fort Sill, Okla., be stricken out; unfair to all States except Oklahoma. Further requested page 67, line 5, be restored to House figures. Your assistance in this matter urgently requested.

WM. L. HORNOR,
Adjutant General.

Mr. AUSTIN. Mr. President, may I inquire what relation there is between the appropriation contained on page 53 of the pending bill, beginning in line 18, relating to Fort Sill, and the item in S. 2649, Calendar 773, page 3, entitled "Fort Sill, Okla., barracks, $330,000; telephone construction, $1,000; total, $331,000"? The object of my question is to ascertain whether there is a sum of $331,000 authorized in Senate bill 2649 in addition to the sum of $405,638 appropriated in House bill 6692, which is now before the Senate.

Mr. THOMAS of Oklahoma. Mr. President, on this reservation in Oklahoma we have a Regular Army Establishment known as Fort Sill. It is headquarters for a school of fire, which is headquarters for training Army officers in the handling of small cannon. For some 4 or 5 years the Government has been building up the Regular Establishment and there is an authorization in the pending bill to add some new buildings at the Regular Establishment.

The item in the bill before the Senate at the moment is for what is known as a concurrent camp, a camp for training National Guardsmen, the C. M. T. C., the R. O. T. C., and other Reserve officers. While they are both on the same reservation, the two establishments are some distance apart and are two separate and distinct camps. The item just inquired about by the Senator from Vermont is for the Regular Establishment and will come up hereafter. The item in the bill before us this afternoon is for the Guard camp on the same reservation, but some distance away from the Regular Army camp.

Mr. AUSTIN. I thank the Senator from Oklahoma.

Mr. McKELLAR. Mr. President, among the telegrams which I asked a moment ago to have inserted in the RECORD is one from a number of officers, and I wish to invite the particular attention of the Senator from Oklahoma [Mr. THOMAS] to this telegram. The senders of the message urge me to vote to "strike out entire proviso reference construction Camp Fort Sill", and "page 67, line 5, restore item to House figures." They continue in the message as follows:

> The Fort Sill camp item unfair to all States except Oklahoma and we would be penalized to make up total amount for this construction. Urge your attention to this matter in accordance with above as best interests of entire National Guard demands same.

The message is signed by Col. R. H. Bond, Maj. Hu. I. Mainord, Maj. Lee F. Ware, Capt. A. U. Taylor, Capt. W. L. Frankland, Capt. A. P. Reasonover, and Capt. G. R. Windrom. It seems that these gentlemen think this camp is to be paid for out of the general expense fund of the National Guard. Will the Senator from Oklahoma state what are the facts?

Mr. COPELAND. Mr. President, I may say to the Senator from Tennessee that we have just gone over that matter from start to finish. It is all in the RECORD. If the Senator wants to take the time to go into it again, very well. We have restored the amount of money proposed by the House to be appropriated. This sum does not come out of the National Guard. It comes out of a saving which, unfortunately, the Senate committee attempted to make, but which has now been thwarted, overcome, dissolved, and dissipated by the action of the Senate in rejecting the amendment of the Senate Committee on Appropriations.

Mr. McKELLAR. I am one of the Senators who did not vote with the committee with reference to that amendment. I voted to retain the amount proposed to be appropriated by the House. I was not in the Chamber at the moment and did not hear the explanation of the Senator from Oklahoma in regard to the matter. May I ask him if the Senator from New York has correctly stated the situation?

Mr. THOMAS of Oklahoma. Mr. President, as I understand the matter, if this money is made available it will not affect the National Guard establishment in the other States. If in conference it is found by the conferees that the building of this equipment at Fort Sill is going to reduce the appropriation for the National Guard camp in other States, then I shall request that this item be withdrawn.

Mr. McKELLAR. That is entirely satisfactory to me.

Mr. CLARK. Mr. President, I am not opposed to the amendment, although I think that even rejection of the committee amendment on page 53, line 1, necessarily does affect to some extent the support which is to be given to the National Guard as a whole. I am not in opposition to the amendment, because if there is any place in the United States where troops are located that the Government ought to spend money for additional and extraordinary comfort for the troops, it is at Fort Sill, Okla.

It was extremely unfortunate, in my opinion, that the War Department ever saw fit to place troops at Fort Sill. I put in one of the best years of my life at Camp Doniphan, in Fort Sill, during the World War. I think the records of the War Department, if they have been maintained, will show that during the occupation of Camp Doniphan by the Thirty-fifth Division in 1917–18 we had the honor of having the highest temperature of any camp in the United States, and a few months later had the honor of having the lowest temperature of any camp in the United States. We also had the honor of having the longest protracted dry spell during that fall, and the following spring had the longest wet spell of any camp in the United States. When we moved in, it was in the midst of a dust storm so terrific that it blinded the drivers of our wagons and artillery. When we moved out, some months later, it was after such terrific rains that our wagons and guns, as well as our men, were almost engulfed in mud.

While I think it is very unfortunate that the War Department in its wisdom ever saw fit to compel troops, particularly in peacetime, when it is not necessary, to endure the rigors of Camp Doniphan at Fort Sill, yet since the Government has done so, I think it owes an obligation to those troops to spend money there for every possible comfort, even luxury, for those troops.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee, on page 53, beginning at line 12.

The amendment was agreed to.

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

The next amendment was, under the subhead "Organized Reserves", on page 58, line 7, after the words "in all" and the comma, to change the appropriation for pay and allowances of members of the Officers' Reserve Corps on active duty in accordance with law, etc., from $10,297,906 to $9,355,506.

The amendment was agreed to.

Mr. NYE. Mr. President, I desire to address myself briefly to the bill. Perhaps my remarks might more properly be directed to the joint military appropriations that are made for both the Army and the Navy.

The Senator from North Carolina [Mr. REYNOLDS] this afternoon presented an estimate of the cost up to date of the participation of the United States in the World War. He estimated that at the moment he understood it to be in the neighborhood of $50,000,000,000. A more recent study which has come to my attention has revealed that the cost has already gone beyond the $70,000,000,000 mark. That it will ultimately reach $100,000,000,000 I think no man can longer doubt.

I have before me at the moment a very interesting study revealing how much money $70,000,000,000 is. This study

tells us that the cost of the World War to the United States up to date is equal to the cost of all the schools in the United States, plus the cost of education for 5 years in the United States, plus the cost of all the surfaced roads in the United States, plus the cost of all medical care for 5 years in the United States, plus all fire losses for 20 years in the United States. Those items alone make a total of $55,000,000,000. When we contemplate the fact that before the entire cost of the World War is met it is going to aggregate $100,000,000,000, or twice the figure I have just given, one can better understand the keen resentment throughout the land toward those who contemplate our possible participation in another foreign war.

It was Victor Berger who originally estimated, and the president of Columbia University, Nicholas Murray Butler, who has so well repeated the picture of what the war has cost the world. It is his estimate that if we today had what 4 years of war cost the world, we could go forth and build homes costing $2,500 apiece on 5-acre plots of ground costing $100 an acre, place $1,000 worth of furniture in each such home, give a home like that free of all incumbrance to every family residing today in Russia, Italy, France, Belgium, Germany, Holland, Wales, Ireland, Scotland, England, Australia, Canada, and the United States, and then find ourselves with a balance that would enable us to go into every community of 20,000 persons or more in all the countries I have named and bestow a $2,000,000 library, a $3,000,000 hospital, and a $10,000,000 university and, after doing that, have enough money left so that if we invested a part of the balance so wisely as to make certain a return of 5 percent per year, that return alone would enable us to pay salaries of $1,000 apiece to 125,000 school teachers and 125,000 nurses. Then we should find a sufficient balance left so that, if we chose to do it, we could go into France and Germany and possess ourselves of every penny's worth of property that exists in those lands today.

It is only when we have the cost of war pictured to us in that manner that we can properly appreciate the keen desire of so many persons to avoid, if possible, a recurrence of costs which can bring only one result, that result that all war has brought; namely, what in this modern day we term "depression", the degree of depression only reflecting the degree of cost of the waste involved in war itself, with, in the end, no really worth-while object accomplished.

We now have before us the annual appropriation bill for the War Department. I have before me the annual report of the Secretary of the Treasury for the year ending June 30, 1936. At page 362 of that report is an accounting of our Government's military expenditures down to the past year, starting with 1877. Following in that report the columns devoted to the showing of expenditures for our Military Establishment, one is impressed with the tremendous increase that has come year after year in the name of national defense here in our own country.

We may take out our displeasure on other nations for their mad expenditures in the name of national defense; but up until a very few years ago, I think only 3 years ago, there was no nation on earth which was spending so much money in preparation for another war as we were spending here in the United States.

The Senator from North Carolina speaks of the tremendous number of men who are engaged in the standing Army of Russia at the present time and the tremendous consequent outlay, and at the same time he pleads that the best way to prevent war is to be prepared for it. One wonders, when he puts the two conclusions together, if the Senator from North Carolina desires to Russianize the United States so far as the size of its Army is concerned. Does the fact that one country may have greatly enlarged its military strength indicate that our national defense requires equal strength in a military way so far as we are concerned?

Back in 1913, the year before the World War broke out, the total outlay of the United States in preparation for war was a little less than $350,000,000. That, of course was exclusive of the so-called nonmilitary activities of both the Army and the Navy. This year, with the passage of the bill that is pending before us, our outlay in the name of the national defense for both the Army and the Navy will be $1,123,000,000. We are spending today between three and four times as much in preparation for another war or in the name of national defense as we were spending the year before the war came which finally led the United States off into the cause of "ending war"—a cause which, if we won, was to free the world from the necessity of this mad preparation for more and more wars.

Reverting to the table in the report of the Secretary of the Treasury, I ask unanimous consent that the columns of that report revealing the annual expenditures for the Navy Department and for the War Department may be included in my remarks.

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

The table is as follows:

Annual expenditures

Year	War Department (including rivers and harbors and Panama Canal)	Navy Department
1877	$37,082,736	$14,959,935
1878	32,154,148	17,365,301
1879	40,425,661	15,125,127
1880	38,116,916	13,536,985
1881	40,466,461	15,686,672
1882	43,570,494	15,032,046
1883	48,911,383	15,283,437
1884	39,429,603	17,292,601
1885	42,670,578	16,021,080
1886	34,324,153	13,907,888
1887	38,561,026	15,141,127
1888	38,522,436	16,926,438
1889	44,435,271	21,378,809
1890	44,582,838	22,006,206
1891	48,720,065	26,113,896
1892	46,895,456	29,174,139
1893	49,641,773	30,136,084
1894	54,567,930	31,701,294
1895	51,804,759	28,797,796
1896	50,830,921	27,147,732
1897	48,950,268	34,561,546
1898	91,992,000	58,823,985
1899	229,841,254	63,942,104
1900	134,774,768	55,953,078
1901	144,615,697	60,506,978
1902	112,272,216	67,803,128
1903	118,629,505	82,618,034
1904	165,199,911	102,956,102
1905	126,093,894	117,550,308
1906	137,326,066	110,474,264
1907	149,775,084	97,128,469
1908	175,840,453	118,037,097
1909	192,486,904	115,546,011
1910	189,823,379	123,173,717
1911	197,199,491	119,937,644
1912	184,122,793	135,591,956
1913	202,128,711	133,262,862
1914	208,349,746	139,682,186
1915	202,160,134	141,835,654
1916	183,176,439	153,853,567
1917	377,940,870	239,632,757
1918	4,869,955,286	1,278,840,487
1919	9,009,075,789	2,002,310,785
1920	1,621,953,095	736,021,456
1921	1,118,076,423	650,373,836
1922	457,756,139	476,775,194
1923	397,050,596	333,201,362
1924	357,016,878	332,249,137
1925	370,980,708	346,142,001
1926	364,089,945	312,743,410
1927	369,114,122	318,909,096
1928	400,989,683	331,335,492
1929	425,947,194	364,561,544
1930	464,853,515	374,165,639
1931	478,418,974	354,071,004
1932	477,449,816	357,617,834
1933	449,395,013	349,561,925
1934	408,894,976	297,029,291
1935	489,155,454	436,447,860
1936	618,919,108	529,031,666

Mr. NYE. In the name of national defense we enact these appropriation bills. I am not opposed to national defense. Indeed, I am sure no one is more solicitous than I am that his country be adequately prepared to repulse an attack, if attack comes; but daily I grow stronger in my conviction that the things we do in the name of

national defense do not really, honestly, sincerely have national defense as their purpose.

Recently published by the Foreign Policy Association is a so-called headline book entitled "Billions for Defense." I am going to bother the Senate to the extent of reading only three or four paragraphs from that very interesting presentation, which carries a splendid array of charts revealing the comparative costs of military preparation throughout the world.

Opening the volume is this very interesting approach:

How much have the nations of the world spent for national defense during the past 5 years? Sixty governments spent nearly $4,000,000,000 in 1932, five billion in 1934, eleven billion in 1936. A total of $32,000,000,000 during just 5 years! And how much is $32,000,000,000? So much that you can't count it. It's enough to build 46 Panama Canals. It would replace the buildings of all American colleges and universities 14 times.

Or let us compare present-day expenditures for armament with what was spent before the World War. The year before that war the nations spent approximately two and a half billion dollars. Today the nations are spending four times as much as they did then, and are increasing their budgets at twice the rate. What is more, the standing armies are stronger by a million men than they were then. And there are strange, amazingly powerful weapons, that were unknown to the men who marched off to war only 23 years ago.

Several nations are spending more than half of their total budgets for armaments while many others are using from 20 to 40 percent for war preparations. This means that out of every dollar raised by the government from 20 to 50 cents goes into national defense.

WHO PAYS THE BILL

Who pays for all this? Why, the people, of course. And how does the government raise the money? First, by collecting taxes. Many kinds of taxes have been devised—on individual incomes, on profits from business, on luxuries, on tobacco, on theater tickets, even on food. In Germany Nazi leaders tell their people that they must prefer "cannon to butter." In Italy millions of men and women gave their wedding rings and their jewelry to the Government to provide gold to pay for the Ethiopian war.

And secondly, these huge bills are paid with borrowed money on which the people must pay the interest for years to come. Not one of the great powers is now able to meet its expenses without borrowing. Great Britain recently startled the world by announcing a colossal rearmament program costing $7,500,000,000 over a period of 5 years. Unable to pay the full costs out of its normal budget, the British Government is following in the path of other countries by floating an armament loan. France has borrowed heavily from its citizens to meet its military budget ever since Hitler came to power in Germany in 1933. Italy borrowed millions of lira to meet the cost of its campaign in Ethiopia. And no one knows how much Germany has borrowed to carry out its gigantic rearmament program.

The world has learned from bitter experience what it means to spend borrowed money for such purposes. For one thing prices begin to rise. The spending of money for war materials creates an increased demand for iron, steel, copper, coal, and other commodities. At first, perhaps, it is the prices of these articles only which go up. But later, as costs of production increase, other prices begin to rise, too. In the end, the price of practically everything which men and women need goes up. Meanwhile, their fixed salaries do not rise, and their savings which mean their insurance against a rainy day begin to disappear. When wage earners can no longer afford to pay high prices, the demand for goods stops abruptly and there is a crash in prices. Economists call this spiral of rising prices inflation. In the crash of 1929, millions of Americans learned what such a boom meant. In recent months economists have begun to warn that the armament race is leading rapidly to another period of dangerous inflation. But military budgets continue to expand.

WHAT THE PEOPLE ARE TOLD

Of course, no government is willing to admit that it is preparing for a war of aggression. All countries at all times have said that their armaments are not for purposes of attack but only for defense. The governments give their people various reasons for their swollen war budgets.

The people of France have been told that they must sacrifice for "security", and to most Frenchmen the word "security" means defense against invasion from across the Rhine. British statesmen have explained to their people that armaments are needed to preserve peace and to make it possible for England to support a strong League of Nations. Russian workers and peasants have contributed from their wages in order that the first Socialist state may be protected from the dangers of attack by "greedy capitalist nations" or Fascist enemies. Germans have become convinced that without powerful armaments they cannot hope to win "equality" among the nations of Europe. Americans are told that a navy "second to none" is essential for "adequate" defense of the Nation.

And so on, and on and on, revealing in the end only the mad circle in which every generation down through all the time of civilization has been made to run in the name of national defense.

Mr. President, though believing in national defense, I deny that preparation for war is any guarantee against war. I do not think there can be cited any case where preparation for war on a large scale has done anything other than ultimately lead to war. However that may be, the question of what constitutes national defense is the one which occasioned my asking the Senate for time this afternoon, and I shall be as brief as I possibly can.

Because of these mad expenditures, increasing from year to year, in the name of national defense, some people are growing thoroughly uneasy about the frightful increases in national budgets and about the direction in which the nations of the world are moving. There is a great effort to explain from day to day some of these expenditures in the name of national defense. Our own military establishment is disowning some of the expenditures made in its name. There was effort made in connection with the very bill pending before us at the present time to separate the military from the alleged nonmilitary activities of the Government.

The War Department is charged with the administration of the national military cemeteries, but the Department, according to its effort of recent weeks, wants this item charged as being nonmilitary. It would seem that once a man dies in the military service, after giving his life to it, the care of his grave no longer becomes in any degree a military obligation.

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

Mr. NYE. I yield to the Senator.

Mr. REYNOLDS. The Senator stated a moment ago that many of the nations which are making appropriations of billions upon billions of dollars annually have given as a reason the fact that they were preparing for self-defense. I ask the Senator whether he does not think that in some instances of the larger nations making tremendous appropriations for expenditure for war purposes they are really forced to do so?

The Senator a moment ago, reading from a magazine relative to peacetime appropriations for war in the future, mentioned Great Britain having recently made an appropriation of $7,400,000,000 to be spent over a period of a certain number of years. I am of the opinion that in a very large sense Great Britain was warranted in making such an appropriation, and the probabilities are she did make the appropriations in order to prepare to defend her own, having this in mind: As the Senator knows, Great Britain controls 500,000,000 people, which is one-fourth of the population of the earth. She virtually controls a fourth of the earth; her possessions being in the Dutch East Indies, in the West Indies, in Central America, in Australia, in New Zealand, in India, in South Africa, in northern Africa, and in North America. On the British Isles there reside a population of from forty to fifty million, all of whom are dependent upon industries the products of which go to the various possessions in the four corners of the earth which are controlled by Great Britain. As we know, Great Britain has a life line. That life line extends from the British Isles southward to Gibraltar, then through the Mediterranean, and down through the Suez Canal to the Red Sea, the Indian Ocean, to Singapore, southward through the Dutch East Indies, to Melbourne, to Sydney, to Brisbane, and to Wellington, the capital of New Zealand.

The greatest enemy Great Britain has today upon the face of the earth, and the most dangerous enemy, an enemy which is in a position to sever the life line of Great Britain, is Italy, because Italy has just about gotten to a point where she is virtually in control of all shipping through the Mediterranean. She is seeking today to get control of Spain so that she may construct fortifications on the Spanish coast. She has possessions in northern Africa. About 50 or 60 years ago she acquired what was known as Italian Eritrea, and just below there she has Italian Somaliland. She of all nations is in a position actually to sever the life line of Great Britain. That is the trouble Great Britain is experiencing in that part of the world.

In the Orient, where Great Britain has tremendous interests, as we all know she owns the island of Hong Kong, the capital of which is Victoria, which is usually referred to as the city of Hong Kong. Great Britain realizes that the day will come when the Japanese, in their desire to create the empire of the Orient, are going to have to take possession of the island of Hong Kong; and they have pushed their frontier to Singapore. Great Britain evidently realizes her danger in the Orient. Otherwise she would not have already made an expenditure of more than $350,000,000 in constructing fortifications at Singapore and in the Province of Johore.

In view of the tremendous territory where Great Britain controls 500,000,000 people in all parts of the world, in view of that well-known life line of Great Britain, I am rather inclined to think that in a large sense she is warranted in making appropriations of $7,400,000,000 for defense because the prosperity of the forty or fifty million who make up the population of the British Isles today depends upon their finding an outlet, and a profitable one, for the products issuing from the factories in England, principally at Birmingham, and Lancaster, and the other centers.

In view of that situation confronted by Great Britain, I will ask the Senator whether he does not in a sense concur with me that she is warranted in making that expenditure.

Mr. NYE. Mr. President, it is not for me even to undertake to ascertain what the needs of another power upon this earth may be from the standpoint of national defense. There is not a nation that is not made to feel that it needs the national defense which the increasing appropriations called for are presumed to afford. There is not a power on earth that is not sold on the idea that it is not so much national defense they need to keep prepared for as it is an ability to take the offensive in the event some other power gets saucy some day.

However much we may want to prevent it, there is at least one power on this earth which is thoroughly sold on the idea that its entire national defense is called for by reason of the preparations which the United States has made to attack that particular country. There is not a soul in the United States who would not at once deny that the United States has any such idea as that; but it does occasion the large budget for national defense of that particular country; and so it goes on down through all the powers.

Mr. REYNOLDS. I desire to state to the Senator that it is my understanding of his attitude that he believes in an Army and Navy purely for self-defense.

Mr. NYE. Precisely.

Mr. REYNOLDS. I wish to say to the Senator that I am in thorough accord with his position.

Mr. NYE. And I may say to the Senator that I am undertaking now to elaborate somewhat upon what we mean by "national defense."

I had made the point of the manner in which military leaders are now seeking to get away from responsibility for some of the expenditures made in the name of national defense, and I had referred to the Military Establishment being anxious to get away from the responsibility for military cemeteries. The incident was interesting, and I want to make the point only because it reveals the present effort to run away from the responsibility for the annual increase in the military budget, which today alone in our country is larger than was the cost of maintaining all the departments of our Government, including the Army and the Navy, in the year before we went into the World War.

It is time indeed that men did begin to fear responsibility for the mad "defense" races of nations, especially ours. Particularly is this true at a time when we fuss about expenditures for relief of the needy, and talk about the need for "balancing budgets." There never was such an opportunity for the practice of economy as in the appropriations for the Army and the Navy, but we seldom, if ever, even consider economy there. We have devoted the better part of a week to the discussion of the possibility of accomplishing economies in the relief joint resolution. I venture to say that the pending military bill, calling for an appropriation of over $600,000,000, which came before the Senate at about half-past two this afternoon, will be passed before the day is much older.

More and more are mounting military budgets challenging the people. More and more are the people demanding to know just what is our goal through these expenditures. There has been a lot of earnest thinking on the subject during late years, some of it culminating in splendid works by authors of renown. A most challenging work is that by Hallgren entitled "The Tragic Fallacy", recently off the press.

The Tragic Fallacy is a straightforward challenge to the War and Navy Departments, to the General Staff, and the General Board. It is a challenge which they may elect to ignore, but neither the Congress nor the American people can afford to ignore the issues Mauritz Hallgren raises in this book; for, in short, he declares that the Army and Navy are preparing not for a war in defense of American territory but for another war abroad, for another war to be fought on foreign soil. He asserts, for example, that the General Staff is even neglecting the territorial defenses in developing its plans for another huge expeditionary force to be sent across the ocean.

Hallgren analyzes the problem of invasion. His analysis is based largely, if not exclusively, upon official documents, upon the records of the A. E. F., and similar sources. He comes to the conclusion, which cannot successfully be disputed, that the probabilities of an invasion of our country are practically nil. Indeed, he goes further and declares that invasion is wholly out of the question, for political and economic as well as for strategic reasons.

Thus he says (pp. 53–54):

> * * * which power or powers might be likely to try to invade American territory? Certainly not Canada or Mexico or any of the Latin American countries. A European power? Great Britain would never dare take its eyes off Europe long enough to endeavor to invade and conquer America; it would never dare expose itself to a possible attack from the Continent while the whole of its navy and most of its army were off fighting the United States. France, ever fearing a German war of revenge and gradually losing its hegemony in European affairs, would surely not think of further weakening its position at home by diverting any part of its military machine to such a risky venture.
>
> Germany has all that it can do to keep from bankruptcy at the same time that it seeks to divide Europe against itself in the hope of creating an opening for a war of conquest in eastern Europe; it would certainly not drop everything, leave its French frontier unguarded, and give up all of its ambitions in central and eastern Europe on the virtually impossible chance that it might succeed in making a colony of America. For all of Mussolini's bombast, Italy is a minor power, a poor country, which may be able to subdue another minor power in its own neighborhood, but which must rely mainly on bluff in dealing with a major power.

This is not my language, I may say to the Senate. That is the language of the author of The Tragic Fallacy, Mr. Hallgren.

Mr. Hallgren continues:

> The Soviet Union, with a hopeful Germany on one flank and a distraught and reckless Japan on the other, and with, moreover, a tremendous economic problem at home likely to engage its attention for years to come, neither has the desire nor could spare the men and equipment for a war of dubious purposes on the other side of the earth. Japan lacks ships and natural resources and allies, all of which it would have to have for a hostile expedition to be undertaken across 7,000 miles of open sea. Besides, Japan has cut out for itself a job—the stupendous one of bending the Chinese giant to its will—that is certain to keep it well occupied for years, perhaps decades.
>
> Looking over the international situation, it seems very difficult indeed to find a respectable enemy.

And what would the enemy hope to gain by invading and conquering our country or any substantial part of it? Would loot be the objective? Tribute? Trade? If none of these, what, then? These are some more of the questions Hallgren asks—questions that the admirals and generals never bother to answer when they ask for more and still more money for "defense."

A victorious enemy—

Hallgren continues (pp. 54–56)—

> would not take the currency of a conquered nation. It would do him no good in his own territory, and its removal would wreck the economy of the beaten country. He would not confiscate

securities, for these would be worthless paper unless he could keep the conquered nation's credit on a solvent basis and its industry operating at a normal rate. How many enemy soldiers would be needed to stand over the bankers, manufacturers, workers, and farmers of the United States in order to compel them to continue producing goods so that the enemy might enrich himself by clipping coupons and collecting dividends? In truth, the sabotage, even supposing that enough enemy soldiers could be found for the purpose, would reach such enormous proportions that again the national economy would break down. Witness only what happened in Germany after France marched its troops into the Ruhr on just such a mission.

Nor could the enemy afford to take goods, either capital or consumption goods, in lieu of money or interest and dividends. He would himself be faced with a problem of overproduction and unemployment, as every industrial power is today. What good, then, would it do him to add to his own industrial surplus by taking American products? And would that not throw still more millions of his own workers out of employment? (Indeed, if an enemy could be persuaded to do just this, would that not provide a solution for the American economic problem?) Moreover, as Beverly Nichols has asked, why should a nation that erects prohibitive tariffs to keep out another nation's goods as a matter of self-protection in time of peace, suddenly abolish its protective tariffs and let in such goods just because it has defeated the other nation? But that is the truly ridiculous step a victorious country would have to take if it were to seek to exact payment or tribute from a defeated America in the form of goods. * * *

Lastly, would the victor attempt bodily to annex the United States? If American property rights, political institutions, and civil liberties were left undisturbed, the average American would hardly notice the change, though that would not mean that the American people would ever consent to the annexation. However, the conqueror would derive no profit from an arrangement under which the American Republic, apart perhaps from swapping its flag for that of the victor, was left to go on as before. This would not compensate him in the slightest for the effort and expense he had gone to. If he were to annex the country, he would certainly try to rule it as he saw fit. How long could this alien rule last? How many policemen would be needed to keep 130,000,000 free-born Americans in their place? Where is the foreign country that would even dream of attempting anything like this? One has only to ask the questions to demonstrate how utterly absurd the whole business is.

So, as Hallgren says, the likelihood of invasion is so remote from the political and economic point of view as to be practically nonexistent. But even if by some miracle one foreign power or another should find an excuse for making the attempt, that power would still have to solve the problem of getting its army across the ocean. Here, again, Hallgren goes into painstaking detail to show that the problem is virtually impossible of solution. He points out that Army officers have supposed that an enemy force of 300,000 men might be brought against the United States in a single expedition. This supposition is based on the fact that the largest number of American soldiers transported in a single month to France during the World War was 306,000. But Hallgren proves conclusively that that feat cannot possibly be duplicated, or even approached, by an enemy seeking to invade the United States.

He inquires at length into the records of the A. E. F. and into studies of naval experts both here and abroad to determine what would be needed to move such an expeditionary force across the ocean. He shows that the expedition itself would have to include at least 580 ships, not including the naval escort. Then he cites the latest shipping statistics to show that, save Great Britain, no power on earth has enough ocean-going shipping to provide for such a monstrous expedition, and that the British would never dare to divert as many ships as this from their vital food services and industries, for such diversion would mean hunger and economic collapse in England.

More than that, Hallgren continues (p. 61):

It would be madness itself to send such an armada across the open ocean on a hostile mission. To maintain reasonably effective command and intership communication, such as would be indispensible to the movement of the expedition, would be a superhuman task. The fleet could never be kept together in adverse weather. To protect it from harassment by American submarines and surface raiders (it must be supposed that the American battle fleet has already been wiped out) would require an enormous naval guard, and that would add to the difficulties of command and communication. Lastly, the expedition could move no faster than its slowest unit, which would mean that its speed would have to be kept down to about or below 10 knots. To imagine such a ponderous and slow-moving giant launching a surprise attack upon the American coast is to give way to sheer fantasy.

Hallgren estimates that at the very outside—and there he is generous in the extreme—an enemy might consider moving a force of 50,000 men against this country. Even that would require about 58 ships. But before an enemy could as much as think of getting together an expedition of this smaller but still unwieldly size he must first dispose of the American Navy; and it must be remembered that in its own waters the American Navy is supreme; no other fleet on earth can defeat it there. The A. E. F. faced no such problem, for in 1917 the British and American Navies controlled the Atlantic. Defeat of the Navy would be only the first step. Then the expedition would have to be sent across, a gigantic task in itself. A landing place would have to be found and captured, and that landing place could be in none of our harbors, since, as Hallgren points out elsewhere in his book, not one of our harbors, if properly fortified, can be taken by a hostile fleet. The first attack would have to take place somewhere along the naked and unprotected coast, and then, presuming that victory has fallen to the enemy in this initial attack, he would have to begin the superhuman task of landing his expedition, which, without harbor facilities and the like, would take him weeks. And then the war will have only just begun.

Step by step this work from which I am quoting so liberally traces the difficulties that would confront an enemy bent upon invading this country. Step by step it shows the impossible becoming ever more impossible. The enemy must perform one miracle after another in order to achieve even his first objective. Having performed these several miracles, having attained the impossible, having finally, that is, landed a small force on American soil, where would the enemy then be? He would be thousands of miles from home, in a hostile foreign land. His would be an isolated force of definitely limited strength, dependent solely upon the equipment and supplies it had brought along. And this enemy force would be facing an American army defending its own soil, an army with the resources of a nation of 130,000,000 people at its immediate command, in control of a great network of railroads and highways and other lines of communication, and intimately acquainted with the terrain over which the war would be fought; an army, in short, that would be overwhelmingly superior, man for man, to any invading force that could possibly be landed on American shores. In other words, the enemy would be facing certain suicide.

Where is the foreign power that is going to try anything like that? Where is the foreign government so mad that it will deliberately set out to achieve the impossible, to send a hostile force across either ocean to invade the United States, when it knows that even if it succeeded in this undertaking, certain and complete destruction would be awaiting its army upon our shores? No one is going to try that, no one is even going to dream of trying it.

"Indeed", as Hallgren says in The Tragic Fallacy (p. 69), "the generals and admirals simply cannot show that America stands in any danger of being invaded." Moreover, he continues, "so little has the probability of invasion figured in the making of 'defense' policy that, were the impossible to happen and an invader actually to approach American shores, the Army might not be found ready to meet the emergency."

This, I point out, is a most startling statement, and I am going to repeat it:

So little has the probability of invasion figured in the making of defense policy that, were the impossible to happen and an invader actually to approach American shores, the Army might not be found ready to meet the emergency.

That is because the Army is not built for defense but for participation in another mass war abroad. Hallgren declares that for land defense the country might have a small force, not exceeding 50,000 men, and even that number, he asserts, would be a luxury under the circumstances. But this force would have to be highly mobile, compact, complete in itself. The American Army, he says, is anything but that.

The country has instead—

Hallgren declares (p. 70)—

an army made up of far more divisions, brigades, and regiments than will ever be needed for such defense; and the available personnel, instead of being concentrated in a few units, has been spread exceedingly thin over these many units. For the Army is today that "expansible" affair for which Upton and his followers had long agitated. It is a sprawling military skeleton which it is intended in time of war to cover with flesh and blood, in the form of some hundreds of thousands—nay, millions—of raw or half-trained recruits. And until that is done the skeleton can hardly move; certainly it cannot fight.

Would such an army be able to stand off and defeat an invading force of, say, 50,000 men? Perhaps so, but it is obvious that it would take more time and cost more lives for such a lumbering, makeshift army to repel an invader than it would for a small, compact army which is complete in itself. That is all we need for territorial defense. Why do we lack such an army? Why do we have in its place this skeletonized affair that could not be gotten ready for war upon a moment's notice and has no place whatever in any bona-fide plan for the defense of the country's territory?

It is not for territorial defense that we have created this skeleton as a nucleus for another mass army. It is not for territorial defense that upward of 125,000 boys and men are now being trained to serve as officers of that army, enough officers to command an expeditionary force of 3,000,000 men. It is not for territorial defense that the General Staff envisages the employment of a "covering force" of 600,000 to 1,000,000 men. It is not for territorial defense that the General Staff plans to conscript "the manpower of the Nation" and so to add several million raw soldiers to this "covering force." Hallgren recalls that one general thought that as territorial defense this tremendous mass army is being provided for, since by no stretch of the imagination will it ever be needed to guard our soil.

We cannot charge the military men with being stupid in this regard, for that they most certainly are not. They know what they are about. They know that the danger of invasion is virtually nil. They know that a mass army, such as that for which they are making preparations, would be a handicap rather than a help in repelling a genuine invader. They know that this mass army, to which they are devoting practically all of their time and energy, can never be used for defense; that they can never hope to employ it except in another mass war on foreign soil. Indeed, it is all too painfully clear that that is the real objective of the present military policy. It is all too painfully clear that the Army is getting ready for another war abroad.

If—

As Hallgren says—

the generals have been reluctant to discuss this side of America's war preparations, the admirals have been forthright enough.

The admirals—

He declares—

do not pretend that their navy is nonaggressive or that it is intended merely to keep unwelcome intruders out of American waters. * * * Their major war plans all call for war in the enemy's waters.

But the Navy has a different problem. In trying to solve this problem, the Tragic Fallacy asserts, the admirals have fallen between two stools. They have a fleet much bigger than they need for actual territorial defense and yet not large enough to carry out the primary purpose of their existing policy, which is to guard the country's commerce and policies wherever they may be threatened. In truth, as the Tragic Fallacy puts it, that purpose can never be achieved.

Hallgren quotes at length from the writings and studies of naval experts, from testimony given before congressional committees by the admirals themselves, to show that the British would have to have a fleet at least twice as large as ours and the Japanese would have to have one three to five times as big in order to meet the American Fleet on anything like equal terms in its own territorial waters. Citing the very language of these admirals and other authoritative witnesses, he tells of the great loss of efficiency which a hostile fleet must expect in crossing thousands of miles of open ocean from either Europe or Asia. He goes into the question of naval bases and reveals that neither Britain nor any other power has fortified bases on this side of the ocean that can be used for offensive operations against the United States. He arrives at the inevitable conclusion that so long as the American Fleet stays in its own waters it is invulnerable; that, indeed, the United States could get along with less than parity and still enjoy perfect security as against any of its maritime rivals.

The admirals, of course, do not see it that way. Still deluded by all of Mahan's nonsense about "control of the seas", Hallgren declares they—

Continue to draw plans for fleet operations in distant waters. They continue to talk before congressional committees and elsewhere about steaming off in the grand manner to the British Isles (or to Japan), there to seek to defeat and destroy the British Fleet (or the Japanese).

All of which Hallgren denounces as "suicidal strategy."

Obviously, if a European power needs more than twice our strength to cross 3,000 miles of ocean, invade American waters, and there defeat our Navy, we must need twice the strength of any European fleet, say the British, in order to go into European waters and defeat that fleet or even to meet it on equal terms. As things stand at present, Hallgren says:

It would be little short of deliberate suicide for the American Fleet to venture out of its own territorial waters for the purpose of challenging British supremacy in the eastern Atlantic or the control which they exercise in the western Pacific.

It would be foolhardy for the United States to attempt anything of that sort unless it had a powerful naval ally abroad. But where and how is it to get such an ally? On the Pacific side there are only China and the Soviet Union, and neither of them has a navy. In Europe Germany, France, and Italy together have 105 percent of Britain's naval strength. But it would be impossible to add their navies to the American Fleet, not only because of political realities but also because of the technical difficulties that would be involved. Moreover, would not such an alliance automatically involve us in European politics, and would that not be the easiest and quickest way of involving us in another war abroad?

The only alternative would be for this country to try to outbuild its naval rivals. But that is next to impossible, Hallgren declares.

Under present political and economic circumstances—

He says—

the United States cannot hope to attain decisive superiority in numbers. Does anyone suppose that the British and the Japanese would sit idly by while the United States was doubling its fleet? Such a fleet could only be used against Britain or Japan. The mere fact that it was being built would in London and Tokyo be considered prima-facie evidence of aggressive intent on the part of the United States. Indeed, the British and Japanese would not waste time inquiring at length into American motives, but would hasten to match the new American strength. The competition would be wholly automatic. The chances of America's successfully invading British or Japanese waters would remain as slim as ever. And no amount of naval bases abroad would help to mend this situation, for it is as certain as anything can be that, even though the United States had an adequate harbor placed at its disposal in Europe or Asia, the American Fleet could never reach that haven unless and until it were first to dispose of the enemy fleet, British or Japanese, and for that purpose the American Navy would have to be at least twice as big as the present British Fleet and more than three times as strong as the present Japanese Fleet.

These solid facts bother the admirals very little, if at all. They have today a fleet far larger than we need to defend our homes, but they still want a much bigger one. They want one big enough to go over and fight a first-class war in Europe or Asia. All of their plans look toward that one eventuality. In short, the admirals, like the generals, are not thinking in terms of territorial defense but almost exclusively in terms of another major war abroad. Their preparations, too, are pointed toward just such a war. Is that what the American people want?

As one who wants this country prepared at all hours to successfully defend itself against invasion, I plead that we

undertake to determine the meaning of defense; that we sense the direction in which the generally used term of defense is taking us; that we stop this futile course, which has found us madly spending for defense, with no lessening in the demand for more and more of defense; that we confine ourselves strictly to defense if we would avoid national bankruptcy in an effort to obtain the impossible.

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

Mr. NYE. I yield to the Senator from Washington.

Mr. BONE. Can the Senator from North Dakota advise us concerning the amount Congress has spent during the past 5 or 6 years to maintain the military and naval establishments of the country and to take care of the cost of war?

It may be that the Senator referred to that subject at the beginning of his remarks.

Mr. NYE. No; I have not any such group of figures, but let us see what the appropriations were, say, for the past 6 years.

Mr. BONE. Yes.

Mr. NYE. Let us start in with 1930, when the appropriation for the War Department was $464,000,000, and for the Navy $374,000,000.

In 1931 the appropriation for the Army was $478,000,000, and for the Navy $354,000,000.

In 1932 the appropriation for the Army was $477,000,000, and for the Navy $357,000,000.

In 1933 the appropriation for the Army was $449,000,000, and for the Navy $349,000,000.

I should like to point out to the Senator from Washington and to the Senate the manner in which, during these years, the Navy has managed to catch up pretty well with the Army in the matter of national outlay in the Budget.

In 1934 the appropriation for the Army was $408,000,000, and for the Navy $297,000,000.

In 1935 the appropriation for the Army was $489,000,000, and for the Navy $436,000,000.

In 1936 the appropriation for the Army was $618,000,000, and for the Navy $529,000,000.

This year we have already appropriated $528,000,000 for the Navy, and now we are proposing to appropriate $610,000,000 for the Army.

Mr. BONE. Do the Senator's figures include the $238,000,000 allocated to the Navy from Public Works funds?

Mr. NYE. They do not.

Mr. BONE. Then that item should be added to the figures given by the Senator.

Mr. NYE. It should be.

Mr. BONE. The Senator also has not included the figures for the care of veterans, including hospitals, hospitalization, pensions, and the bonus.

Mr. NYE. No. The Senator might have included also the cost of war-debt retirement.

Mr. BONE. That is what I am getting at. I think the total probably would run close to $4,000,000,000 in the year 1936 alone, including the bonus, the cost of taking care of the veterans, their pensions, and the Army and the Navy. Has the Senator any figures indicating the total cost of war in the period he has covered?

Mr. NYE. No; I have not those figures readily at hand.

Mr. BONE. It probably would be a staggering sum.

Mr. NYE. It would be, of course. The more staggering conclusion, though, must be that those who have been responsible for these increases and for this staggering load are crying just as loudly today about the "inadequacy" of our national defense as they have ever cried before, and are just as madly striving for more and more on the pretense that our defense is inadequate. What is the end to be?

Mr. BONE. Mr. President, there are two very interesting aspects of this problem. One is that we rarely hear on the floor of the Senate any discussion about these very large sums of money that run into billions of dollars, while there are hours and hours and hours of discussion here on the floor about a billion and a half dollars to feed the hungry. I am not going to set myself up in judgment on the merits of this matter, except to point out that we have had weeks and weeks of discussion here about the matter of relief of the poor, but scarcely a murmur here about the expenditures for the cost of war, which is consuming a very large part of our Budget.

Second, another astonishing aspect of this problem is that we hear very little comment on these expenditures from the public at large, from church groups, or from those who are interested in peace and its various ramifications and aspects.

The PRESIDING OFFICER (Mr. McGILL in the chair). The clerk will state the next amendment of the committee.

The next amendment of the Committee on Appropriations was, under the subhead Citizens' military training—Reserve Officers' Training Corps, on page 62, line 12, after the word "wagons" and the comma, to strike out "$3,601,720" and insert "$4,219,570", so as to read:

For the procurement, maintenance, and issue, under the regulations as may be prescribed by the Secretary of War, to institutions at which one or more units of the Reserve Officers' Training Corps are maintained, of such public animals, means of transportation, supplies, tentage, equipment, and uniforms as he may deem necessary, including cleaning and laundering of uniforms and clothing at camps; and to forage, at the expense of the United States, public animals so issued, and to pay commutation in lieu of uniforms at a rate to be fixed annually by the Secretary of War; for transporting said animals and other authorized supplies and equipment from place of issue to the several institutions and training camps and return of same to place of issue when necessary; for purchase of training manuals, including Government publications and blank forms; for the establishment and maintenance of camps for the further practical instruction of the members of the Reserve Officers' Training Corps, and for transporting members of such corps to and from such camps, and to subsist them while traveling to and from such camps and while remaining therein so far as appropriations will permit, or, in lieu of transporting them to and from such camps and subsisting them while en route, to pay them travel allowance at the rate of 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and for the return travel thereto, and to pay the return travel pay in advance of the actual performance of the travel; for expenses incident to the use, including upkeep and depreciation costs, of supplies, equipment, and matériel furnished in accordance with law from stocks under the control of the War Department; for pay for students attending advanced camps at the rate prescribed for soldiers of the seventh grade of the Regular Army; for the payment of commutation of subsistence to members of the senior division of the Reserve Officers' Training Corps, at a rate not exceeding the cost of the garrison ration prescribed for the Army, as authorized in the act approved June 3, 1916, as amended by the act approved June 4, 1920 (U. S. C., title 10, sec. 387); for the medical and hospital treatment of members of the Reserve Officers' Training Corps, who suffer personal injury or contract disease in line of duty, and for other expenses in connection therewith, including pay and allowances, subsistence, transportation, and burial expenses, as authorized by the act of June 15, 1936 (49 Stat., p. 1507); for mileage, traveling expenses, or transportation, for transportation of dependents, and for packing and transportation of baggage, as authorized by law, for officers, warrant officers, and enlisted men of the Regular Army traveling on duty pertaining to or on detail to or relief from duty with the Reserve Officers' Training Corps; for the purchase, maintenance, repair, and operation of motor vehicles, including station wagons, $4,219,570, and, in addition, $517,850 of the appropriation "Reserve Officers' Training Corps, 1937", which is hereby reappropriated, and of the total amount hereby made available $400,000 shall be available immediately.

The amendment was agreed to.

The next amendment was, under the subhead "National Board for Promotion of Rifle Practice, Army", on page 67, line 5, after the name "Secretary of War", to strike out "$700,000" and insert "$645,726", so as to read:

Promotion of rifle practice: For construction, equipment, and maintenance of rifle ranges, the instruction of citizens in marksmanship, and promotion of practice in the use of rifled arms; for arms, ammunition, targets, and other accessories for target practice, for issue and sale in accordance with rules and regulations prescribed by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War; for clerical services, including not exceeding $25,000 in the District of Columbia; for procurement of materials, supplies, trophies, prizes, badges, and services, as authorized in section 113, act of June 3, 1916, and in War Department Appropriation Act of June 7, 1924; for the conduct of the national matches, including incidental travel, and for maintenance of the National Board for the Promotion of Rifle Practice, including not to exceed $7,500 for its incidental expenses as authorized by act of May 28, 1928; to be expanded under the direction of the Secretary of War, $645,726.

The amendment was agreed to.

The next amendment was, on page 67, after line 19, to insert:

TITLE II—NONMILITARY ACTIVITIES OF THE WAR DEPARTMENT

QUARTERMASTER CORPS

CEMETERIAL EXPENSES

For maintaining and improving national cemeteries, including fuel for and pay of superintendents and the superintendent at Mexico City, and other employees; purchase of land; purchase of tools and materials; purchase of one motor-propelled hearse at a cost not to exceed $3,150; and for the repair, maintenance, and operation of motor vehicles; care and maintenance of the Arlington Memorial Amphitheater, chapel, and grounds in the Arlington National Cemetery; repair to roadways but not to more than a single approach road to any national cemetery constructed under special act of Congress; headstones for unmarked graves of soldiers, sailors, and marines under the acts approved March 3, 1873 (U. S. C., title 24, sec. 279), February 3, 1879 (U. S. C., title 24, sec. 280), March 9, 1906 (34 Stat., p. 56), March 14, 1914 (38 Stat., p. 768), and February 26, 1929 (U. S. C., title 24, sec. 280a), and civilians interred in post cemeteries; recovery of bodies and disposition of remains of military personnel and civilian employees of the Army under act approved March 9, 1928 (U. S. C., title 10, sec. 916); for repairs and preservation of monuments, tablets, roads, fences, etc., made and constructed by the United States in Cuba and China to mark the places where American soldiers fell; care, protection, and maintenance of the Confederate Mound in Oakwood Cemetery at Chicago, the Confederate Stockade Cemetery at Johnstons Island, the Confederate burial plots owned by the United States in Confederate Cemetery at North Alton, the Confederate Cemetery, Camp Chase, at Columbus, the Confederate Cemetery at Point Lookout, and the Confederate Cemetery at Rock Island, $1,227,009, of which $295,477 shall be available immediately: *Provided*, That no railroad shall be permitted upon any right-of-way which may have been acquired by the United States leading to a national cemetery, or to encroach upon any roads or walks constructed thereon and maintained by the United States: *Provided further*, That no part of this appropriation shall be used for repairing any roadway not owned by the United States within the corporate limits of any city, town, or village.

SIGNAL CORPS

ALASKA COMMUNICATION SYSTEM

For operation, maintenance, and improvement of the Alaska Communication System and for purchase, including exchange, of one motor-propelled passenger-carrying vehicle, and for operation and maintenance of vehicles of this character, $166,338, to be derived from the receipts of the Alaska Communication System which have been covered into the Treasury of the United States, and to remain available until the close of the fiscal year 1939: *Provided*, That the Secretary of War shall report to Congress the extent and cost of any extensions and betterments which may be effected under this appropriation.

BUREAU OF INSULAR AFFAIRS

UNITED STATES HIGH COMMISSIONER TO THE PHILIPPINE ISLANDS

For the maintenance of the office of the United States High Commissioner to the Philippine Islands as authorized by subsection 4 of section 7 of the act approved March 24, 1934 (48 Stat. 456), including salaries and wages; rental, furnishings, equipment, maintenance, renovation, and repair of office quarters and living quarters for the High Commissioner; supplies and equipment; purchase and exchange of lawbooks and books of reference, periodicals, and newspapers; traveling expenses, including for persons appointed hereunder within the United States and their families, actual expenses of travel and transportation of household effects from their homes in the United States to the Philippine Islands, utilizing Government vessels whenever practicable; operation, maintenance, and repair of motor vehicles, and all other necessary expenses, $152,600, of which amount not exceeding $10,000 shall be available for expenditure in the discretion of the High Commissioner for maintenance of his household and such other purposes as he may deem proper: *Provided*, That the salary of the legal adviser and the financial expert shall not exceed the annual rate of $12,000 and $10,000 each, respectively: *Provided further*, That section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5), shall not apply to any purchase or service rendered under this appropriation when the aggregate amount involved does not exceed the sum of $100.

CORPS OF ENGINEERS

RIVERS AND HARBORS

To be immediately available and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, and to remain available until expended:

For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation; for survey of northern and northwestern lakes and other boundary and connecting waters as heretofore authorized, including the preparation, correction, printing, and issuing of charts and bulletins and the investigation of lake levels; for prevention of obstructive and injurious deposits within the harbor and adjacent waters of New York City; for expenses of the California Debris Commission in carrying on the work authorized by the act approved March 1, 1893 (U. S. C., title 33, sec. 661); for such works, hereby authorized, as may be necessary for the protection of the town of Collinsville, Ala.; for removing sunken vessels or craft obstructing or endangering navigation as authorized by law; for operating and maintaining, keeping in repair, and continuing in use without interruption any lock, canal (except the Panama Canal), canalized river, or other public works for the use and benefit of navigation belonging to the United States; for payment annually of tuition fees of not to exceed 35 student officers of the Corps of Engineers at civil technical institutions under the provisions of section 127a of the National Defense Act, as amended (U. S. C., title 10, sec. 535); for examinations, surveys, and contingencies of rivers and harbors; and for printing, including illustrations, as may be authorized by the Committee on Printing of the House of Representatives, either during a recess or session of Congress, of surveys authorized by law, and such surveys as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress, and for the purchase of motor-propelled passenger-carrying vehicles and motorboats, for official use, not to exceed $197,971: *Provided*, That no funds shall be expended for any preliminary examination, survey, project, or estimate not authorized by law, $128,000,000: *Provided further*, That from this appropriation the Secretary of War may, in his discretion and on the recommendation of the Chief of Engineers based on the recommendation by the Board for Rivers and Harbors in the review of a report or reports authorized by law, expend such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality, or other public agency, outside of harbor lines and serving essential needs of general commerce and navigation, such work to be subject to the conditions recommended by the Chief of Engineers in his report or reports thereon: *Provided further*, That no appropriation under the Corps of Engineers for the fiscal year 1938 shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business: *Provided further*, That not to exceed $3,000 of the amount herein appropriated shall be available for the support and maintenance of the Permanent International Commission of the Congresses of Navigation and for the payment of the actual expenses of the properly accredited delegates of the United States to the meeting of the congresses and of the commission.

FLOOD CONTROL

Flood control: For the construction of certain public works on rivers and harbors for flood control, and for other purposes, in accordance with the provisions of the Flood Control Act, approved June 22, 1936 (49 Stat. 1570–1595), including printing and binding and office supplies and equipment required in the office of the Chief of Engineers to carry out the purposes of this act, the purchase (not to exceed $47,250) of motor-propelled passenger-carrying vehicles and motorboats for official use, and not to exceed $500,000 for preliminary examinations and surveys of flood-control projects authorized by law, $60,000,000: *Provided*, That $500,000 of this appropriation shall be transferred and made available to the Secretary of Agriculture for preliminary examinations and surveys for run-off and water-flow retardation and soil-erosion prevention on the watersheds of flood-control projects authorized by law, including the employment of persons in the District of Columbia and elsewhere, purchase of books and periodicals, printing and binding, rent in the District of Columbia, the purchase (not to exceed $30,000) of motor-propelled passenger-carrying vehicles and motorboats, and for other necessary expenses: *Provided further*, That the Chief of Engineers, when authorized by the Secretary of War, may enter into construction contracts prior to July 1, 1938, to an amount not in excess of $38,000,000, in addition to the sum herein appropriated, and his action in so doing shall be deemed a contractual obligation of the Federal Government payable after the next regular annual appropriation becomes available: *And provided further*, That if any funds are made available for the above purposes from the Emergency Relief Appropriation Act of 1937, the appropriation herein made shall be reduced by an amount equal to the sum so made available, but this proviso shall not operate to reduce this appropriation below $30,000,000.

Flood control, Mississippi River and tributaries: For prosecuting work of flood control in accordance with the provisions of the Flood Control Act, approved May 15, 1928 (U. S. C., title 33, sec. 702a), as amended by the Flood Control Act approved June 15, 1936 (49 Stat. 1508), and for the purchase of motor-propelled passenger-carrying vehicles and motorboats, for official use, not to exceed $56,300, $45,000,000: *Provided*, That the Chief of Engineers, when authorized by the Secretary of War, may enter into construction contracts prior to July 1, 1938, to an amount not in excess of $10,000,000, in addition to the sum herein appropriated, and his action in so doing shall be deemed a contractual obligation of the Federal Government payable after the next regular annual appropriation becomes available: *Provided further*, That if any funds are made available for the above purposes from the Emergency Relief Appropriation Act of 1937, the appropriation herein made shall be reduced by an amount equal to the sum so made available, but this proviso shall not operate to reduce this appropriation below $22,500,000.

Emergency fund for flood control on tributaries of Mississippi River: For rescue work and for repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood, in accordance with section 9 of the Flood Control Act, approved June 15, 1936 (49 Stat. 1508), $100,000.

Flood control, Sacramento River, Calif.: For prosecuting work of flood control in accordance with the provisions of the Flood Control Act approved March 1, 1917 (U. S. C., title 33, sec. 703), as modified by the Flood Control Act approved May 15, 1928 (U. S. C., title 33, sec. 704), including not to exceed $2,600 for the purchase of motor-propelled passenger-carrying vehicles and motorboats, for official use, $814,500.

Flood control, Lowel Creek, Alaska: For maintenance of flood-control works in accordance with the act approved February 14, 1933 (47 Stat., p. 802), $1,000.

Flood control, Salmon River, Alaska: For maintenance repairs to dikes in the flood-control works at the town of Hyder, Alaska, as authorized by the act approved June 18, 1934 (48 Stat., p. 991), $800.

UNITED STATES SOLDIERS' HOME

For maintenance and operation of the United States Soldiers' Home, including maintenance, repair, and operation of horse-drawn and motor-propelled freight- and passenger-carrying vehicles and the purchase of one motor-propelled vehicle of the station-wagon type at a cost not to exceed $1,000, including the value of a vehicle exchanged, to be paid from the Soldiers' Home Permanent Fund, $804,456: *Provided*, That notwithstanding any other provisions of law, the administration, control, procurement, expenditure, accounting, audit, and methods thereof, of funds appropriated from the Soldiers' Home Permanent Fund (trust fund) shall be according to the laws governing and in effect prior to July 1, 1935, relating specifically to the United States Soldiers' Home, and in accordance with procedure followed prior to such date: *Provided further*, That not to exceed five retired officers of the Regular Army may be assigned to active duty at the United States Soldiers' Home, and such officers while so assigned shall be entitled, notwithstanding any other provisions of law, to the pay and allowances of officers of the same rank and length of service on the active list of the Army: *Provided further*, That, effective July 1, 1937, the Board of Commissioners of the Home may prescribe the duties to be performed and fix the compensation to be paid for personal services rendered by hospital orderlies and member employees of the Home without regard to the provisions of the Classification Act, 1923, as amended, or any other law relating to payment for personal services.

THE PANAMA CANAL

The limitations on the expenditure of appropriations hereinbefore made in this act shall not apply to the appropriations for the Panama Canal.

For every expenditure requisite for and incident to the maintenance and operation, sanitation, and civil government of the Panama Canal and Canal Zone, including the following: Compensation of all officials and employees; foreign and domestic newspapers and periodicals; lawbooks not exceeding $1,000; textbooks and books of reference; printing and binding, including printing of annual report; rent and personal services in the District of Columbia; purchase or exchange of typewriting, adding, and other machines; purchase or exchange, maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles; claims for damages to vessels passing through the locks of the Panama Canal, as authorized by the Panama Canal Act; claims for losses of or damages to property arising from the conduct of authorized business operations; claims for damages to property arising from the maintenance and operation, sanitation, and civil government of the Panama Canal; acquisition of land and land under water, as authorized in the Panama Canal Act; expenses incurred in assembling, assorting, storing, repairing, and selling material, machinery, and equipment heretofore or hereafter purchased or acquired for the construction of the Panama Canal which are unserviceable or no longer needed, to be reimbursed from the proceeds of such sale; expenses incident to conducting hearings and examining estimates for appropriations on the Isthmus; expenses incident to any emergency arising because of calamity by flood, fire, pestilence, or like character not foreseen or otherwise provided for herein; traveling expenses, when prescribed by the Governor of the Panama Canal to persons engaged in field work or traveling on official business; transportation, including insurance, of public funds and securities between the United States and the Canal Zone; and for such other expenses not in the United States as the Governor of the Panama Canal may deem necessary best to promote the maintenance and operation, sanitation, and civil government of the Panama Canal, all to be expended under the direction of the Governor of the Panama Canal and accounted for as follows:

For maintenance and operation of the Panama Canal: Salary of the Governor, $10,000; purchase, inspection, delivery, handling, and storing of materials, supplies, and equipment for issue to all departments of the Panama Canal, the Panama Railroad, other branches of the United States Government, and for authorized sales; payment in lump sums of not exceeding the amounts authorized by the Injury Compensation Act approved September 7, 1916 (U. S. C., title 5, sec. 793), to alien cripples who are now a charge upon the Panama Canal by reason of injuries sustained while employed in the construction of the Panama Canal; in all, $8,519,000, together with all moneys arising from the conduct of business operations authorized by the Panama Canal Act.

For sanitation, quarantine, hospitals, and medical aid and support of the insane and of lepers and aid and support of indigent persons legally within the Canal Zone, including expenses of their deportation when practicable, and the purchase of artificial limbs or other appliances for persons who were injured in the service of the Isthmian Canal Commission or the Panama Canal prior to September 7, 1916, and including additional compensation to any officer of the United States Public Health Service detailed with the Panama Canal as chief quarantine officer, $918,000.

For civil government of the Panama Canal and Canal Zone, including gratuities and necessary clothing for indigent discharged prisoners, $1,131,760.

Total, Panama Canal, $10,568,760, to be available until expended.

In addition to the foregoing sums there is appropriated for the fiscal year 1938 for expenditures and reinvestment under the several heads of appropriation aforesaid, without being covered into the Treasury of the United States, all moneys received by the Panama Canal from services rendered or materials and supplies furnished to the United States, the Panama Railroad Co., the Canal Zone government, or to their employees, respectively, or to the Panama Government, from hotel and hospital supplies and services; from rentals, wharfage, and like service; from labor, materials, and supplies and other services furnished to vessels other than those passing through the Canal, and to others unable to obtain the same elsewhere; from the sale of scrap and other by-products of manufacturing and shop operations; from the sale of obsolete and unserviceable materials, supplies, and equipment purchased or acquired for the operation, maintenance, protection, sanitation, and government of the Canal and Canal Zone; and any net profits accruing from such business to the Panama Canal shall annually be covered into the Treasury of the United States.

In addition, there is appropriated for the operation, maintenance, and extension of waterworks, sewers, and pavements in the cities of Panama and Colon, during the fiscal year 1938, the necessary portions of such sums as shall be paid as water rentals or directly by the Government of Panama for such expenses.

Memorial to Maj. Gen. George W. Goethals: For necessary expenses incident to the selection of the site, and preparation of plans and estimates of cost, for the erection of a memorial to Maj. Gen. George W. Goethals within the Canal Zone, authorized by the act approved August 24, 1935 (49 Stat. 743), including travel expenses of the members of the Goethals Memorial Commission appointed by the President under authority of said act, and of the employees of said Commission; employment of an architect or architects without regard to the provisions of other laws applicable to the employment or compensation of officers and employees of the United States; stationery and supplies; and all other necessary expenses, $5,000, to be available immediately and also for payment of expenses heretofore incurred in carrying out the purposes of such act of August 24, 1935.

SEC. 2. Three million dollars of the appropriation "Capital stock, Inland Waterways Corporation" are hereby repealed.

Mr. COPELAND. Mr. President, I ought to say at this point that this year the House undertook to divide the War Department bill into two parts, one of the military character and the other of a nonmilitary character, so that the casual student might not be deceived as to what part was for possible war and what part was for civil activities.

I think perhaps on general principles that may be a good plan; but, unfortunately, the surgery was not well performed. We find that the Army engineers' salaries and the civil engineers' salaries, and certain items for the High Commission in the Philippines, and so forth, were not deducted; likewise, the supplies of the Army engineers, their travel allowances, and so forth. Perhaps in another year it may be done.

In the meantime, we had had our hearings. There were necessary delays in the House, so that we did not get to the second bill. So we proceeded, as the bill indicates, and added the nonmilitary activities as an amendment to the regular bill.

Mr. SCHWELLENBACH. Mr. President, in the light of the remarks of the Senator from North Dakota [Mr. NYE] and the events of the past few weeks, I wish to make a few remarks.

Members of the Senate are familiar with the fact that a few weeks ago the Spanish ship *España* was sunk off the coast of Spain by an aerial bomber. The Members of the Senate also are familiar with the fact that a few weeks ago a group of Russian flyers landed at the North Pole and established a base of operations at the North Pole, and that within the past week a Russian plane starting from Russia, going over the North Pole on a trip the destination of which was San Francisco, landed in the city of Vancouver, in the State of Washington.

I think these events have demonstrated the fact that it is possible, through the use of military bombers and through the use of large planes, to create an effective weapon of defense. The old type of Army bomber was a pretty in-

effectual instrument; but in the year 1935, acting under plans of the War Department, the Boeing Airplane Co., located in the city of Seattle, State of Washington, developed a bombardment airplane, type Y–B–17. It is a large four-engine plane. Eight of these planes have been manufactured for the Government and are under test at the present time. The tests that have been made by the Army air force have been eminently satisfactory.

I call this matter to the attention of the Senate because of my belief that through the use of the large bombing plane it is going to be possible for this Government very materially to reduce its necessary military and naval expenditures.

We are told by those interested in military and naval affairs that our Army and Navy are purely for purposes of defense. Assuming that to be true, with planes of the type which are being produced under these plans it will be possible, by the maintenance of a comparatively small number of places within the United States and the Territories of the United States, to develop a defensive weapon which will make unnecessary many of our present expenditures for the Army and the Navy.

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

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Missouri?

Mr. SCHWELLENBACH. I yield to the Senator.

Mr. CLARK. In addition to the very pertinent discussion of the Senator from Washington with regard to the probable developments and changes in warfare by reason of the demonstrations of the Russian aviators, possibly either making many of the mobile military defenses unnecessary or requiring them to be of a different character, the Senator will recall that very recently an aviator flying on behalf of the Spanish loyalist government probably brought about in the near future a great change in naval warfare by sinking from a bombing plane a first-line battleship—an event which will probably render much of the naval construction to be done in the next couple of years by the United States and other nations of the world in the way of battleships obsolete before the ships are even constructed.

Mr. SCHWELLENBACH. Mr. President, I may say, in reference to what the Senator from Missouri has stated, that it is interesting to note that within the same day when that battleship was sunk our Navy Department, through its publicity office, made the announcement that the battleship was simply an old one and of an obsolete type.

If it is possible for a plane to sink an old battleship, I have not been able to see that the fact that it is old has anything to do with the effectiveness of the bombing plane.

Mr. CLARK. And if a bomb were dropped down the funnel of one of the new battleships to be constructed, it would probably have the same effect on that ship the bomb had on the old battleship.

Mr. SCHWELLENBACH. The reason why the use of these larger planes will be effective is the cruising range which they have. They have a cruising range of 1,500 miles. The original plane, which was built in 1935, left Seattle, went to Dayton, Ohio, a distance of 2,000 miles, and reached Dayton in a period of 9 hours. It is possible through the use of such planes, by establishing one base in Alaska, a base in the Pacific Northwest, a base in California, one at Honolulu, one at the Panama Canal, one at Miami, Fla., and one in the vicinity of Washington, D. C., to completely cover the area which the United States desires to protect. Heretofore small planes, single-engine planes or two-engine planes, have had such a limited cruising range that they were simply of use to the mobile forces.

In the bill before us there is a large appropriation for the purchase of new airplanes. I understand it is contemplated that we shall purchase more of the bombing type of plane. Since it has been demonstrated that it is possible for planes to travel the distances they can travel effectively, since it is possible by the use of the larger four-engine bombers to have planes with a cruising range of 1,500 miles, it will be possible, under a program of that kind, to reduce the number of places where we would establish air bases for the bombing planes to the small number I have described, and still completely cover the area which we feel we must defend.

I sincerely hope the War Department and the General Staff will give proper attention to the possibility of the development of this type of airplane, and that as a result it will be possible in the near future to bring about a reduction in our necessary military appropriations.

Mr. COPELAND. I may say that in formulating the amendment we have now reached we followed the progress of the bill in the House, and, so far as we could, closely approximated the bill. The chief difference lies in the appropriation for flood control.

Mr. President, would it be in order now for us to perfect the amendment we have before us?

The PRESIDING OFFICER. It would be proper.

Mr. COPELAND. I desire to call attention to an item under rivers and harbors on page 71, lines 22 and 23. I ask that those lines be stricken out. The reason is that this project has never been surveyed, it has never been approved by the Army engineers, it has never been approved by the Congress. Therefore it has no place in this bill under our rules.

I ask that on page 71, lines 22 and 23, there be stricken out the words "for such works, hereby authorized, as may be necessary for the protection of the town of Collinsville, Ala."

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

The amendment to the amendment was agreed to.

Mr. COPELAND. Mr. President, on page 75, at the bottom of the page, beginning in line 21, will be found an emergency fund for flood control on the tributaries of the Mississippi River, for rescue work, for repair, and so forth. Since this language was inserted in the bill an estimate has come from the Budget Bureau, with the approval of the President, with a request that the sum at the end of line 26 be changed to $300,000 instead of $100,000.

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

The CHIEF CLERK. On page 75, line 26, it is proposed to strike out "$100,000" and insert in lieu thereof "$300,000", so as to make the paragraph read:

> Emergency fund for flood control on tributaries of Mississippi River: For rescue work and for repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood, in accordance with section 9 of the Flood Control Act, approved June 15, 1936 (49 Stat. 1508), $300,000.

The amendment to the amendment was agreed to.

Mr. BARKLEY. Mr. President, as the Senator knows, I am interested in the whole subject of flood control. I note that in the Senate committee amendment, which is supposed to incorporate the so-called nonmilitary or flood-control provisions of the bill which I believe has passed or is under consideration in the House, the committee provides $60,000,000 for flood-control projects authorized under the act of 1936.

Mr. COPELAND. Mr. President, will the Senator defer his suggestion on that for just a moment?

Mr. BARKLEY. Certainly.

Mr. COPELAND. I call attention to page 77, the proviso on line 13, running to the end of line 20. That is a repetition of language found in an earlier part of the bill and I ask that the proviso at this point be stricken out.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 77, line 13, after the word "Army" and the colon, it is proposed to strike out the following proviso:

> *Provided further*, That, effective July 1, 1937, the board of commissioners of the home may prescribe the duties to be performed and fix the compensation to be paid for personal services rendered by hospital orderlies and member employees of the home without regard to the provisions of the Classification Act, 1923, as amended, or any other law relating to payment for personal services.

The amendment to the amendment was agreed to.

Mr. BARKLEY. Mr. President, I was interested to know whether I had properly interpreted the language of the bill

on pages 74 and 75. On page 74 the committee recommends the appropriation of $60,000,000 to begin the construction of certain flood-control projects authorized in the act of 1936, and also authorizes the Chief of Engineers to enter into contracts prior to July 1, 1938, up to the amount of $38,000,000. So that the committee is authorizing the expenditure and the contracting of an amount equal to $98,000,000 under the act of 1936.

The committee provides that if the President shall, out of the relief funds, allocate any amount to that work under the act of 1936, this appropriation shall be reduced by whatever amount the President allocates, provided this appropriation shall not be less than $30,000,000.

In other words, if the President should allocate $30,000,000, then the total amount to be expended would be $60,000,000—$30,000,000 out of this appropriation and $30,000,000 out of his allocation. If he allocated more than $30,000,000, then the amount available for next year would be $60,000,000 plus whatever more than $30,000,000 he allocated in addition to the $38,000,000 that might be contracted for.

Mr. COPELAND. Yes.

Mr. BARKLEY. So that clears up the matter so far as the act of 1936 is concerned.

Mr. COPELAND. I may say to the Senator that the discussion on the floor of the House made it quite clear, in the words of Mr. RAYBURN, that in all probability the President would allocate $11,000,000 more than the $30,000,000 which we speak of to cover certain unauthorized projects, particularly at Paducah and some other points in Kentucky.

Mr. BARKLEY. That probably is not under the appropriation of the $60,000,000. That comes in on page 75, where provision is made for flood control on the Mississippi River and its tributaries.

Mr. COPELAND. Yes.

Mr. BARKLEY. Forty-five million dollars is appropriated there, and authority is given for additional contracts in an amount not in excess of $10,000,000; and the same provision is made as to any allocation out of relief funds, with the exception that the minimum appropriation, no matter how much the President may allocate, is twenty-two and one-half million dollars.

Mr. COPELAND. That is correct.

Mr. BARKLEY. I wish to inquire of the Senator what information he has to the probable amount. No one, of course, can commit the President on that subject, and no one would attempt to do so; but if the Senator has any information as to the probable amount that is running in the mind of the President, or if anybody knows what he probably will do in that regard, I should like to have the Senator state it, if it is not confidential information.

Mr. COPELAND. I have no confidential information. Mr. RAYBURN in the House made certain statements. I should think the Senator who addressed the question to me perhaps would be better qualified to answer the question than I am.

Mr. BARKLEY. Far from it.

Mr. COPELAND. As I understood Mr. RAYBURN's statement, it was to this effect: In view of the floods in the Ohio and Mississippi River Basins quite a large sum of money was earmarked for flood control, and Mr. RAYBURN stated that he had no doubt that the amount which would be allocated for emergency relief would be at least $30,000,000 for the so-called Copeland bill, and twenty-two and one-half million dollars for the Overton bill, and then eleven or twelve million dollars for unauthorized projects.

Mr. BARKLEY. Yes; projects made necessary by reason of the recent floods.

Mr. COPELAND. Projects made necessary by reason of the experience of the recent floods.

Mr. BARKLEY. And none of which is authorized, and none of which may be authorized by the acts passed at this session.

Mr. COPELAND. That is correct.

Mr. BARKLEY. So, if all of that should happen, there would be not less than $60,000,000 to spend under the Copeland Act, and not less than $45,000,000 under the Overton Act, with possibly $11,000,000 or $12,000,000 for projects unauthorized in either act, growing out of the recent floods in the Ohio Valley.

Mr. COPELAND. And in addition to what the Senator has said, the contractual obligation under the Copeland Act of $38,000,000, and $10,000,000 under the Overton Act.

Mr. BARKLEY. Yes.

Mr. CLARK. Mr. President, I should like to ask the Senator what his construction of this language would be with regard to the particular situation which has arisen as the result of the flood of this year.

The Senator will recall that the so-called Bird's Point-New Madrid spillway was originally constructed for the protection of Cairo, Ill., not for the protection of any of the people on the Missouri side of the river. The understanding was that it was to be a fuse-plug levee, which would automatically be blown when it had reached a certain point, and therefore the act authorized only the acquisition of flowage rights by the United States Government. Under the contention made by the Corps of Engineers, the damages to these flowage rights were held down to the absolute minimum.

In the tremendous floods of this year, not only for the protection of Cairo, Ill., but for the protection of the lower river, the Army engineers did not wait for the situation to occur which had been contemplated, that the levee should automatically go out, but ordered the dynamiting of the levee, and inundated the whole territory, and drove the people out of their homes. Shortly thereafter there was a recurrence of the flood in the Ohio Valley, and the Army engineers again ordered the people out of their homes after they had come back and had just begun to plant their crops.

In line with the recommendations of the Army engineers contained in the bill pending in the House as to future projects of that sort, it seems that it should be the policy of the Government in future cases to acquire this land in fee; but, in view of the fact that the lands have already been practically ruined, would this provision for projects not specifically authorized cover the acquisition in fee of lands in the Bird's Point-New Madrid Spillway? I may say that it is my purpose to offer a substantive amendment to that effect when the bill comes over from the House.

Mr. COPELAND. Mr. President, the man best qualified to answer that question is the Senator from Louisiana [Mr. OVERTON]. I will say, in justice to the committee, that the matter was very thoroughly discussed in the committee. While I do not always believe everything I read in the newspapers, there was a statement in the press to the effect that the President gave the impression to the newspaper men that this land should be acquired in fee.

Mr. CLARK. Mr. President, the reference was in the report of the Chief of Engineers, as I recall, to the House committee. That had to do with the Morganza and Eudora spillways, and these other settlements on the lower river. But in those cases the people have already been driven out of their homes by the action of the Army engineers, undoubtedly in the public welfare, but in absolute contravention of the terms by which the flowage rights were acquired; and it seems only just that the Government should purchase those lands in fee.

Mr. COPELAND. Of course, there is another question involved there which the Senator from Louisiana will discuss, and that is the effect upon the State of Louisiana and its various parishes if all that land is taken off the tax list.

A very dramatic thing happened in connection with the flood at Cairo. The Army engineers made every effort to evacuate the territory in the flood area, but it could not do so in time to make certain that all the residents were out; and even though they were under the impression that there were 200 persons left in the possibly flooded area, they felt it wise to dynamite the levees and let the water in.

Mr. CLARK. Of course, the point is that they had no authority whatever to dynamite the levee. The levee, under the law, was constructed for the purpose of being a fuse plug which would go out automatically when the river had reached a certain point. I make no criticism of the course

the Army engineers pursued, but the Army engineers did not wait for the situation contemplated by law to arise. They proceeded to dynamite the levee. Unfortunately, several persons were drowned.

I am not now discussing whether any responsibility can be laid at the doors of the Army engineers for the lives being lost. What I am saying is that under the policy pursued by the Army engineers under the authority of the Government, an entirely different situation has arisen as to the use made of the land by the Government.

Mr. COPELAND. I am going to ask the Senator from Louisiana [Mr. OVERTON] to take up the discussion of the subject in detail.

Mr. LODGE. Mr. President——

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

Mr. COPELAND. I yield.

Mr. LODGE. Am I correct in my assumption that the flood-control section, beginning on page 73 of the bill, which makes provision for the appropriation of $60,000,000 and $38,000,000, takes in the flood-control work in the Merrimack and Connecticut River Basins?

Mr. COPELAND. I am glad to say that it does. The project in this division of the bill, if it shall be adopted by the Congress, will take care of the reservoirs in the Merrimack River Basin, the reservoirs in the Connecticut River Basin in Vermont, New Hampshire, Massachusetts, and Connecticut; will take care of reservoirs and channel enlargements in southern New York and eastern Pennsylvania, the Susquehanna Basin levees for protection of Williamsport, Pa., the Potomac River Basin levees for protection of cities, the Tar River channel clearing, the Savannah River levee at Augusta, Ga., the Mobile River Basin, Buffalo River, Miss., Red River Basin, Ouachita River Basin, Arkansas River Basin, White River Basin, upper Mississippi and Illinois Rivers, reservoir system for the protection of Pittsburgh, Wabash River, Cumberland River, Kansas River Basin, Cheyenne, Yellowstone, and Milk Rivers, Los Angeles and San Gabriel Rivers, Santa Ana River, Columbia River Basin, Willamette River, Puyallup River, Umatilla River, Lewis River, Stilaguamish River, Cowlitz River, and various surveys.

I have purposely read the list, because I thought someone else might ask a question relating to some river or projects involved. It does take care of the projects to which the Senator from Massachusetts has referred.

Mr. McKELLAR. Mr. President, the Senator referred to the upper Mississippi. Where does that begin in accordance with the Senator's understanding?

Mr. COPELAND. I suppose it begins at Cairo.

Mr. McKELLAR. What about the Mississippi River below Cairo?

Mr. COPELAND. That is all taken care of in the other bill which the Senator from Louisiana [Mr. OVERTON] will discuss.

Mr. BONE. Mr. President, I do not have before me a copy of the flood-control bill of last year. The bill now before us does not carry definite allocations of money for the projects which the engineers mention in their testimony, and the text of the bill is not an appropriation or allocation of money. What is there in the wording of the law itself that will require the engineers to do the things which they discussed in their testimony?

Mr. COPELAND. The Senator will find, in the hearings before the Senate Committee on Appropriations, with reference to the War Department appropriation bill, a list of the projects which will be carried on if $98,000,000 is made available. Those projects will be found on pages 197 and 198 of the Senate committee hearings.

The lower Mississippi begins at Cairo, I may say to the Senator from Tennessee.

Mr. BONE. As I said, I do not have last year's flood-control bill before me. I have forgotten whether it contains a provision that the engineers themselves shall lay out the projects as they determine upon their advisability and feasibility, and that they shall have authority to spend the money as indicated on page 198 of the committee hearings to which the Senator has just called my attention.

Mr. COPELAND. Under the law the President has the final say about it, but the projects will be carried out exactly in harmony with the list I read a moment ago. We discussed that matter, as the Senator will find if he will read the hearings. During the next year projects to the amount of $60,000,000 will be completed and other projects to the amount of $38,000,000 will be begun. Of course, the determination of priority will be made by the Army engineers, I suppose, upon consultation with the President.

Mr. BONE. Assuming $60,000,000 is appropriated in this bill, is it also a fair assumption that the projects listed on page 198 of the committee hearings will be undertaken within the fiscal year?

Mr. COPELAND. Yes.

Mr. BONE. I have referred to this because the list contains the names of four rivers in Washington.

Mr. COPELAND. Yes. The Senator will observe that had we not taken the course we have taken, and unless the Congress should appropriate the money, the projects on these rivers would not be undertaken this year.

Mr. BONE. The only one contemplated for first-year development is Puyallup.

Mr. COPELAND. Yes; but if the bill passes in its present form, everything contemplated for the first and second years, as set forth in the first two columns, will be undertaken at once.

Mr. BONE. That is to say, if $60,000,000 is carried in the bill?

Mr. COPELAND. That is correct.

Mr. BARKLEY. Mr. President, the Senator has just given the information I wanted. Some of the items in the column marked "second year" have no corresponding sum in the first year, so that, regardless of that, they would be begun during the first year under the $60,000,000 appropriation. Is that correct?

Mr. COPELAND. That is correct. Under this appropriation as planned, everything in the first and second years will be begun.

Mr. OVERTON. Mr. President, in reference to the suggestion made by the Senator from Missouri [Mr. CLARK] as to the acquisition in fee simple of lands in floodways, I may say that the Overton Act does not provide or contemplate that any of the land shall be acquired in fee simple.

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

Mr. OVERTON. Certainly.

Mr. CLARK. I am perfectly aware of that. I understand that under the Jadwin Act the language was construed in a very different way than was contemplated when the act was passed. That is the point I was making.

Mr. OVERTON. It is my understanding that neither under the act of May 15, 1928, referred to as the Jadwin Act, nor under the Overton Act, is it contemplated that the land in the Birds Point floodway shall be acquired in fee simple.

Mr. CLARK. I had no idea that the act provided that it should be acquired in fee simple. The act specifically provided that it should be acquired for use in a particular way. The land has been used in a very different way and the suggestion is made that in justice to the owners of the land the Congress should provide that the land shall be acquired in fee simple.

Mr. OVERTON. It is possible that the position taken by the Senator from Missouri may be correct, but, in order to accomplish that purpose, there would have to be legislation and the act of May 15, 1928, would have to be amended or some independent bill would have to be enacted into law providing for the acquisition, in fee simple, of the lands in the Bird's Point-New Madrid floodway. As the law now stands, there is no authority vested in the Secretary of War or the Chief of Army Engineers to acquire any of the land in fee simple in the Bird's Point-New Madrid floodway.

The appropriation bill now before us does not contemplate that any of the sums appropriated shall be used for the acquisition of any of those lands in any of the floodways under either the act of May 15, 1928, or the act of June 15, 1936, or that they shall be acquired in fee simple.

It is simply an appropriation to carry into execution the existing law, and that would be to acquire flowage easements in the Eudora floodway, in the West Atchafalaya floodway and in the floodway east of the Atchafalaya River known as the Morganza floodway.

I shall be very glad to answer any questions in reference to this appropriation that the Senator may address to me, or to furnish any information I can supply regarding it.

Mr. COPELAND. Mr. President, I take it the Senator from Louisiana would consider it a misfortune if, at this stage of the negotiations, any effort were actually made to acquire a fee-simple title.

Mr. OVERTON. It would indeed be very unfortunate.

Mr. COPELAND. I think so.

Mr. CLARK. Mr. President——

Mr. OVERTON. Before I yield further, let me say, in answer to the Senator from New York, that the floodways contemplated in southeastern Arkansas and in Louisiana embrace, in round figures, about a million acres of land. The Eudora floodway, starting in southeastern Arkansas, has a width of approximately 10 miles, and has a length of approximately 100 miles. Starting in southeastern Arkansas, it runs down through Louisiana into the Red River backwater area. If the Government should acquire the ownership of the eight-hundred-and-some-odd thousand acres embraced in the Eudora floodway alone, all that property would be taken off the assessment rolls, and would not be subject to State taxation or to local taxation.

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

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

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

Mr. ROBINSON. Much of the land is in a very high state of cultivation, and if the Government should acquire the land it would be difficult to conceive what use the Government could make of it other than for flood purposes. It is expected that these lands will continue to be cultivated; in fact, the greater portions of them have been cultivated for many, many years, and they can be cultivated in the future. Even after the establishment of this floodway, there will be periods and years when the lands will not be valuable for crop raising by reason of the floods; but in other years, when the floods do not come, they may still be used by their owners as they are now used.

I agree with the Senator from Louisiana that it would be impracticable, and would raise a new and very large issue, to provide now for the acquisition of titles in fee simple. The proposal is to acquire easements or flowage rights; and, of course, that represents a very material difference in value from that which would be involved if the fee-simple title were to pass to the Government.

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

Mr. OVERTON. I yield.

Mr. CLARK. The Senator from Arkansas, I believe, happened to be out of the Chamber when the matter was brought up. The point I was raising had nothing to do with the flowage rights of the lower spillways but was confined entirely to the so-called Birds Point-New Madrid spillway, which was not created by the Government for the protection of the lands contained in the spillway, or even in the vicinity of the spillway. It was constructed by the Government for the protection of Cairo, Ill., on the other side of the river, and the lower river. The contemplation of the act was that that was to be a "fuse plug" levee which was only to be put in operation when the river reached a certain height, and then the fuse plug would necessarily go out.

In view of the unprecedented flood in the Ohio Valley this year, the Government engineers did not wait for the "fuse plug" point to be reached. They did not wait to see whether, under the terms contemplated in the act, it was necessary. They dynamited the levee. A number of persons in the area covered by the spillway lost their lives. Their property was almost completely devastated. Then a few weeks later, when the survivors were going back there and endeavoring to rehabilitate their land, a secondary flood came down the Ohio Valley, still having nothing to do with the people connected with that spillway, and the Army engineers again ordered them out of their homes.

If the spillway is to be put to that extraordinary use, I say the Government ought to acquire it in fee simple, instead of acquiring in the courts of the country at a very low rate flowage rights for an entirely different situation.

I realize that a provision of this sort is subject to a point of order on the pending bill, and I merely injected the question in connection with the discussion of the problematic development of the flood situation. I propose to offer an amendment on the subject to the very first bill that comes over from the House having to do with flood control. This seems to me to be an extraordinary situation, but one in which the Government, while possibly acting in the general public interest, certainly has done a very grave injustice to the people having homes in the spillway.

Mr. ROBINSON. Mr. President, in view of the statement made by the Senator from Missouri, and some facts which I learned from press reports during the flood, I think this is a subject which may very well receive consideration. I do not understand that the Senator from Missouri contemplates offering an amendment to this bill, however.

Mr. CLARK. No; I am aware that such an amendment would be subject to a point of order.

Mr. OVERTON. Mr. President, I realize that there is quite a difference between the Bird's Point-New Madrid floodway, so-called, and such a floodway as the Eudora floodway. The Bird's Point-New Madrid floodway is simply a little detour where the water is taken from the Mississippi River, as the Senator from Missouri has well said, in order to relieve the situation at Cairo; and, after being taken from the river, a few miles farther down it empties back into the Mississippi River. The floodway is intended for temporary relief and for local relief, and does not affect, to any extent, the stage of the Mississippi River either above or below it.

Mr. CONNALLY. Mr. President——

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

Mr. OVERTON. I yield.

Mr. CONNALLY. I should like to ask the Senator from Louisiana about the flood-control provision of the bill on page 75, relating to the Mississippi River and its tributaries. Of course, this is merely an appropriation to carry on the authorization in existing law, as I understand, within the Mississippi River tributaries.

Mr. OVERTON. That is all.

Mr. CONNALLY. Does it include the Red River and the Arkansas River?

Mr. OVERTON. No; it does not, except up to a certain point. On the south bank of the Arkansas, the levee comes within the provisions of what might be called the lower Mississippi River Valley or flood-control legislation. Those tributaries come under the lower Mississippi Valley legislation only insofar as the Mississippi River itself affects those tributaries. The legislation does not go to the upper reaches of the Arkansas, nor to those of the Red.

Mr. CONNALLY. It would not refer in any wise, then, to the proposed dam on the Red River near Denison, Tex.?

Mr. OVERTON. No; that would come more properly under the omnibus flood-control bill, if approved. The dams and reservoirs on the upper tributaries were taken care of under the Copeland bill. The Overton Flood Control Act relates to the Mississippi Valley proper, and to those portions of the tributaries in the lower reaches that are directly influenced by the Mississippi waters.

Mr. CONNALLY. I thank the Senator.

Mr. ROBINSON. Mr. President, there is a provision in this committee amendment repealing the authorization of a portion of the capitalization of the Inland Waterways Corporation. Will the Senator state the justification for that provision? Section 2 on page 82 reads:

Three million dollars of the appropriation, "Capital stock, Inland Waterways Corporations", are hereby repealed.

Mr. COPELAND. Mr. President, the story about that, as I understand, is this: The Inland Waterways Corporation have a larger reserve than they need, and this is to give them authority to get rid of it. The provision has no relationship to building the new ships, which are to be constructed out of other funds.

Mr. ROBINSON. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee known as title II, as amended.

The amendment, as amended, was agreed to.

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

The next amendment was, on page 83, after line 9, to strike out:

SEC. 4. This act may be cited as the Military Appropriation Act, 1938.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is still before the Senate and open to amendment.

Mr. COPELAND. Mr. President, I send to the desk an amendment, which I offer and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 74, after line 26, it is proposed to insert the following:

The act entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 22, 1936, is hereby amended by adding to the first paragraph of section 5 a proviso reading as follows: *"Provided further,* That the Secretary of War is authorized to receive from States or political subdivisions thereof, such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized flood-control work whenever such work and expenditure may be considered by the Secretary of War, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of War, on recommendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *And provided further,* That when contributions made by States, or political subdivisions thereof, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of War, be returned to the proper representatives of the contributing interests."

Mr. COPELAND. Mr. President, the significance of that amendment is, as follows, to give a specific example:

The city of Oklahoma City desires to take advantage of what the Goverment is doing in the way of building a flood-control reservoir above the city.

It desires to contribute $2,000,000 in order to increase the height of the dam, and then make use of the additional water in the mill pond for purposes of supplying the city with potable water. The Army engineers stated to us that there are some other similar instances. Of course, there is no added expense to the Federal Government, and there is no loss of efficiency by reason of the development of the project; but the project is enlarged in order that the surplus water may be used, and I think the amendment should be adopted.

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

The amendment was agreed to.

Mr. COPELAND. Mr. President, I send forward two amendments, which ought not to be necessary because we have passed in the Senate legislation covering both matters, but we did not have the language at the time the bill was written, and therefore I ask that the bill be amended by the insertion of the language which I send to the desk.

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

The LEGISLATIVE CLERK. On page 16, line 4, after the word "Department", to insert a colon and the following additional proviso:

Provided further, That the appropriation "Travel of the Army" current at the date of relief from duty station of personnel traveling under orders shall be charged with all expenses properly chargeable to such appropriation in connection with the travel enjoined, including travel expenses of dependents, regardless of the dates of arrival at destination of the persons so traveling.

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

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second amendment sent forward by the Senator from New York.

The LEGISLATIVE CLERK. On page 10, line 18, after the numerals "$34,843,745", to insert a colon and the following proviso:

Provided, That on and after July 1, 1937, there shall be authorized 1,083 officers of the Medical Corps and 208 officers of the Dental Corps, notwithstanding the provisions of the act of June 30, 1922 (42 Stat. 721), and the authorized commissioned strength of the Army is hereby increased by 75 in order to provide for the increase herein authorized in the number of officers in the Medical Corps and the Dental Corps.

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

The amendment was agreed to.

Mr. COPELAND. I ask unanimous consent that the clerks be authorized to correct the totals in the bill.

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

Mr. COPELAND. I move that the title be amended.

The PRESIDING OFFICER. The Chair suggests to the Senator that that motion will properly come after the passage of the bill.

Mr. FRAZIER. Mr. President, I send an amendment to the desk which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 63, line 20, after the words "Officers' Training Corps", it is proposed to insert the following:

Provided further, That none of the funds appropriated in this act shall be used for or toward the support of any compulsory military course or military training in any civil school or college, or for the pay of any officer, enlisted man, or employee of any civil school or college which suspends, expels, or otherwise penalizes students who, because of conscientious convictions or because of religious beliefs, object to enrollment in a course in military training; but nothing herein shall be construed as applying to essentially military schools or colleges.

Mr. COPELAND. Mr. President, will the Senator yield for just a moment? The Senator from Mississippi wishes to ask a question.

Mr. FRAZIER. I yield.

Mr. BILBO. I desire to ask the Senator from New York a question about the sums designated in the bill for rivers and harbors and other projects. I am keenly interested in knowing just how this amount was arrived at because I am interested in some authorizations affecting my State contained in the bill passed in 1936.

Mr. COPELAND. Mr. President, I may say to the Senator that he can thank God and take courage, because there is an appropriation of $131,000 for the Tombigbee River, an appropriation for the Yazoo River, as well as appropriations for the Tallahatchie and the Big Sunflower Rivers. Besides that, the Army engineers have made a favorable report to the House on Pearl River. General Pillsbury has promised that in the work of this year the Pearl River project will be undertaken.

I may say to the Senator from North Dakota that unless he cares to go on we are willing to go over now until tomorrow. It is wholly in his hands.

Mr. FRAZIER. Mr. President, I would rather have a recess until tomorrow. It is now a quarter past 5, and I should like to speak for 15 or 20 minutes on the amendment I have offered, and I assume others will also desire to discuss the amendment.

Mr. COPELAND. I leave it in the hands of the leader on this side.

Mr. HARRISON. Mr. President, is this the last amendment to be offered, so far as the Senator in charge of the bill knows?

Mr. COPELAND. Yes; it is, so far as I know.

Mr. OVERTON. Mr. President, I have an amendment which I expect to offer.

Mr. HARRISON. About how long will it take? There is a joint resolution extending certain taxes which must be passed at a very early date. I had hoped that the pending bill would be out of the way in 2 or 3 hours, as I had been informed it would be, and I was wondering about how long the pending amendment would take tomorrow before we could proceed with the other matter.

Mr. AUSTIN. Mr. President, I have but recently read the draft of the amendment proposed by the Senator from North Dakota. It is my impression that it is controversial, and, of course, I cannot say who else may desire to discuss it, but I must give notice that I shall discuss it. It is a matter which will probably take an hour, unless general discussion ensues.

Mr. COPELAND. Mr. President, I suggest to the Senator from Arkansas that perhaps the Senate had better take a recess until tomorrow.

Mr. HARRISON. I shall raise no objection, except that if the debate is to be prolonged I shall have to ask the Senator in charge of the bill to consent to it being set aside so as to take up the measure I have suggested.

Mr. ROBINSON. Mr. President, I am satisfied consideration of the bill will be concluded within a comparatively short time. All amendments, except possibly that of the Senator from North Dakota and the amendment which the Senator from Louisiana will propose, have been acted upon.

Mr. LA FOLLETTE. Mr. President, in view of the statement of the Senator from Mississippi that he intends to ask that the joint resolution extending the excise taxes be taken up, and in view of the further fact that I intend to offer certain amendments to the joint resolution proposing to increase the individual income-tax rates, I ask unanimous consent to have inserted in the RECORD at this point a table which may be of some help in discussing my amendment tomorrow. I ask to have it printed in the RECORD so that Senators may readily refer to it.

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

Income tax, individual—Comparison of total tax payable on specimen net income by a married person without dependents and entitled to the maximum earned-income allowance under existing United States and British laws and La Follette plans

Net income	Existing law	Plan no. 1[1]	Plan no. 2[2]	Plan no. 3[3]	Plan no. 4[4]	Great Britain
$1,000	0	0	0	0	0	
$1,500	0	0	0	0	0	$25.00
$2,000	0	0	0	0	0	62.50
$2,500	0	$10	0	$5	$5	162.50
$3,000	$8	28	$8	18	18	262.50
$4,000	44	64	44	54	54	462.50
$5,000	80	100	80	90	90	662.50
$6,000	116	176	136	166	126	862.50
$7,000	172	272	222	262	202	1,062.50
$8,000	248	368	318	358	278	1,287.50
$10,000	415	600	540	590	470	1,787.50
$12,000	602	872	802	862	702	2,397.50
$14,000	809	1,184	1,104	1,174	974	3,028.13
$16,000	1,044	1,544	1,454	1,534	1,294	3,706.88
$18,000	1,299	1,944	1,844	1,934	1,654	4,426.88
$20,000	1,589	2,384	2,274	2,374	2,054	5,146.88
$25,000	2,489	3,664	3,524	3,654	3,234	7,221.88
$30,000	3,569	5,124	4,969	5,114	4,594	9,434.38
$40,000	5,979	8,404	8,234	8,394	7,674	14,134.38
$50,000	8,869	12,224	12,024	12,214	11,334	19,384.38
$60,000	12,329	16,544	16,324	16,334	15,414	24,909.38
$70,000	16,449	21,264	21,024	21,254	19,934	30,434.38
$80,000	21,269	26,384	26,124	26,374	24,854	36,096.88
$100,000	32,469	37,824	37,524	37,814	35,894	47,696.88
$150,000	63,394	68,784	68,474	68,774	65,854	78,071.88
$200,000	95,344	100,744	100,424	100,734	96,814	109,821.88
$300,000	162,244	167,664	167,324	167,654	161,734	174,696.88
$500,000	304,144	309,584	309,224	309,574	299,654	307,196.88
$1,000,000	679,044	684,504	684,124	684,494	664,574	638,446.88
$2,000,000	1,449,019	1,454,484	1,454,099	1,454,474	1,424,534	1,300,946.88
$5,000,000	3,788,994	3,794,464	3,794,074	3,794,454	3,764,494	3,288,446.88
$10,000,000	7,738,969	7,744,444	7,744,049	7,744,434	7,714,474	6,600,946.88
$20,000,000	11,688,969	15,644,444	15,644,049	15,644,434	15,614,474	13,225,946.88

[1] New surtax schedule, applying to surtax net incomes in excess of $3,000 (see attached amendment); personal exemptions reduced $500 for married persons and $200 for single persons.

[2] Same surtax schedule as in plan no. 1; personal exmptions as in existing law.

[3] Same surtax schedule and personal exemptions as in plan no. 1; normal tax rates are 2 percent on the exemption reduction and 4 percent on the balance.

[4] Same personal exemptions and normal tax rates as in plan no. 3; new surtax schedule, applying to net incomes in excess of $4,000. (See attached amendment.)

PAYMENT TO SIOUX INDIANS OF THE PINE RIDGE RESERVATION

Mr. THOMAS of Oklahoma. Mr. President, a few days ago the Senate passed Senate bill 2556, to authorize an appropriation to carry out the provisions of the act of May 3, 1928. The bill was introduced by the Senator from South Dakota [Mr. BULOW]. It went to the House, and at a later date the House passed an identical bill, House bill 7328. In order to simplify the RECORD, I ask that the Senate proceed to the consideration of House bill 7328.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (H. R. 7328) to authorize an appropriation to carry out the provisions of the act of May 3, 1928 (45 Stat. L. 484), and for other purposes, which was read the first time by title and the second time at length, as follows:

Be it enacted, etc., That an appropriation is hereby authorized in the sum of $79,038 to pay various Sioux Indians of the Pine Ridge Reservation, S. Dak., the amounts which have been awarded to them by the Secretary of the Interior under the act of May 3, 1928 (45 Stat. L. 484), on account of allotments of land to which they were entitled but did not receive: *Provided*, That the Secretary of the Interior is authorized and directed to determine what attorney or attorneys have rendered services of value in behalf of said Indians and to pay such attorney or attorneys on such findings when appropriation is available the reasonable value of their services, not to exceed 10 percent of the recovery on each individual claim, which payment shall be in full settlement for all services rendered by the attorney or attorneys to the claimants in such claim.

The bill was ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Megill, one of its clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 102) to authorize the coinage of 50-cent pieces in commemoration of the seventy-fifth anniversary of the Battle of Antietam, and it was signed by the President pro tempore.

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 REPORTS OF COMMITTEES

Mr. HARRISON, from the Committee on Finance, reported favorably the nomination of Marion H. Allen, of Milledgeville, Ga., to be collector of internal revenue for the district of Georgia, in place of William E. Page, resigned.

Mr. HUGHES, from the Committee on the Judiciary, reported favorably the nomination of Charles Harwood, of Rye, N. Y., to be United States district judge of the Canal Zone, vice Richard C. P. Thomas, whose term has expired.

Mr. WALSH, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers for promotion in the Marine Corps; and also the nominations of sundry noncommissioned officers and citizens for appointment as second lieutenants in the Marine Corps, revocable for 2 years, from the 1st day of July 1937.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nomination of Vera P. Ramsey to be postmaster at Pinconning, Mich., in place of W. P. Hartingh.

The PRESIDING OFFICER (Mr. McGILL in the chair). The reports will be placed on the Executive Calendar.

If there be no further reports of committees the calendar is in order.

THE JUDICIARY

The legislative clerk read the nomination of Frank LeBlond Kloeb to be United States district judge for the northern district of Ohio.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

UNITED STATES ATTORNEYS

The legislative clerk read the nomination of Jim C. Smith to be United States attorney for the northern district of Alabama.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George Earl Hoffman to be United States attorney for the northern district of Florida.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of T. Hoyt Davis to be United States attorney for the middle district of Georgia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBINSON. I ask unanimous consent that the remaining nominations of United States attorneys on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the remaining nominations of United States attorneys are confirmed en bloc.

UNITED STATES MARSHALS

The legislative clerk read the nomination of Edward B. Doyle to be United States marshal for the middle district of Georgia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Al W. Hosinski to be United States marshal for the northern district of Indiana.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

FEDERAL POWER COMMISSION

The legislative clerk read the nomination of John W. Scott, of Indiana, to be a member of the Federal Power Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MINTON. I ask unanimous consent that the President may be notified of the confirmation of the nomination of John W. Scott, of Indiana, to be a member of the Federal Power Commission, in order that his term of office may begin tomorrow, in view of the fact that his predecessor's term expires today.

The PRESIDING OFFICER. Without objection, the President will be notified.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk read the nomination of John W. Bailey, Jr., of Texas, to be Foreign Service officer of class 5, a consul, and a secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George Gregg Fuller, of California, to be Foreign Service officer of class 5, a consul, and a secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. ROBINSON. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That concludes the Executive 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 5 o'clock and 21 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, June 23, 1937, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22 (legislative day of June 15), 1937

DIPLOMATIC AND FOREIGN SERVICE

John W. Bailey, Jr., to be a Foreign Service officer of class 5, a consul, and a secretary in the Diplomatic Service of the United States of America.

George Gregg Fuller to be a Foreign Service officer of class 5, a consul, and a secretary in the Diplomatic Service of the United States of America.

UNITED STATES DISTRICT JUDGE

Frank LeBlond Kloeb to be United States district judge for the northern district of Ohio.

UNITED STATES ATTORNEYS

Jim C. Smith to be United States attorney for the northern district of Alabama.

George Earl Hoffman to be United States attorney for the northern district of Florida.

T. Hoyt Davis to be United States attorney for the middle district of Georgia.

James R. Fleming to be United States attorney for the northern district of Indiana.

Val Nolan to be United States attorney for the southern district of Indiana.

Carl C. Donaugh to be United States attorney for the District of Oregon.

James A. Bough to be United States attorney of the Virgin Islands.

UNITED STATES MARSHALS

Edward B. Doyle to be United States marshal for the middle district of Georgia.

Al W. Hosinski to be United States marshal for the northern district of Indiana.

FEDERAL POWER COMMISSION

John W. Scott to be a member of the Federal Power Commission.

POSTMASTERS

COLORADO

Mary Burrous, Genoa.

INDIANA

Richard Chester Fields, Carbon.
Georgia M. Mougeotte, Lagro.
Eva M. Schantz, Lyons.
Harry W. Behlmer, Sunman.

MISSOURI

Egbert F. Arnold, Lewistown.

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 22, 1937

The House met at 12 o'clock noon.

The Reverend Simpson B. Daugherty, D. D., National Memorial United Brethren Church, Washington, D. C., offered the following prayer:

Our gracious Father-God, we approach Thee in humility and contrition to thank Thee for another day which marks a new beginning of life, for we realize that each day the world is made anew. We adore Thee for Thy presence. Thou dost ever stand amid the shadows keeping watch above Thine own.

Give wisdom and understanding to these Thy children who have upon their hearts the best interests and welfare of our Nation. May they have light and guidance from above. Give us sympathetic discernment of their desire to do that which shall be pleasing in Thy sight. May this session of our Congress light the torch that shall guide us into prosperity and happiness.

May we not complain, but may we proclaim the everlasting power of a supreme God. May we bring the hand

of the Great Physician to the fevered pulse of our times, so that the beauty of holiness shall dwell in our hearts and under the mastery of the Master we shall usher in the reign of righteousness and peace.

And in His name we ask it. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate insists upon its amendments to the bill (H. R. 458) entitled "An act for the relief of Eva Markowitz", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. ELLENDER, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 730) entitled "An act for the relief of Joseph M. Clagett, Jr.", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. HUGHES, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 1377) entitled "An act conferring jurisdiction upon the United States District Court for the Southern District of Ohio to hear, determine, and render judgment upon the claims of Walter T. Karshner, Katherine Karshner, Anne M. Karshner, and Mrs. James E. McShane", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. BROWN of Michigan, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 1945) entitled "An act for the relief of Venice La Prad", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. ELLENDER, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 2332) entitled "An act for the relief of William Sulem", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. LOGAN, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 2562) entitled "An act for the relief of Mr. and Mrs. David Stoppel", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. LOGAN, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 2565) entitled "An act to confer jurisdiction on the Court of Claims to hear, determine, and enter judgment upon the claims of contractors for excess costs incurred while constructing navigation dams and locks on the Mississippi River and its tributaries", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. BROWN of Michigan, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 3634) entitled "An act for the relief of Noah Spooner", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAILEY, Mr. ELLENDER, and Mr. CAPPER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H. R. 3687) entitled "An act to extend the period during which the purposes specified in section 7 (a) of the Soil Conservation and Domestic Allotment Act may be carried out by payments by the Secretary of Agriculture to producers."

The message also announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 415. Joint resolution making an appropriation to defray expenses incident to the dedication of chapels and other World War memorials erected in Europe, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 4. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the original Norfolk (Va.) land grant and the two hundredth anniversary of the establishment of the city of Norfolk, Va., as a borough; and

S. 102. An act to authorize the coinage of 50-cent pieces in commemoration of the seventy-fifth anniversary of the Battle of Antietam.

CHANGE OF REFERENCE

Mr. BLAND. Mr. Speaker, I ask unanimous consent that the bill (H. R. 7488) to provide funds for the initiation of a mapping program in the State of South Dakota be rereferred from the Committee on Merchant Marine and Fisheries to the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

Mr. BLAND. Mr. Speaker, I make a similar request in respect to the bill (H. R. 7476) to provide funds for the initiation of a mapping program in the State of Florida.

The SPEAKER. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on taxation evasion and to include therein excerpts from the statement of Elmer E. Irey, Chief of the Division of Intelligence of the Internal Revenue Department.

The SPEAKER. Is there objection?

There was no objection.

Mr. SMITH of Washington. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an address which I delivered at memorial exercises held in the Capitol under the auspices of the United Spanish War Veterans, and also an address which I delivered at a joint meeting of the veterans' organizations at Norfolk, Va.

The SPEAKER. Is there objection?

There was no objection.

TRANSPOLAR FLIGHT

Mr. SMITH of Washington. Also, Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. SMITH of Washington. Mr. Speaker, on Sunday at 11:22 o'clock in the forenoon the three triumphant Russian aviators, linking the Union of Soviet Republics of Russia with the Republic of the United States by air in a nonstop flight over the North Pole from Moscow, after traversing 5,520 miles of dangerous country in 63 hours and 17 minutes of flying, made a safe landing at the Vancouver Army air field at Vancouver, Wash., in my district. Vancouver is a thriving, progressive city, located at the head of deep-water navigation on the Columbia River, and is 4 miles above the mouth of the Willamette River and 39 miles from the great Bonneville Dam project on the Columbia River.

Chief Pilot Valeria Chkaloff, Copilot George Baiudkoff, and Navigator Alexander Beliakoff brought their huge monoplane down at 8:22 a. m. Pacific standard time—11:22 a. m. eastern standard time. They were the guests of Brig. Gen. and Mrs. George C. Marshall at Vancouver Barracks, an historic spot. Old Fort Vancouver, established by British forces in 1825, when it was an important station of the Hudson's Bay Co., is the oldest continuous settlement of the white race in the territory that now comprises the State of Washington. Early in their military careers, both Gens. George B. McClellan and Ulysses S. Grant were stationed at Fort Vancouver.

President Franklin D. Roosevelt and Secretary of State Cordell Hull hailed the Soviet transpolar flight in messages to Russian Ambassador Alexander Troyanovsky.

In a telegram to the Soviet envoy at Vancouver, President Roosevelt said:

I have learned with the greatest pleasure of the successful conclusion of the first nonstop flight from the Soviet Union to the United States.

The skill and daring of the three Soviet airmen who have so brilliantly carried out this historic feat command the highest praise. Please convey to them my warmest congratulations.

Secretary Hull wired:

Please accept my most hearty congratulations upon the successful termination of the hazardous flight of three Soviet airmen from Moscow to the United States over the North Pole. Will you express to them my warmest admiration for their splendid achievement?

The United States Embassy at Moscow was instructed to deliver appropriate felicitations to the Soviet Government.

LOG OF POLAR FLIGHT

(Time is eastern standard)

THURSDAY, JUNE 17

8:05 p. m. Russian-built monoplane bearing three "Soviet heroes" hopped from Moscow on projected 6,000-mile transpolar flight to San Francisco Bay.

FRIDAY, JUNE 18

5:00 p. m. Reported "all well" and flight proceeding normally.
8:00 p. m. William E. Gillmore, National Aeronautics Association agent, estimated plane was 550 miles from the North Pole. Ice formed on wings as plane approached polar region.

SATURDAY, JUNE 19

12:10 a. m. Plane passed North Pole.
3:20 a. m. "Everything all right" as plane reached point 320 miles beyond pole on North American side.
3:25 p. m. Fliers reported position 100 miles south of Fort Norman, N. W. T., about 1,250 miles north of Edmonton, Alberta.
4:30 p. m. Flew over Fort Mackenzie.
11:40 p. m. Reported they had turned toward Pacific Coast from Great Slave Lake vicinity and were following British Columbia coast line to Seattle.

SUNDAY, JUNE 20

12:05 a. m. United States Signal Corps at Seattle said plane gave position over Queen Charlotte Islands, "Everything going well." Islands approximately 500 miles north of Seattle.
2:10 a. m. Asked Signal Corps station at San Francisco for weather report.
2:25 a. m. Reported they were 50 miles west of the north tip of Vancouver Island, approximately 1,130 miles from Oakland.
3:02 a. m. Messaged they might have to land between Seattle and San Francisco because of lack of fuel. Reported flying at height of about 13,000 feet.
3:53 a. m. Without giving position, fliers reported they were in clouds and heavy weather. They requested Air Commerce Station at Bellingham, Wash., to help plane get radio bearings.
11:00 a. m. Without giving position, fliers reported to United States Signal Corps headquarters at Seattle, Wash., "Pump does not work, will land."
11:22 a. m. Landed at Pearson Field, Vancouver Barracks, Wash.

EXTENSION OF REMARKS

Mr. MERRITT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a radio address I delivered on Sunday in connection with a resolution I introduced, and also to extend my remarks in regard to aviation reserves.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HEROISM OF BOY SCOUTS RICHARD CHRISTY AND BILL CHRISTY

Mr. MASSINGALE. Mr. Speaker, I ask unanimous consent to address the House.

The SPEAKER. Is there objection?

There was no objection.

Mr. MASSINGALE. Mr. Speaker, it is my pleasure to say a few words about the Boy Scouts of America apropos their coming to Washington within a few days for their national jamboree. Oklahoma is peculiarly interested in this jamboree by reason of unusual circumstances occurring in my district about a year ago. Two brothers there, Richard Christy and Bill Christy, sons of Mr. and Mrs. Barney E. Christy, of Granite, Greer County, Okla., recently received certificates of heroism for saving the lives of two girls last summer. The boys are 15 and 13 years of age, respectively, and are members of Troop No. 189, of Granite, Okla.

The brothers were not together at the time these lives were saved. The happenings were 1 day apart. The life of one girl was saved by Bill Christy on one day, and on the following day Richard Christy chanced to see a girl about to drown and plunged into the river and rescued her from drowning. The incidents are unusual in that each of the boys rescued a drowning girl 1 day apart in different bodies of water near their own home; and the awards are unusual in Scouting because the two recipients of these certificates are brothers.

In recognition of such distinguished conduct on the part of these young boys, the National Court of Honor of the Boy Scouts of America announced awards of certificates of heroism to these boys. My understanding is that on very few occasions has the Boy Scout organization given to brothers certificates of heroism for lifesaving at or near the same time. There were only seven Boy Scouts in the United States awarded these certificates during the year, and two of them came to the boys mentioned from my district. Naturally, I am proud that we have in the Seventh District of Oklahoma such boys as the Christy boys.

It goes without saying that this Scouting spirit will force itself into any community that can produce boys such as these. Scouting has made it possible for these boys to perform acts of heroism that will, in all probability, be to them an inspiration for great things in their future lives. These are just simply prairie boys, living in a small town in the right kind of environment, and directed by parents who are themselves teachers and believers in Scouting.

The incidents are so worthy of note that I feel impelled to ask the Congress to give to Richard Christy and Bill Christy, of Granite, Okla., this space in the CONGRESSIONAL RECORD. It is small recognition to them, for they have made in the beginning of their lives as great a contribution to real Scouting as is possible for a boy to make.

They have my sincere congratulations, and I am sure the Seventy-fifth Congress is glad thus to honor them.

GOOD BEHAVIOR OF FEDERAL JUDGES

Mr. SMITH of Virginia. Mr. Speaker, I call up House Resolution 227, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 227

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. 2271, a bill to provide for trials of and judgments upon the issue of good behavior in the case of certain Federal judges. That after general debate, which shall be confined to the bill and continue not to exceed 3 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, 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.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts [Mr. MARTIN]. I now yield myself 5 minutes.

Mr. Speaker, this is a rule for the consideration of the bill H. R. 2271, reported from the Committee on the Judiciary, generally known as the judicial good behavior bill.

I shall not consume very much time on a discussion of the rule. There are to be 3 hours of general debate on the bill, and as far as I know there is no opposition to the rule, and I think there will be very little opposition to the bill when it has been explained to the House.

As you know, our customary way for the trial of Federal judges is through impeachment. I think we have all, over a period of years, come to feel that the only way to get rid of a Federal judge is through impeachment. Under the Sumners bill a method is provided which will relieve the Senate of the burden of the trial of impeachment cases of the inferior judges of the Federal courts. The bill only applies to district judges of Federal courts.

First, I will call your attention to the constitutional provision, which provides that Federal judges shall hold office not for life but during good behavior. We have rather come to assume that they hold office for life. They do not. They hold office, under the Constitution, only during good behavior. The purpose of this bill is to set up a court to judicially try the question of the good behavior of a Federal judge against whom impeachment charges have been preferred. Under the procedure set up in this bill we would proceed just exactly as we do today up to the point where an impeachment is voted by the House of Representatives. In other words, impeachment charges would be filed against a district judge. They would go to the Committee on the Judiciary, and that committee would consider the matter thoroughly and investigate it, and it would come into the House and be debated, and we would vote upon an impeachment resolution just as we have always done. After the House has voted the impeachment resolution, then under this bill the procedure changes. Under this bill a court is set up, consisting of three judges of the circuit courts of appeals, to be selected by the Supreme Court of the United States. Those judges would then proceed to try the question of the good behavior of the judge whose good behavior has been questioned, and if upon trial of that cause they determine that his behavior was other than good behavior, he would then be removed from office; but no other penalty would attach.

There will be an amendment offered by the committee which will provide in case of those trials that after trial by the court in the first instance either side shall have the right of appeal to the Supreme Court of the United States. I believe you will readily grasp the benefits and advantages of this plan. Under our present procedure, which has been in effect for the past 150 years, there have been something like 13 impeachment trials.

The SPEAKER. The time of the gentleman from Virginia [Mr. SMITH] has expired.

Mr. SMITH of Virginia. Mr. Speaker, I yield myself 2 additional minutes.

In only three of those cases, as I recall, have there been convictions. Whenever there is an impeachment trial it is necessary to consume the time of the entire Senate of the United States sometimes for a period of weeks on the trial of a question of whether a minor Federal judge shall continue to hold his office. In other words, the whole time and attention of one branch of the Congress is consumed in the trial of that relatively minor question as far as the country is concerned. Necessarily, with the manifold duties of Members of the Senate, that is an unsatisfactory trial. The Members of the United States Senate, with their other duties, are not able to sit through weeks of trial to determine whether a Federal judge has been good or bad. The result is that many of them are absent from the trial. If you have seen an impeachment trial in the Senate, you may have seen a half a dozen or a dozen Senators sitting there during the trial of the matter and the others are absent attending more pressing duties. It is most unsatisfactory to the Senate and to the judge whose conduct is being investigated.

This bill will protect the judges in every way, because it will give them as fair and impartial a tribunal as they now have, but one which will give its undivided attention to the trial of the issue. There will be no danger that a judge may be hauled up and tried for some trivial charge, because, first, it has to come under the present procedure, and there has to be an impeachment resolution offered on the floor. It must be considered by the Committee on the Judiciary and voted out, and then it must come back to the floor of this House and be debated before an impeachment resolution is voted. Only after that impeachment is voted can his conduct be tried.

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Speaker, I yield myself 2 additional minutes, and I yield to the gentleman from New York [Mr. WADSWORTH].

Mr. WADSWORTH. The gentleman has stated that a special trial court is to be named and convened to hear the cause?

Mr. SMITH of Virginia. Yes.

Mr. WADSWORTH. The House having in effect brought an indictment, generally known as an impeachment?

Mr. SMITH of Virginia. That is right.

Mr. WADSWORTH. Who is to prosecute the defendant before that court?

Mr. SMITH of Virginia. The Attorney General does that, or whomsoever he may designate.

Mr. WADSWORTH. Then we are to invoke an officer of the executive branch of the Government to prosecute a judge?

Mr. SMITH of Virginia. Well, that is the duty of the Attorney General when anybody is charged with anything.

Mr. WADSWORTH. It is a new thought to me.

Mr. SMITH of Virginia. It is a new thought, but a very good one.

Mr. WADSWORTH. He is a political officer.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Virginia. I yield.

Mr. COX. Does the gentleman understand that this measure supersedes the impeachment methods now practiced, or that it is merely suppplemental thereto?

Mr. SMITH of Virginia. It is only supplemental.

Mr. COX. In other words it will still be within the rights of the House to proceed as is now the practice if it should so determine?

Mr. SMITH of Virginia. Absolutely. This is a mere matter of convenience.

Mr. SUMNERS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Virginia. I yield.

Mr. SUMNERS of Texas. I shall make a statement which will be of interest to the gentleman from New York. It is true that the Attorney General under the provisions of this bill should prosecute, but before he could institute a prosecution the House must first have determined upon and caused to be instituted the prosecution.

Mr. WADSWORTH. I understand that, but I should think that the consistent thing would be for the managers on the part of the House to follow the prosecution into this special court and not call upon an appointee of the President to do it.

Mr. SUMNERS of Texas. May I say to the gentleman that that was in the bill.

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Speaker, I yield myself 1 additional minute.

Mr. COX. Mr. Speaker, will the gentleman from Virginia yield that I may propound a question to the chairman of the Judiciary Committee.

Mr. SMITH of Virginia. Yes.

Mr. COX. Would it be the right of the House to proceed with impeachment as is now the practice rather than adopt the course made possible by the enactment of the pending measure?

Mr. SUMNERS of Texas. Mr. Speaker, will the gentleman from Virginia yield?

Mr. SMITH of Virginia. I yield.

Mr. SUMNERS of Texas. As I understand the question propounded by the gentleman from Georgia it is whether it would be legal, should this bill pass, for the House still to proceed and the Senate still to proceed under the impeachment power.

Mr. COX. That is right.

Mr. SUMNERS of Texas. The answer to that question is yes.

[Here the gavel fell.]

Mr. MARTIN of Massachusetts. Mr. Speaker, I yield 10 minutes to the gentleman from Michigan [Mr. HOFFMAN].

Mr. HOFFMAN. Mr. Speaker, this bill is one which comes at an opportune time. Its purpose is to provide procedure for the removal of judges who are guilty of misbehavior. There should be a method of removing Governors—yes; and the President—for misbehavior in office.

For the first time in the history of the United States armed forces of a State, Pennsylvania, acting on the orders of its Governor, who shall remain unnamed, have driven men—peace-loving, innocent, law-abiding men—who desire to work in their regular places of employment at their usual tasks, from the jobs which have enabled them to provide themselves and their families with the necessities of life.

For the first time in the history of our country a President of the United States has approved of the acts of a Governor who prevented the enforcement of the lawful orders of the courts of Michigan.

For the first time in the history of our country a President of the United States has approved of the acts of a Governor of a State, Pennsylvania, in driving peaceful citizens, lawfully employed, from their places of employment by armed force, because of the threat of a labor leader to incite violence.

For the first time in the history of our country a President of the United States violates his oath of office, refuses to comply with the provisions of section 5299, which makes it his duty, by the employment of the land and naval forces of the United States, or otherwise, to suppress insurrection and domestic violence.

On the contrary, he permits the invasion of the State of Michigan by armed forces from other States. His political friend, John L. Lewis, makes the invasion.

The statement of the foregoing facts discloses a situation so un-American, so unjust, so pregnant with disaster for us all that none would believe were the fact not known to all.

The Governor of Michigan had, we thought, plumbed the depths of infamy when he used the National Guard of that State to block the orderly processes of the courts.

The Governor of Pennsylvania has gone one step farther and has surpassed in effectiveness the action of Michigan's Governor.

Michigan used her armed National Guard to prevent interference with those who had kidnaped and were holding to ransom real estate, personal property, and jobs. The Governor of Pennsylvania, by show of force, threw men from the tasks which they were performing.

The Governor of Pennsylvania had a choice on Saturday last of determining the course which his State would follow. He refused to align himself with the organization which would give employment. He refused to align himself with the lawful worker.

He refused to align himself with the home owner and the taxpayer. He refused to align himself with the head of the family, who would provide food and shelter and clothing for those dependent upon him. He refused to align himself with the children, with the wives, who were dependent upon the worker for the shelter which protected them from the elements, for the food which sustained life, for the clothing which covered them.

He refused to align himself with the God-fearing, peaceable, law-abiding citizens of Johnstown, who but asked the right to proceed in a lawful manner about their business.

The Governor of Pennsylvania aligned himself with those marauding bands of gangsters who went about, under cover of darkness, throwing stones and bricks against the doors, through the windows, of the homes of workers.

He aligned himself with those who forced peaceful, law-abiding citizens to sit in their homes with loaded gun in order to protect themselves from night riders in automobiles.

He refused, when Johnstown was threatened with invasion, when her workers were threatened with being driven from the mills by force, to uphold the law of the State; to give those citizens and those workers the protection guaranteed to them by the Constitution and the statutes of the State.

He aligned himself with those who threatened invasion, and he fought and won their battle by using the forces of the State to close the mills, which was the object of their invasion.

The Governor of Pennsylvania aligned himself with the forces of lawlessness, of violence. Figuratively speaking, he took his place on the picket line with those who, by force, prevent men from working.

The Governor aligns himself, not with the lawful, peaceful, taxpaying citizens, not with the man who wants to sit by his fireside at night in the company of his family and in the enjoyment of his home——

Mr. MAVERICK. Mr. Speaker, I make the point of order that the gentleman has evaded the instructions of the Chair; that he is palpably speaking outside of the rule; and now that the ruling has been made by the Chair, by rephrasing his words he is not speaking in order. We are talking about judges. We are not talking about Governors. eW are talking about the judiciary and not State governments.

The SPEAKER. The Chair is of the opinion that the gentleman, since the admonition of the Chair, has not transgressed the ruling; but the gentleman will proceed in order.

Mr. HOFFMAN. Mr. Speaker, I thank the Speaker for the liberality of his ruling and will endeavor to follow it in spirit as well as in letter.

GOVERNOR OF PENNSYLVANIA DRIVES MEN FROM THEIR WORK

The Governor of the State of Pennsylvania stood, and he is standing; he marched, and he is marching, arm in arm and shoulder to shoulder, with that organization which declares through the public press that it will call a general strike throughout the United States to enforce the will of its leader.

The Governor of Pennsylvania hails as a friend the man who, as president of the United Mine Workers, signed a contract with the coal operators, which provided that they should—

> At all times be at liberty to load coal into any transportation equipment whatsoever, regardless of ownership; to sell and deliver coal * * * to any person, firm, or corporation—

and who now threatens to call a strike of the workers in the mines of those operators, if they exercise the rights granted them in their contract with him.

The Governor of the State of Pennsylvania and the Governor of the State of Michigan stand squarely behind the forces of rebellion, of insurrection. The President of the United States, unable to pack the Supreme Court, has, through his Secretary of Labor, packed the Board appointed to mediate disputes between employer and employees.

The Governor of Pennsylvania has established the doctrine that whenever John L. Lewis threatens to stage a riot, to invade a city, county, or State, the troops of that State will be called out to close the industrial plants, which have refused to sell their men down the river to Lewis, to acknowledge him as a dictator of labor.

How long are owners of plants to be deprived of their property, of their opportunity to give employment to the

unemployed? How long are those who desire to work to be kept by armed troops from their places of employment?

What is to be the punishment of those who insist upon working? Of those who resist this effort of Lewis, Pennsylvania's Governor, and the President? Are they to be treated as were those who opposed authority in Germany or in Russia? In just what manner are they to be liquidated?

The President has just been given a billion and a half dollars to spend to assist in putting men to work, and the Governor of Pennsylvania, using the armed forces of the State, drives men from their jobs.

It is time we talked about good behavior not only of judges but of Governors; of the good behavior of the President, of the Secretary of Labor, and of those officers charged with the enforcement of the law.

Mr. SACKS. Mr. Speaker, I make the point of order that the gentleman is out of order; that he is not speaking to the rule under consideration.

The SPEAKER. The gentleman from Michigan will suspend. The gentleman from Pennsylvania makes the point of order that the gentleman from Michigan is not proceeding in order in that he is not discussing the rule now under consideration. The gentleman, under the rule, should confine himself to the discussion of the resolution now pending.

Mr. HOFFMAN. I thank the Speaker.

This bill is not broad enough. Not only should judges, in their officeholding, be limited to the period during which they are on good behavior but the Governors of the various States should be removed from office if they fail to align themselves on that side which will enforce the laws, the orders of the courts lawfully made.

The President, by his request to the steel companies to close their plants, admits either his inability or his unwillingness to enforce law and order; to guarantee to the citizens of the States the right to life, liberty, and the pursuit of happiness—the right to work.

John L. Lewis—I quote, "In the name of God"—calls upon the President to halt the back-to-work movement.

Think of this request. With a third of our people ill-housed, ill-nourished, and ill-clothed, John L. Lewis, who day by day is sending men to their death in his effort to prevent honest men from working merely because he wants more power, has the effrontery to again call upon the President, this time to close factories to workers.

And, stranger still, the President of the United States, instead of performing his duty and telling Lewis to order his picket lines away from the companies' gates, calls upon the plant owners to close those places which give work to the unemployed, bread to the hungry.

Is the President, like those who control in Russia, endeavoring to starve the workers into submission to Lewis' demands?

To bolster his cause, Lewis does not hesitate to send men to their death, usually staging a march on the workers in a struck plant on a Saturday night, so that a mass meeting can be held on Sunday and the deaths which he has caused be used to inflame the minds of those who listen.

Nine men went to their death at Chicago on Sunday, May 30, because they followed the methods approved by Lewis. In many other places throughout the land men have gone to their death, women and children have been injured, because they were seeking, under Lewis' instructions, to invade private property, to drive peaceful workers from their jobs.

It is significant that in practically all these cases where life has been lost and many severely injured it has been upon private property where those who suffered had no legal right to be.

John L. Lewis is the man whose United Mine Workers, in June of 1922, at Herrin, Ill., beat, shot, and hanged 25 unarmed, defenseless men because they opposed the will of Lewis.

The hands of John L. Lewis are red with their blood. Those red, dripping, bloody hands the President of the United States grasps in friendliness and he assists Lewis in his plans which have brought armed insurrection to many cities through the Union; who would bring about the deaths of thousands of our citizens in order to establish Lewis' supremacy over labor.

The President, by lending aid to Lewis, by bringing about the closing of mills in various places, has driven more than a hundred thousand men from their jobs.

Lewis, in his drive for power, has used the name of the President of the United States on literature, which gave the impression that Franklin Delano Roosevelt wanted men to join the C. I. O. Lewis has claimed, without contradiction, that four departments of the Federal Government were back of him. Lewis organizers' cars have carried the legend that the car was the car of a "United States Senate car, La Follette Civil Liberties Committee, investigators."

Notwithstanding all this active assistance given by the Federal Government, Lewis' drive for selfish power was met and turned back at Johnstown, Pa.; Youngstown, Ohio; at Monroe, Mich.; and now the President of the United States lends aid to this force of gangsters, armed with clubs, knives, bricks, stones, and guns; this gang which obstructs the delivery of the United States mail, kidnaps men, intimidates women and children, deprives people in want of the means to buy food and clothing; and, I repeat, the President aids them in these unlawful activities; and now, because of his acts, the purpose of Lewis has been accomplished and the fires in the mills have died and they stand silent, mute witnesses to the disgrace of Governors and of a President.

The situation cannot be confused by argument, sophistry, or a multitude of words. The question before our country today is, Shall men be permitted to work in a lawful manner at lawful tasks?

The false issue, the red herring which John L. Lewis and the President of the United States have dragged across the trail, is this question of signing a written agreement. That, however, as everyone knows, is not the real issue. The issue, restated, is: Shall men be permitted to work?

The President of the United States, the Secretary of Labor, the Governor of Michigan, the Governor of Pennsylvania, and many, many officers charged with the enforcement of the law have declared, either by word or by action, that they stand behind the C. I. O., which says that man shall not be permitted to work in these United States until his employer signs a contract with C. I. O.

This is the last of many, many steps which have been taken to bring about a revolution in this country.

If we sit here today and let the call which is going up all over this country for law enforcement, for the right to work, go unanswered, the day will come—and that soon—when we shall either acknowledge the President or Lewis as a dictator or be taken out and shot.

You may sit here today in fancied security, believing that the thing which came to the people of Germany, to the people of Russia, and of Italy, cannot touch you.

You gentlemen of the South who hold the balance of power in this Congress, who think that this thing cannot touch you; those very, very few of you—I know of but one—who now stand high in the councils of the C. I. O., should not be led to believe that your present position of favoritism and of security is permanent.

You should not forget those eight generals of Russia who were so recently lined up against a wall and shot. Here today, but gone tomorrow is a true saying in all revolutionary governments.

You may laugh; you may sneer at the words which I utter. You may ignore the facts, the situation which now exists, but not one man in this House but knows that the question is as stated.

Shall men have the right to work? Shall the protection thrown about them by the Constitution and the laws of State and Nation be given them? Or shall Lewis, backed by the President, maintain the dictatorship which he has established?

Not one man in this House but knows that today, now, we are faced with this question of whether we shall continue to retain our liberities or whether we shall yield them.

For myself, the decision has been made. I will take the chance of injury or of what may come, in order to maintain

the right of men to toil; to furnish the necessities of life to wife and children; to live peaceably in their homes; to sit at fireside with wife and children, as evening shadows gather.

I would rather go back to my home folks, my friends, and my neighbors, those with whom I have lived and worked and played during the long, long years; join with them, fight with them and, if necessary, end my life in that fight, than to quietly, shamefully, and without resistance yield to this attempt to destroy our liberties and, in the end, if it succeeds, be led out and shot like a dog, on the orders of a dictator like Lewis.

The opportunity is still open to us to, by demanding enforcement of the laws, enactment of any needed legislation, employing the armed forces of the United States, bring about a peaceful settlement of this trouble.

All it needs is a declaration from the Chief Executive that, as long as men desire to toil, they will be protected in that right. All it needs is a declaration from the Chief Executive that protection under the Constitution, under the law, will be given to our people in their daily activities.

So far, the Chief Executive has failed in this respect. Violence has come upon us. Violence will continue, for our people will not quietly submit to the robbery of the heritage which they have enjoyed through the shedding of the blood of their ancestors.

Let us act now, or, in the days all too soon to come, see those near and dear to us meet the fate of those who have opposed dictatorship in the countries of the Old World; meet the fate of those who battle now in Spain.

The Chief Executive having failed, let us now unanimously pass a resolution calling upon him to take action, to make real the guaranties contained in our Constitution—the right to work, the right to life, liberty, and the pursuit of happiness.

[Here the gavel fell.]

Mr. MARTIN of Massachusetts. Mr. Speaker, I have no further requests for time, and I therefore yield back the balance of my time.

Mr. SMITH of Virginia. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, this resolution, to me, is of such importance that I will not take the time to answer some of the statements made by the gentleman from Michigan [Mr. HOFFMAN], who just preceded me, who only a few days ago urged his son or someone to obtain for him guns and ammunition with a threat to go to Detroit to shoot down all those who were trying and striving to obtain a better living wage to provide a better existence for their families and loved ones. No one regrets more than I the loss of lives in the city of Chicago and in other parts of our country. I hope that henceforth there will be no bloodshed and that the officers of the law will not lose their heads or abuse their powers. I express the further hope that we will shortly have a peaceful and favorable adjustment of all existing conditions and the elimination of all labor abuses. The gentleman, I regret, cannot refrain from feeding the House with political buncombe as he has tried today in attacking the administration and especially the great Governor of Pennsylvania.

Mr. COX. Will the gentleman yield?

Mr. SABATH. I cannot yield now.

Mr. COX. The gentleman does not mean by his statement that he approves what is being done, does he?

Mr. SABATH. I regret I cannot yield just now. I am only answering the gentleman from Michigan. Nor is it necessary for me or anyone else to defend the action of the great Governor of Pennsylvania. I am convinced and satisfied that he, who has been so assailed by the gentleman from Michigan [Mr. HOFFMAN], is endeavoring in a diplomatic and statesmanlike manner to put an end to the disorders and to prevent bloodshed, and to adjust this troublesome and grave situation with a view to early peace and settlement of differences. He is an able, honest, and conscientious executive, one who will have in mind the rights of labor and capital. It is to be regretted and deplored that the industrial leaders, profiteers, and overlords have in many cases refused to be fair or just to the wage earners who have made it possible for them to enjoy profits, the paying of large dividends, and the accumulation of great surpluses. I am immensely pleased that what I have said of the Governor of the great State of Pennsylvania applies to the Governors of Michigan, Ohio, Indiana, and of my State, Illinois. I have the honor and privilege of knowing each of them personally and regard them as men of sterling quality, capable and intensely interested in the welfare of the peoples of their respective States, all of whom are desirous of attaining the same results as the Governor of Pennsylvania. I feel that the people of these five States should be grateful that they have such honest, sincere, and well-meaning Governors.

God only knows what the conditions would be if they had Governors controlled by the vested interests. But I cannot refrain to say that it appears to me that the gentleman from Michigan must have been enlisted by the vested interests and joined hands with a reputed eminent writer from North Carolina, one J. W. Lindau, who claims that he has wired the Governor of Pennsylvania he would raise $2,000,000 to prevent his nomination as the Democratic candidate for President in 1940, and who, according to press reports, further states that he will raise an equal sum to prevent the nomination of Governor Murphy, of Michigan. I do not know Mr. Lindau but it seems that the gentleman from Michigan [Mr. HOFFMAN] like Mr. Lindau, is not for a square deal for the wage earners of America. I fear that Mr. Lindau, who is so wrought up by the efforts of organized labor, may not have a great deal of trouble raising $2,000,000, but not by $10 donations from the profiteers and tax evaders. However, I wish to assure him that all the millions the reactionaries and vested interests may raise will not avail them and a candidate who will have the endorsement of the greatest President this country has ever had, a man fully as brave and courageous and possessing the same sterling qualities as our President, will be nominated and elected. I assure him that we have many outstanding men of such caliber.

IMPEACHMENT

Mr. Speaker, I wish to compliment the chairman and the Committee on the Judiciary on the resolution which is before us. If ever there was a proposition before the House which deserved the unanimous support of the membership it is this bill. I am interested in our judiciary. Years of investigation and the study of thousands of complaints which I have received proves to me that the people of our country are losing confidence in the judiciary. Consequently, I feel that legislation that will purge it of the weak, irresolute, lax, biased, and special-interest-controlled judges is legislation in the right direction.

Mr. Speaker, I am familiar with the unfortunate position in which the Committee on the Judiciary of the House has been placed three or four times during my service in the House, when they were obliged to go to another body and cope with its rulers, gentlemen who would defend the activities of some of the judges the House had impeached.

I am satisfied the action today will have a wholesome effect upon our judiciary. I know all the honest judges in the United tSates are in favor of such legislation, and I know it will have a wholesome effect upon the dishonest ones. During our investigation for 2½ years we found, I regret to say, that we have many judges in the United States who have brought shame and disgrace upon our judiciary. By rights these judges should not remain upon the bench any longer than is necessary to bring about their removal. I have called to the attention of the membership how many collusive activities are going on in many of our courts, and I am satisfied this measure will bring about the elimination of many of these abuses.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to my colleague the gentleman from Georgia.

Mr. COX. I am for the bill. However, would it not have been well if the agency set up to try the Federal district judges had been composed of men other than the district judges themselves? In other words, to go to a district

judge or a group of district judges for trial of one of their fellows is something like going to a coach house for wolves.

Mr. SABATH. As I understand, the bill provides that circuit judges and not district judges will act.

I am indeed gratified and immensely pleased that this resolution is before us and that we shall have a chance to vote on it.

Mr. COX. Mr. Speaker, will the gentleman yield to me to correct my statement?

Mr. SABATH. I cannot yield. I may say this, however, to my splendid colleague from the great State of Georgia, who has such a fine legal mind, that perhaps he might be able to improve the bill now, but that is nothing unusual. The Committee on the Judiciary reported my bondholders' conservator bill, and I thought I had a perfect bill. However, the Committee on the Judiciary has seen fit to eliminate some provisions which I thought would have been much better than the ones they inserted.

Mr. COX. I misread the bill. It is the circuit judges who are to try the district judges.

Mr. SABATH. Yes; the circuit judges.

Therefore, I say the resolution should be passed by a unanimous vote, as well as the bill. [Applause.]

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SACKS].

Mr. SACKS. Mr. Speaker, there are no words I can utter to defend that great Governor of Pennsylvania, George H. Earle, which would explain his humane qualities and true democratic principles more than his own action. Does the gentleman from Michigan prefer the action of the President of his own party at Anacostia, or would he prefer the orderly prevention of bloodshed in Johnstown?

Mr. TAYLOR of South Carolina. Mr. Speaker, I make the point of order that the gentleman is not proceeding in order.

The SPEAKER. The gentleman from South Carolina makes the point of order the gentleman is not proceeding in order. The Chair will state the rule and its proper interpretation.

Rule XIV provides as follows:

> When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker", and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality.

The matter now under debate is the resolution reported out of the Committee on Rules for the consideration of a bill from the Committee on the Judiciary. The gentleman from Pennsylvania will kindly proceed in order under the rule.

Mr. SACKS. This bill, which deals with the behavior of judges, and, of course, all other officials, carries with it the implication that those officials will carry out their duties in accordance with their oath. I am sure the protection of human rights and the prevention of bloodshed are just as important to the orderly carrying on of government in a State as the protection of individual property rights. It is just as important for our officials to prevent bloodshed, prevent slaughter, and prevent people from being armed against others who are not, as it is to protect the right of a property to continue to operate. I feel that the great principle enunciated by our President, that in a democracy the protection of those human rights are just as important as protecting the watered stock of large corporations, structured on the sweat and blood of Pennsylvania citizenry.

Mr. TAYLOR of South Carolina. Mr. Speaker, I make the point of order that the gentleman is still proceeding out of order.

The SPEAKER. The gentleman from Pennsylvania will kindly proceed in order.

Mr. SABATH. Mr. Speaker, I think the gentleman is proceeding in order.

Mr. SACKS. That the good behavior of those officials is just as important to the continuance of the democracy as is the protection of property rights. In this case the officials did only what was necessary under the circumstances.

Mr. TAYLOR of South Carolina. Mr. Speaker, may we have a ruling on the point of order?

The SPEAKER. The Chair has stated the rule to the gentleman from Pennsylvania. The measure under debate is the resolution reported from the Committee on Rules. It is impossible for the Chair to draw hard and fast lines as to the pertinency of debate, but the Chair trusts the gentleman will bear in mind the general proposition now pending before the House.

Mr. SACKS. The courage of his conviction, to establish a principle of government based upon the general welfare of the great masses, underlies his position of preventing bloodshed as against the former principles of special privilege to special groups, the economic royalists. To send troops into Johnstown to protect the mills was the policy of Republican overlords, which crushed the citizens of Pennsylvania for 40 years previous to his administration. Thank God that the phrase uttered by him in his campaign for election, "human rights above property rights", was not a mere utterance of the lips but a principle of action. This is true democracy. How different this picture from the one about 40 years ago in western Pennsylvania when armed forces slaughtered Pennsylvania labor in the then steel area. This was Republican glory—steel muskets and bullets to beat down labor. Democratic authority saved Pennsylvania this disgrace. More glory to you, George Earle.

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. MAVERICK].

C. I. O. HAS RIGHT TO ORGANIZE LIKE ANY OTHER UNION

Mr. MAVERICK. Mr. Speaker, referring to the behavior of judges, the gentleman from Michigan [Mr. HOFFMAN] turned to me and said that I had gone into the State of Michigan and had made a speech for the C. I. O., stating that I hoped the C. I. O. would be organized in the South. That is not wholly correct. I want labor organized in the South and everywhere, and the citizens can choose what organization they please. I am frank to say that I hope the C. I. O. is organized in mass industries.

Let us remember that the gentleman from Michigan made a statement the other day that he was going into some State, either Pennsylvania or Michigan, and that he was going to arm himself and march in the State. He said he had wired his son to get 200 rounds of ammunition.

Now, while we are talking about the behavior of judges let us talk about the behavior of Congressmen. [Applause.] I am getting a little bit tired of constantly hearing this ranting and roaring of the gentleman from Michigan [Mr. HOFFMAN]. It is getting very boresome. But, speaking of his getting together an army and marching into a State, if we go back into history and study one of the famous judicial trials of the South, when Mr. John Brown came into the State of Virginia with arms and ammunition, he was tried for treason. Suppose Mr. John Lewis would announce, like a Congressman, that he was getting up an army to invade a State, what would happen?

But a Congressman can get up and say that he can invade a State with arms and ammunition, and have his son get ammunition, like John Brown's son did, and that is all right. That is fine; that is wonderful. But if John Lewis said that, he would be tried for treason, as John Brown was. He would be called a traitor on this floor; but we permit one of our own Members to do it. What is sauce for the goose is sauce for the gander; and a Congressman has no more right to violate the law of the land than John Lewis or anybody else.

We do a lot of talking here about these terrible, organized unions. But I want to know when came the time when an American could not get up and organize his fellow Americans into an organization to protect themselves. That is a democratic right, an inalienable Anglo-Saxon right, an American right, and a right of common sense and decency.

NINE MEN MURDERED BY POLICE IN CHICAGO

Over there in Chicago, nine men, something like six blocks from a steel plant, were attacked by the police and nine of them were murdered; and we stand here and not a soul has said a word about those nine free-born Americans who were murdered out there in cold blood. All we do is to spend our time criticizing organized labor; and then they criticize Governor Earle for correcting a bad situation.

GOVERNOR EARLE HAS PREVENTED BLOODSHED

What has Governor Earle done?

Governor Earle has prevented bloodshed. He has prevented the killing of human beings.

Oh, they say we ought to get the American troops, and a Congressman rises on this floor, who does not have to wear a uniform, and says, "We will have to use all the troops of the United States to have order."

NO CONGRESSMAN WILL ENTER THE ARENA OF BLOODSHED

There will not be any Congressmen among those troops that will shoot down the strikers; none of us will risk our skins in such bloodshed. There will not be a single Congressman there. We will stay on this floor, complain if the air conditioning is not good, say wise things, and be quite safe. Oh, my colleagues, all we do is to damn our fellow Americans because they are organized, and it is also a covert attack on the President of the United States because he does not call out the Army to shoot people down.

As far as I am concerned, I think the President has been wise and I think that Governor Earle has been wise. They have prevented the shedding of American blood. [Applause.]

Mr. RANDOLPH. Mr. Speaker, will the gentleman yield?

Mr. MAVERICK. Yes; I yield.

Mr. RANDOLPH. I do not want the gentleman to be misunderstood. I am certain he would not want to imply that the Members of this House are not patriotic. I have the deepest respect for my colleagues in this body. We may differ on public questions, but Members desire, I know, to do what appears right and best for their country which they serve.

Mr. MAVERICK. No; and I have not said anything like that, either. I am saying, however, that one Member said he was going into a certain State and that he was going in there armed, and that is the same thing that John Brown did in 1859, and got hung for it.

Mr. FISH. Mr. Speaker, will the gentleman yield for the sake of the record?

Mr. MAVERICK. Yes.

Mr. FISH. I call the attention of the gentleman to the fact that the Regular Army, under Robert E. Lee, put down John Brown.

Mr. MAVERICK. Who did it, or quelled the rebellion is not the point. I refer to the overt act of John Brown, who marched into Virginia with guns, and that action was called treason.

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Speaker, I move the previous question on the resolution.

Mr. MASSINGALE. Mr. Speaker, may I ask the gentleman from Virginia to withhold that motion for the purpose of answering a question I desire to submit to him?

Mr. SMITH of Virginia. Mr. Speaker, if I may, I withhold the motion a moment, although I think the gentleman is mistaken, because I do not recall his having spoken to me about the matter.

Mr. MASSINGALE. I have not spoken to the gentleman and I simply want to ask the gentleman a question now.

The SPEAKER. It is within the discretion of the gentleman from Virginia to withhold his motion.

Mr. MASSINGALE. I want the opinion of the gentleman from Virginia, or some member of his committee, on the constitutionality of this resolution. It occurs to me, I may say by way of explanation, that the resolution runs right into the teeth of a constitutional provision on impeachment. I may be wrong.

Mr. SMITH of Virginia. May I say to the gentleman that I think he is wrong and I believe he will be thoroughly convinced, as I have been, when he hears the statement of the chairman of the Judiciary Committee, which will be made in a very few moments.

Mr. MASSINGALE. That is what I want to hear.

Mr. SMITH of Virginia. Mr. Speaker, I renew my motion on ordering the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. SUMNERS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 2271) to provide for trials of and judgments upon the issue of good behavior in the case of certain Federal judges.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 2271, with Mr. COFFEE of Nebraska in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 15 minutes. This is a very important bill. I am going to explain it in a purely conversational way. There appear on the blackboard [indicating] the applicable provisions of the Constitution, to which I shall refer later.

We have had an interesting experience in the committee in developing this bill. I became interested in the subject matter of the bill during the first impeachment trial in which I participated a good many years ago. We had not gone very far in the trial of the case until it seemed to me clear that with us impeachment is not a criminal action or proceeding. Finally, we quite generally accepted that idea. The next step was to move away from criminal procedure and toward the procedure recognized in civil actions. The next step was in favor of the Senate availing itself of a committee to act as a master to hear the evidence, and so forth. While this has found some acceptance in theory, nothing definite has been done in that direction.

Finally, about 4 or 5 years ago I became thoroughly convinced that the good-behavior provision in the tenure clause of the Constitution is an issue that can be tried in a court. To me it has not been easy to work out a procedure and a tribunal which would provide the necessary safeguards, protecting judges against being harassed and at the same time providing a proper and fair tribunal to try the issue of good behavior. This bill is the best we have been able to do. I hope to help to make clear the scope and purpose of the bill and to establish the necessity for it and the constitutional warrant for it.

The great difficulty with the average American lawyer in properly considering what is proposed is that he came to the profession when it was an accepted notion among lawyers and laymen that judges can be ousted only by impeachment. He has never stopped to examine the question himself. A preaccepted notion has to be dislodged first before the mind will examine the new thing suggested it seems. That is going to be the trouble today.

This bill does not at all rest upon the provision of the Constitution dealing with impeachment. The thing which we are attempting to do here has absolutely no relationship to the impeachment power. The last part of article II deals with impeachment. That provision is written here on the blackboard. All civil officers are subject to the exercise of the power of impeachment. Judges are civil officers.

The other of the two applicable provisions of the Constitution appears on the other half of the blackboard. In this is the good-behavior clause which this bill seeks to have recognized; that is, "good behavior" as a justiciable issue. When we read that provision we find that judges are not appointed for life, but are appointed during good behavior. It is a condition attached to their right to hold office. When they violate that condition they not only bring disgrace upon

the giver of their commission but they forfeit their right to hold office. If we get that in our mind, we then have the second proposition.

Then when we come to figure out how we are going to make effective the good-behavior provision in the Constitution, that provision in article III, we find that we cannot do it under the impeachment provision. If you read the impeachment provision, section 4 of article II, as it is written here, you will find that all power, all the jurisdiction which the Senate sitting as a Court of Impeachment can have or exercise is contained in that provision.

Let me physically demonstrate that. Suppose I erase the "good behavior" provision on the right-hand side of the blackboard and write in lieu thereof words which give unconditional life tenure. The power to impeach would not be disturbed. All civil officers are subject to removal by impeachment regardless of whether they may be commissioned for 1 year or a hundred years. Everybody agrees to that. Very well, we will rewrite the stricken words and we find that nothing has thereby been added to the powers of the Senate to remove by a judgment of impeachment.

Here is the third proposition, but perhaps I should make this preliminary statement. No rule of constitutional construction will admit that there are dead words in the Constitution. That is the third proposition I want to make. Everybody knows that every word in the Constitution is a living word. I believe we have demonstrated that the Senate does not and cannot make those words alive, those words which constitute the good-behavior clause in the judicial tenure provision. They cannot reach down to the next article of the Constitution where this provision is found. Their whole power is a power to impeach. That power is absolutely bound within the confines of section 4 of article II of the Constitution which I have quoted.

If the Senate cannot make vital the "good behavior" provision in the judicial tenure clause, and clearly it cannot do it, what agency of government can do it? The historical background precludes any notion that the President can effectuate those words, because those words went into the framework of the English constitution, from which we appropriated them, in order to prevent the Executive from having anything to do with it. So, by the process of elimination we come to a court as the only agency of government that can keep those words from being dead words in the Constitution. I think everybody must agree with that.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. MOTT. I do not agree and I want to tell the gentleman my interpretation just in a word and ask him what is the matter with it. It has always been my opinion that the reason why "good behavior" was inserted in that clause of the Constitution was so that judges appointed for life could be impeached. In other words, if this provided that judges should hold their terms for life, then the language would be repugnant to section 4 of article II, and it is doubtful if you could impeach, and I think it is for that reason that section 1 specified the term during good behavior instead of life. What is wrong with that?

Mr. SUMNERS of Texas. I say with all respect that is the expression of an immature judgment which is to be found in nine-tenths of American lawyers. I went through the same process or rather from the same starting point. We all start with the notion that we can only remove a judge by impeachment. This is what is wrong with it. All civil officers are subject to removal by impeachment. The length of the terms of office has nothing to do with it. Whether for 4 years, during good behavior, or for life, it is all the same. If they commit "high crimes and misdemeanors" and so forth they bring themselves within the powers of the Senate to remove by impeachment.

"Good behavior" by its nature is a justiciable issue. By its use it is made a condition in the right of every judge to hold office. It is a triable issue. There is no court to try it. This bill provides the court. If there is no court there is no agency to make effective that important condition in this particular section of the Constitution.

Impeachment had its origin in the fact that there were in England great offenders, too powerful to be tried in the ordinary courts. As a result of that, a custom grew up of the House of Commons preferring charges in the House of Lords against those great offenders and trying them before that house because it was in fact the supreme court of England. Do not forget that. They were tried before the supreme court of England, the House of Lords, sitting as the supreme court of that country.

Mr. EATON. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. EATON. As a layman I should like to ask, does not good behavior mean that there is an absence of treason, bribery, or other high crimes? Is that not all that means?

Mr. SUMNERS of Texas. No, not necessarily.

Mr. EATON. Why not?

Mr. SUMNERS of Texas. I think if my friend will let me move along for a while as I am going I can probably be more helpful.

Unquestionably it is a fact as everybody will agree that we took the provision of our Constitution under consideration from the English Constitution. Everybody knows that. I have in my hand a recognized authority as a commentator on the English Constitution, Todd. He says that "good behavior" in the English Constitution has always been recognized as a justiciable issue, triable in their courts by scire facias, a proceeding similar to our quo warranto.

May I make this statement, that I do not know of a single commentator on the English Constitution who does not recognize that "good behavior" is a justiciable issue. I do not know of a single one. Taking that provision from the English Constitution under the well-accepted rule of construction, it came to us explained and conditioned by the constructions attached at the time of our appropriation.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. No. I am sorry, because the gentleman has one notion and I have another, and I just cannot turn aside for a private discussion with my good friend.

Mr. MOTT. I just wanted to ask the gentleman if he confines his definition of "justiciable" to justiciable in court. It is justiciable if it is tried in Congress, is it not?

Mr. SUMNERS of Texas. No; it is not.

Mr. O'CONNOR of Montana. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. O'CONNOR of Montana. Is it not a fact that the clause in section 1 is simply a matter of contract between the appointee and the United States Government, that he holds office only as long as he behaves himself?

Mr. SUMNERS of Texas. Surely.

Mr. O'CONNOR of Montana. Is that not the fact?

Mr. SUMNERS of Texas. Surely. Everybody knows that, except one or two of my friends here. [Laughter.]

Mr. Chairman, I am not trying to make a speech now in the ordinary sense. I am trying to explain in a conversational sort of way to intelligent people who have got sense enough to understand that we are dealing with an important matter.

It was recognized in England, when we brought this provision into our Constitution, that there were four methods of getting rid of judges: By impeachment; by joint address of the two Houses; by conviction for an offense; and by writ of scire facias, which is exactly the process that we expect to institute under this provision.

I do not understand any attitudes now. One group does not seem to want the judges to have any privileges or presumptions of decency at all, and another group wants to make it difficult to enforce the good-behavior condition in their contract with the people. A half dozen crooked judges can give character to the whole bench. [Applause.] The time has come when, if we are to preserve our courts, we have to do something about it by a method more sensible, fairer, and more effective than impeachment provides. I am friendly to the courts. I want them respected, but we cannot make the courts in America respected unless we

compel obedience to the condition of good behavior contained as a condition in the judges' right to hold office. The only way to get rid of a crooked district judge now is to go over there to the Senate and take the time of the entire Senate, the United States Senate, away from all of the other business of a great nation, and make them sit there for days and days and days while we introduce evidence as though they were an ordinary trial court, when we know they are not a trial court. They will not sit there and try a district court judge. They would sit there to try a Supreme Court Justice, or the President, or the circuit court of appeals judges, but we know they will not to try district judges, and we can hardly ask them to do so. I am ashamed to go over there as the representative of this House of Representatives and ask the Senate of my Nation to sit and try a district court judge.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 5 additional minutes.

We propose to take advantage of the centuries of experience of the people in England and of our own experience and submit ourselves to the direction of common sense and to do a sensible, practical thing within the Constitution. We propose to take advantage of the suggestions of common sense and try to bring about a better method. We have got a man sitting today on the Federal bench when more than a majority of the Senate said he should go off. We must have a favorable vote of two-thirds of the Senate, coming in and going out while the trial is going on. I do not blame them much. They will not sit there. We have got to do something about it if we have the constitutional power. The whole procedure is too ridiculous. The machinery is too cumbersome. The other business of the Senators is too important and pressing. There is not a sensible practical thing about the whole business of trying a district judge by impeachment in the Senate. We have done our best within the limits of due caution. We expect that experience will suggest improvements. But I would risk my life and what little reputation I may have for knowing a little something about the Constitution, that we are undertaking by a constitutional method to make alive the good behavior provision in the judicial-tenure clause of the Constitution.

It is a condition in our contract with these judges. How do you enforce a contract? You go into a court of the country, allege a violation of the contract, offer evidence in support of that allegation, and if you establish that the contract has been breached you get a judgment. We propose to make that possible.

Has any man the right to sit on the bench of this great Nation secure in a job for life, who will not behave himself? This is a serious matter and a matter about which we cannot afford to be squeamish. The only way we can reach a crooked judge is to go yonder to the Senate. This committee of which I happen to be the chairman consists of a fine lot of conscientious lawyers. We have studied this question and brought in the proposition almost unanimously. We are good friends of the judiciary of this country. You know and I know that we have got a fine lot of men sitting on the bench. They are too fine in the average to be messed up by half a dozen crooks on the bench.

I do not know of a single American or English lawyer or law writer of rank who after mature consideration does not recognize the living force of the good-behavior clause in article III, section 1.

It is a queer thing that the notion is so deeply rooted that because we may remove a judge by impeachment we may not remove him by court action in a suit brought to enforce a clear condition attached to his right to hold office. Let us consider the constitution of the average State. The constitutions of most of them have impeachment provisions practically identical with the Federal provisions. Suppose the State treasurer steals the money of the State. You would oust him from office by a trial and judgment of a court, but the fact that you could oust him by suit does not prevent your impeaching him, nor does the fact that you could impeach him prevent you from ousting him through the processes of the court. It is identically such an arrangement as is here proposed.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 2 additional minutes.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. MOTT. I have a great deal of respect for the gentleman's legal learning. I want to ask the gentleman if in his opinion he thinks that the framers of the Constitution drafted section 1 with the idea that a Federal judge could or would ever be removed from office in any other manner except impeachment?

Mr. SUMNERS of Texas. I do think so, and I think if the gentleman will follow my reasoning he, too, will reach my conclusion. Suppose we wipe out the good-behavior clause of article III, section 1, could we not still impeach him under article II, section 4?

Mr. MOTT. You could impeach him.

Mr. SUMNERS of Texas. Yes; you could impeach him even if we struck out the good-behavior clause.

Mr. MOTT. But with that clause stricken out of article III there would be no tenure of office for the judges.

Mr. SUMNERS of Texas. No; you could put him in for life.

Mr. MOTT. Oh, no; not if you put him in for life.

Mr. SUMNERS of Texas. You could not impeach him?

Mr. MOTT. The only way you could impeach him at all would be under section 4 of article 2.

Mr. SUMNERS of Texas. I am certain of my position; I will risk the opinion of the House on that. [Applause.]

Mr. O'NEAL of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. O'NEAL of Kentucky. Is there any accepted definition of the term "good behavior"? And if you reduce the seriousness which is presupposed by impeachment proceedings, are you in any way endangering trial for matters of much less importance than those now accepted as infringing on good behavior?

Mr. SUMNERS of Texas. I think good behavior is a matter for judicial construction and is a matter of fact.

Mr. Chairman, it is suggested that I answer some questions. I yield myself 10 additional minutes.

Mr. LEWIS of Colorado. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Colorado.

Mr. LEWIS of Colorado. Knowing how jealous the gentleman is of the prerogatives of the House of Representatives, I am wondering why in lines 5, 6, and 7, page 2, the words "or such counsel as may be designated by the House of Representatives" were stricken from the bill, thus placing the entire conduct of the trial in the hands of the Attorney General.

Mr. SUMNERS of Texas. Mr. Chairman, perhaps I should make some explanation of the structure of the bill. There was a lot of difficulty encountered. I had the responsibility of framing the bill in the first instance. There was a lot of difficulty about it. First, we recognized that we had to keep some sort of a buffer between the judges and disgruntled litigants and attorneys.

That notion had grown out of our experience. Every man on the committee recognized that fact. The House of Representatives is the best buffer we could locate or provide. We could not beat that. Besides, if we used the House of Representatives to make the preliminary examination, there would be just that much less new structure, which is valuable in the building of a new law. Then we came to the point of determining who should prosecute. The first determination was that in addition to the Attorney General and as an alternative the House might designate other counsel to prosecute. Some question as to constitutionality and of the reaction of the Senate to that arrangement arose, and we

struck out the provision allowing counsel other than the Attorney General or his designatee to prosecute. Prior to that suggestions were made that the Attorney General might institute prosecutions. We decided we would not permit the Attorney General to institute the suit in the first instance. We thought that would be putting too much power in the hands of the executive branch of the Government. We decided we would make this a suit of the United States against the particular judge involved, who is an officer of the United States, and we would ask the Attorney General, in view of the fact the Attorney General represents the United States in all litigation, to represent the Unted States in this suit.

Then we had a lot of difficulty about the set-up of the court. We have an amendment here. We provide a special session of the Circuit Court of Appeals shall be assembled. Then we undertook to give the power to the Chief Justice of the Supreme Court to constitute a court of inquiry, to be composed possibly of members other than of the Circuit Court of Appeals of the circuit where the case is to be tried.

Mr. GRAY of Indiana. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Indiana.

Mr. GRAY of Indiana. Substantially, this legislation has the effect of taking away the trial and impeachment of Federal judges appointed for life from the Senate, to be prosecuted by the House, the Members of which are chosen by the people, and puts the trial wholly within the power of judges who are appointed for life?

Mr. SUMNERS of Texas. Yes. We did not attempt to repeal, of course, any of the powers of the Senate with reference to trials of impeachment. This is in addition to the right of trial by impeachment and it leaves the House in a position so that we can try out this new method and use either method which experience proves is the better.

Mr. SHORT. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Missouri.

Mr. SHORT. I realize the question I am about to ask should not determine the action to be taken by this body, but I should like to propound a question of the distinguished Chairman of the Judiciary Committee if in his opinion the House passed this bill as it is written, would it stand a ghost of a show of passing in the other body?

Mr. SUMNERS of Texas. I do not know. That is not my responsibility and I am glad it is not. My judgment is the Senate should be glad to be relieved of the necessity to sit in the trial of district court judges.

Mr. SHORT. I should like to ask the chairman of the Judiciary Committee if in his opinion he can conceive of a case where a judge, if tried by members of his own profession, might not, out of jealousy, be perhaps persecuted or under other extenuating circumstances might perhaps not be prosecuted to the full extent he would be if tried by an independent body?

Mr. SUMNERS of Texas. Here is what I think about that. I think a judge who is afraid to be tried by three judges of the circuit court of appeals, with the right of appeal to the Supreme Court, probably is just in a situation where he does not feel very easy anyhow.

Mr. KERR. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from North Carolina.

Mr. KERR. The question involved in this matter, as I understand it, involves two concepts, one social misbehavior and the other legal misbehavior. Do I understand the gentleman thinks this three-judge court should have jurisdiction to try both the law and the facts in respect to whether there was involved either legal misbehavior or social misbehavior?

Mr. SUMNERS of Texas. We did not believe the question should be submitted to a jury. That was our conclusion. We threshed that out very carefully. There is not a provision in here that has not some objection to it. We recognize this is more or less experimental legislation, but it is the very best we could do. The only substantial difference between this method of ouster and that by impeachment is in the trial forum.

Mr. SABATH. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Illinois.

Mr. SABATH. The gentleman undoubtedly remembers that in 1909 when a resolution was introduced to impeach a judge for misbehavior, before that judge would submit to trial he resigned. That was the case of Judge Grosscup, judge of the United States District Court of the Northern District of Illinois. That might happen in many instances.

Mr. SUMNERS of Texas. Yes.

Mr. McFARLANE. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Texas.

Mr. McFARLANE. Do I understand that the bill now under consideration is cumulative as to remedies or is it exclusive?

Mr. SUMNERS of Texas. It is cumulative.

Mr. McFARLANE. Does the House have the right to impeach a Federal district judge if this becomes law or would it be taken from our jurisdiction and given to these lifetime judges?

Mr. SUMNERS of Texas. It would not disturb the existing right to try by impeachment.

Mr. MOSER of Pennsylvania. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Pennsylvania.

Mr. MOSER of Pennsylvania. If the gentleman would permit, may I say that in the impeachment John Randolph, of Roanoke, introduced a constitutional amendment to provide for the removal of a judge by joint address of both Houses under the section just referred to.

Mr. SUMNERS of Texas. But not under this section. In England since 1701 they have had the power to remove judges by joint address. That arrangement came as part of the Acts of Settlement, when Mary and William came on the throne after Cromwell.

Mr. HILL of Washington. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Washington.

Mr. HILL of Washington. As Members of the House have authority to determine the qualifications of the Members of the House and their good behavior, is this more than an attempt to have the judges do the same thing with reference to district judges?

Mr. SUMNERS of Texas. May I say to the gentleman that I aimed to touch on that later. The gentleman has made a very fine suggestion.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. MOTT. The gentleman thinks this bill would not violate the Constitution. May I ask if the gentleman thinks a bill like this would violate the Constitution: When the House was of the opinion a judge was guilty of misbehavior and ought to be ousted from office they should so report or decide by resolution, and then the matter should be left to the President to decide whether the judge ought to be ousted, instead of being left to a court. Would this be constitutional?

Mr. SUMNERS of Texas. No; it would not. The historical background behind the whole thing establishes the fact that the reason those very words were put in the Constitution was to prevent the exercise of Executive power in that regard. I may not have clearly understood the gentleman's point, but I may say we cannot take such action. We have no power of removal by address; I think that is what the gentleman has in mind. We cannot do it that way.

Mr. MOTT. No; that was not quite it.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield to my colleague on the committee.

Mr. ROBSION of Kentucky. First, I would like to inquire, for the information of the House, how many district judges there are.

Mr. SUMNERS of Texas. I believe there are one-hundred-and-eighty-odd, but I do not know.

Mr. ROBSION of Kentucky. More than that; there are 280.

Mr. SUMNERS of Texas. I yield to my friend on that.

Mr. ROBSION of Kentucky. The House does not give up anything by following the procedure here contemplated?

Mr. SUMNERS of Texas. The gentleman is correct.

Mr. ROBSION of Kentucky. The House institutes this proceeding.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 additional minutes to myself. I guess this is just as good a way to use time as trying to make a speech.

Mr. ROBSION of Kentucky. The resolution is introduced in the House and goes to the Committee on the Judiciary for investigation?

Mr. SUMNERS of Texas. That is right.

Mr. ROBSION of Kentucky. After the Committee on the Judiciary investigates it reports to the House, expressing the belief that some Federal district judge has been guilty of misbehavior, and then the House acts upon it. We can proceed in that way and get the matter before the three circuit judges for trial, and we still have the power of impeachment?

Mr. SUMNERS of Texas. The gentleman is correct.

Mr. ROBSION of Kentucky. We give up nothing.

Mr. SUMNERS of Texas. That is right. These Republicans are as smart as anybody at times. [Laughter.]

Mr. ROBSION of Kentucky. I hope we are smarter.

Mr. SUMNERS of Texas. That is right; that is true, too.

Mr. O'CONNOR of Montana. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. O'CONNOR of Montana. As I understand, a judge could be guilty of gross misbehavior and not come within any of the provisions of section 4 of article II as to what would be a cause for impeachment, such as drunkenness or incessantly talking with the representative of one party when the representative of the other party was not present? This would be ground for removal because of misbehavior, but it would not be ground for impeachment under section 4. Is that correct?

Mr. SUMNERS of Txas. Technically, yes; but as a matter of practice there is not so much difference. The difference is more in theory than in practice, because when the Senate renders a judgment the court does not go behind it. The gentleman is right in theory.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. MAY. I have not had the pleasure of hearing all the gentleman's address.

Mr. SUMNERS of Texas. That is the gentleman's fault.

Mr. MAY. I know, but I want to ask a question with respect to an amendment of the bill. In the provision relating to the court of three judges of the circuit court of appeals, I think the bill should have added to it by amendment at the proper place that none of the judges who constitute this court shall be a judge of the circuit court of appeals in the circuit within which the district judge resides.

Mr. SUMNERS of Texas. I understand. We had the same question up, but we came up against this difficulty. We were not sure we could authorize the Chief Justice to set up a court, so we attempted to utilize the present machinery but gave the Chief Justice the power to designate judges other than judges who are in that circuit. We met the gentleman's point as far as we could go.

Mr. LEAVY. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. LEAVY. This procedure would be in the nature of a civil action?

Mr. SUMNERS of Texas. Yes.

Mr. LEAVY. Proof would have to be established only by the greater weight of the evidence rather than beyond a reasonable doubt?

Mr. SUMNERS of Texas. The gentleman is correct.

Mr. LEAVY. Would a unanimous decision of the three-judge court be required?

Mr. SUMNERS of Texas. I do not believe so. I think in America the principle that the majority in the absence of some provision to the contrary may speak the judgment is pretty well established.

Mr. LEAVY. The bill itself does not seem to cover this point.

Mr. SUMNERS of Texas. No; I do not believe it does. If the gentleman thinks it is necessary, I wish the gentleman would look it up.

Mr. LEWIS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. LEWIS of Colorado. There is an election of remedies here.

Mr. SUMNERS of Texas. That is right.

Mr. LEWIS of Colorado. Does the gentleman think that after having elected one remedy and pursued it, and failed in it, we could pursue the other one?

Mr. SUMNERS of Texas. I believe we could, but I hope we would not try to. I believe we could.

Mr. O'NEAL of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. O'NEAL of Kentucky. Will the trial court be circumscribed by the terms of the indictment of the House? Can they go beyond the indictment under the bill?

Mr. SUMNERS of Texas. I do not believe they would be bound by the terms of the indictment.

Mr. O'NEAL of Kentucky. They must confine themselves to the indictment brought by the House?

Mr. SUMNERS of Texas. I do not believe they would be limited. It would not be an indictment. It would be a civil action.

Mr. KITCHENS. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. KITCHENS. In the Ritter impeachment recently held by the Senate, Judge Ritter was acquitted of all the specific charges, but I understand was convicted for failure to maintain good behavior while a judge. The Senate having assumed jurisdiction under section 4, article II, to try judges for good behavior, and claiming this right under the Constitution, how can we take that right away from the Senate?

Mr. SUMNERS of Texas. By passing this bill you will not take any right away from them. You cannot touch the power of the Senate. We do not attempt to do that.

Mr. KITCHENS. There cannot be any question about that in the gentleman's opinion?

Mr. SUMNERS of Texas. Not a bit.

Mr. LUDLOW. Mr. Chairman, will the gentleman yield for some factual information?

Mr. SUMNERS of Texas. Yes.

Mr. LUDLOW. The bill applies only to Federal district judges?

Mr. SUMNERS of Texas. Yes.

Mr. LUDLOW. How many of them are there?

Mr. SUMNERS of Texas. Somebody said about 200.

Mr. HOBBS. One hundred and fifty-four.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield myself 5 minutes, or such part of that time as I may use.

Mr. Chairman, I have great respect for the legal opinion of the chairman of this committee. I have told him that if he will convince me that this is constitutional I will vote for the bill. I had some experience with him, in a humble way, in trying an impeachment proceeding before the Senate, and I think I am justified in saying there was not an average attendance in the Senate of 15 Members during that entire impeachment trial. I think a judge would get a fairer trial

under this kind of an arrangement, and as I have said, if I were sure of the constitutionality of it, I would certainly be in favor of the bill.

Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. WADSWORTH].

Mr. CRAWFORD. Mr. Chairman, will the gentleman from Kansas yield for a question?

Mr. GUYER. Yes.

Mr. CRAWFORD. I consider the gentleman one of the great legal minds of this House——

Mr. GUYER. The gentleman is mistaken about that.

Mr. CRAWFORD. Is the gentleman in favor of this bill or opposed to it?

Mr. GUYER. I am in favor of it if I am convinced it is constitutional, because I believe it is a better way to get a fair trial for a Federal judge than by trial in the Senate when only a dozen of the Members stay there and listen to the evidence.

Mr. CRAWFORD. From the gentleman's study of the bill, does he believe it to be constitutional?

Mr. GUYER. I am not sure about that, and I am waiting for these great legal minds to convince me.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. GUYER. Yes.

Mr. SHORT. If this bill is enacted into law, it will transfer from the Senate to the three judges appointed by the Chief Justice the prerogative of the Senate to sit as a trial court and pass judgment in the matter.

Mr. GUYER. You cannot take any power from the Senate. It has sole power to try all impeachment proceedings. The chairman of the committee contends this is not an impeachment trial but a trial upon good behavior.

Mr. Chairman, I reserve the balance of my time and yield 10 minutes to the gentleman from New York [Mr. WADSWORTH].

Mr. WADSWORTH. Mr. Chairman, I am quite confident my appearance upon the floor will not be greeted with the assertion that I am a great legal mind. As a matter of fact, I approach the discussion of this matter with considerable trepidation and shall only discuss one phase of it. I cannot boast of having studied the subject to the extent that the chairman of the committee has studied it or the other members of the committee. Whether or not we have the power to set up a device which may, in effect, prevent the Senate from ever passing upon the qualifications of a district judge, I do not know. It strikes me, at first glance, as somewhat startling, but there is one phase of this bill to which I should like to call your attention, and that is the provision which lodges with the Attorney General of the United States, at the behest of the House, the duty of prosecuting a judge who is under charges.

The machinery, of course, has been described. Someone comes to the House of Representatives, responsible people, we will assume, and especially to members of the Committee on the Judiciary, and brings a complaint against the behavior of a district judge. The committee makes its preliminary investigation, makes up its mind that the judge's behavior has been unworthy, that he is unfit to be a judge, and so reports to the House of Representatives, and upon the passage of a resolution the House, by a majority vote, starts the judicial process under which this judge will be put on trial, and as it starts that process it designates the Attorney General of the United States to be the prosecuting officer. It strikes me that whereas this procedure, as described by the gentleman from Texas, might be smoother, might do away with some of the admitted faults of the old-fashioned procedure involving the trial of impeachment in the Senate, this provision calling upon the Attorney General of the United States to be the prosecuting officer is a fly in this ointment so large that, for one, I could not support the measure.

When we call upon the Attorney General to prosecute a judge we are calling upon an executive officer appointed by the President of the United States, subject to the President's will, a member of his intimate Cabinet, his own personal choice, with political implications inevitably involved in their relationship. We might just as well say—because I think the effect in practice would be the same—that the President should prosecute this judge.

I would hesitate, indeed, I would resist any proposal for the dragging in of the executive department of the Government when a judge is on trial. Remember, the executive department is headed by a President who will have appointed these three judges.

Mr. O'CONNOR of Montana. Oh, no.

Mr. WADSWORTH. Yes; appointed by the President and confirmed by the Senate. The President appoints the circuit judges.

Mr. SUMNERS of Texas. The gentleman means to say that some President appointed these judges.

Mr. WADSWORTH. Yes; I stand corrected, of course. That was my error.

At any rate, they are Presidential appointees and the principle still holds, and I do not believe that a Presidential servant, the Attorney General of the United States, should prosecute a judge, himself a Presidential appointee, before other judges who themselves are Presidential appointees. You are injecting the Executive power into this situation in such fashion as to create very, very dangerous possibilities.

Mr. SUMNERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield.

Mr. SUMNERS of Texas. Does not the gentleman's argument lead to the conclusion that judges ought not to try issues in which the President is involved; in other words, what is the use of having judges?

Mr. WADSWORTH. This is an issue somewhat different from the issues to which judges give their attention in their long years of judicial tenure. This is a special sort of issue, and the Executive should be kept out of it. The Executive is kept out of it in our present procedure. Would the House of Representatives, for example, change the present procedure, and when it brings impeachment charges against a judge and takes them over to the Senate designate the Attorney General of the United States to be the manager on the part of the House? It would not. Yet that is what you propose to do here.

Mr. MASSINGALE. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. Yes.

Mr. MASSINGALE. I am always interested in any position that the gentleman from New York takes, because he gives it thought; but does not the attitude that the gentleman assumes in this case about the right of the Attorney General to appear in behalf of the prosecution, if followed to a conclusion, lead to this kind of absurdity of analogous terms, that because the President of the United States appoints under the law and the Constitution a Federal district attorney it is unfair to a man prosecuted in the Federal courts for violation of law that he do so, especially in view of the fact that the judge who tries the case is also a Presidential appointee?

Mr. WADSWORTH. I think the suggestion of the gentleman is not analogous. Here we are dealing with three independent branches of the Government, and it should be our hope and intention never to let any one of them become supreme over another. [Applause.] It is quite different from a case at law where the United States attorney is prosecuting somebody for violation, we will say, of a provision of the Interstate Commerce Act. This proposal involves the position of the judiciary, and it incidentally involves the position of the House of Representatives. In my judgment, if the House is to bring the charges before a court, the House should prosecute them through its own managers and keep the Executive out of the whole picture.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. Yes.

Mr. BOILEAU. It might be on occasion that the judge may be indicted by this House for an offense or for misbehavior in a case in which the Attorney General might have been involved.

Mr. WADSWORTH. Certainly.

Mr. BOILEAU. And in view of the fact that the bill with the committee amendment provides the Attorney General or someone appointed by him shall prosecute the case, there is no escape from a situation of that kind, and does not the gentleman believe that the matter can be properly safeguarded by striking out the committee amendment and leaving the language in the bill as originally written, so that the House could, if it saw fit, take it away from the Attorney General and appoint counsel?

Mr. WADSWORTH. I would not have the bill provide that the House could designate the Attorney General at all. Otherwise I think the gentleman is correct.

Mr. DONDERO. And you could go further and say that the Chief Justice is a Presidential appointee and he must designate the three judges who shall constitute the court to try the judge charged?

Mr. WADSWORTH. That might be possible, though the analogy does not exist to quite the same extent, because the Chief Justice is a member of the same department as the judge under trial.

Mr. DONDERO. But he is a Presidential appointee.

Mr. SUMNERS of Texas. The gentleman does not mean to imply that we have Chief Justices of the Supreme Court of the United States and circuit judges, merely because appointed by the President, who would not give a fair trial? That seems to be the strongest accusation against the judiciary of this country that I have ever heard.

Mr. WADSWORTH. I have made no such accusation with respect to the Chief Justice of the United States, and I would not make any such intimation against the judges of the circuit court of appeals; but I have been in public life long enough to gage public opinion and know that when the executive department is authorized to interfere in a case of this kind, the public begins to suspect "politics." [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GUYER. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. GWYNNE].

Mr. GWYNNE. Mr. Chairman, I believe this legislation is beyond the constitutional powers of this Congress and I desire to confine my remarks only to the constitutional question. I cannot agree with the chairman of my committee that the words "during good behavior", upon which the constitutionality must hang if it hangs anywhere, are dead words, no matter how you construe the Constitution. They were put there to fix the tenure of office of the judges. In England, as you know, the judges held their office subject to the will of the King, and the matter was discussed very thoroughly to make it very sure that our judges should hold their office for life or as long as they behaved themselves. I agree with the chairman that they are justiciable, that is, I think the issue of good behavior is justiciable. The obligation is put by the Constitution upon the judges to behave themselves, and it allows them to hold office only so long as they behave themselves. If that is true, and it is, of course, the framers of the Constitution must have had in mind some machinery to determine when the judges had not behaved themselves and were subject to removal. That would be clear, I take it.

I think there are four possible theories as to where the framers meant to vest that authority. First, you might say they meant to vest it in the executive department to determine this question of good behavior. That theory you can put out of the window at once. The entire history is against it.

The second theory, and it is one which has often been advanced, is that the Constitution meant the judges to have authority to determine when members of the judiciary were guilty of misbehavior. There is some argument both for and against that proposition. We need not discuss it here, however, for the simple reason that if they do have this authority they have it by virtue of the Constitution, and nothing we can do can add to or detract from it.

The third theory would be that the framers meant that Congress could set up machinery to determine this question of good behavior, such as this bill.

The fourth theory would be that the machinery set up in the Constitution itself, impeachment, is the exclusive means for trying out this question of good behavior.

I realize arguments can be made in favor of both the third and fourth theories. It is my judgment, however, that the weight of the argument is in favor of the fourth theory—that is, that this justiciable issue of good behavior can be determined solely by the impeachment remedy in the Constitution.

I want to just mention four arguments that bring me to that conclusion, and I shall only have time to mention them. The first is a principle of statutory construction, very familiar to every lawyer, which is this: If a written instrument sets up or creates a certain obligation and also creates machinery to enforce that obligation, it is deemed that that machinery is exclusive. That is a rule that has been applied probably in a thousand cases. I do not wish to take the time to cite the cases, but, Mr. Chairman, I would ask unanimous consent to revise and extend my remarks to insert a collection of authorities on this and other questions on this general proposition.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. GWYNNE. It is a general rule of construction that where an instrument creates an obligation and sets up procedure for enforcing that obligation, that such procedure is exclusive of all others.

The general rule is stated in *Pollard* v. *Bailey* (20 Wall. 520) as follows:

> A general liability created by statute, without a remedy, may be enforced by an appropriate common-law action; but when the provision for the liability is coupled with a provision for a special remedy, that remedy and that alone must be employed.

The Supreme Court of the United States has followed and applied this rule in many cases.

In *Globe Newspaper Company* v. *Walker* (28 Sup. Ct. Rept. 726), the Court held that the remedies of forfeiture and penalty and of injunction given by Congress to the owner of a copyright, in case of infringement, are exclusive, and preclude resort to action at law to recover damages.

The principle was again applied in *Middleton National Bank* v. *Toledo A. A. & N. M. R. Company* (197 U. S. 394), which was an action brought outside the State of Ohio to enforce the stockholders liability given by the statutes of that State. The Court held that the statutory method providing for enforcement of this obligation in the courts of the State must be followed, and excluded all others.

This rule is universally recognized throughout the various courts. The authorities are summarized in Twenty-fifth Ruling Case Laws, section 228, as follows:

> A liability created by statute without a special remedy may be enforced by an appropriate common-law action. However, it is a general principle of interpretation that the mention of one thing implies the exclusion of another thing, expressio unius est exclusio alterius.
>
> A statute that directs a thing to be done by a specified officer or tribunal implies that it shall not be done by a different officer or tribunal.
>
> A statute that directs a thing to be done in a particular manner ordinarily implies that it shall not be done otherwise.

As examples of cases applying this general doctrine, see the following: *Taylor* v. *Taylor, Administrator* (66 W. Va., 283); *People* v. *Gibson* (53 Colo., 231); *Newcomb* v. *City of Indianapolis* (141 Ind., 451); and *City of Des Moines* v. *Gilchrist* (67 Iowa, 210).

It is a generally accepted rule that provisions in a constitution are mandatory and not directory.

For cases in which this rule has been applied, see the following: *Commissioners of Sedgwick County* v. *Bailey* (13 Kans., 600); and *Cohn* v. *Kingsley* (*Idaho*) (38 L. R. A., 74; 34 L. R. A., 487; 32 L. R. A., 203).

However, before we can say that rule would apply here, we must determine first of all that the remedy of impeachment is as broad as the obligation of good behavior—if you

see what I mean. In other words, can you impeach a judge for everything which is not good behavior? I say clearly you can. I think most of our misunderstanding of this subject comes from what may have been the unfortunate use of the words "high crimes and misdemeanors." The trouble is we use those words in a criminal sense usually. They are not used here in their criminal sense but in their social sense. The framers of the Constitution experimented with various words and finally adopted those words because they took them out of the English impeachment which they knew so well.

Now, what do they mean by "high crime and misdemeanor" for which a judge may be impeached? In England it was never held that to be subject to impeachment the judge or any other individual need to have committed any crime. If you will read the debate in the Constitutional Convention and particularly the statement may be Alexander Hamilton in the Federalist, it clearly indicates that they meant a judge could be removed through impeachment, for anything which made him unfit as a judge.

For example, they asked Alexander Hamilton, "What would you do if a judge became insane?" He said, "Clearly, he is subject to impeachment." As a matter of fact, we have impeached a judge solely because his insanity rendered him unfit to be a judge.

I suppose no one has expressed that thought better than the late Chief Justice Taft, speaking before the American Bar Association in 1913, when he said this:

> Under authoritative construction by the highest court of impeachment, the Senate of the United States, a high misdemeanor for which a judge may be removed is misconduct involving bad faith or wantonness or recklessness in his judicial actions, or in the use of his official influence for ulterior purposes. By the liberal interpretation of the term "high misdemeanor" which the Senate has given there is now no difficulty in securing the removal of a judge for any reason that shows him unfit.

In other words, if I make myself clear, a judge can be impeached for anything which is not good behavior. That is, the remedy in the Constitution is as broad as the obligation. Therefore, that well-known rule of construction applies, that rule that is a refinement of the well-known rule that the inclusion of one is the exclusion of others.

The second reason I want to give is this, and this is based on another principle of constitutional construction: Many times in construing statutes a court must decide whether a certain provision is mandatory or directory. In deciding that question the court determines what the intent of the Congress was in passing the statute. In construing the Constitution, however, in construing every constitution, every single provision in it is not directory but is mandatory.

Here we have a provision which provides how this question of good behavior may be determined. I maintain under this well-known rule that we cannot treat it as directory and set up some machinery ourselves, but we must treat it as mandatory and use the machinery that is set up in the Constitution.

The third reason is based upon the debates had in the Constitutional Convention and statements made in the Federalist, which lead me to believe that they had in mind very clearly to limit the removal of judges exclusively to this impeachment proceeding.

Someone suggested in the Convention that at the time in England they could remove a judge by an appeal of Parliament to the Crown. Somebody suggested that should be in our Constitution, but it was voted down. The question of impeachment received a great deal of consideration.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. GWYNNE. I think no one has expressed that thought better than Alexander Hamilton in the Federalist, where he said this, speaking about the judiciary:

> The precautions for their responsibility are comprised in the article respecting impeachment. They are liable to be impeached for malconduct by the House of Representatives and tried by the Senate, and if convicted may be dismissed from office and disqualified for holding any other.
>
> This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which I find in our own Constitution in respect to our own judges.

That was the opinion, at least, of Mr. Hamilton.

Let me call attention also to the statements made by Delegate Rufus King and others who clearly indicated that they had in mind putting in this impeachment machinery as the sole means of removing judges.

The fourth argument that I would make against this bill is based upon the history of impeachment itself. Back in the early days of England, as we all know, all the powers of government were under the Crown. There was no real distinction between impeachment and indictment. A battle was going on constantly between the Commons and the Crown to get for the Commons some part in their own government. Somewhere along that road they discovered the machinery of an independent judiciary, and that was the time when liberty and freedom really came on earth. [Applause.] Now, if you are going to have an independent judiciary, or an independent Executive, or an independent Legislature, you must have some system of checks and balances for them to protect themselves and to check the other coordinate branches of the Government.

At the time we adopted our Constitution impeachment had been developed to the place where it was a legislative check in England against the judges and against the Crown itself.

Mr. SUMNERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. Yes.

Mr. SUMNERS of Texas. Does not the gentleman know that when we adopted our Constitution there had not been an impeachment in England for 125 years?

Mr. GWYNNE. That is true.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. GWYNNE. I yield.

Mr. SHORT. Does not the gentleman feel that the reason for the framers of the Constitution adopting section 4 of article II and section 1 of article III was really to maintain the independence of the judiciary and to make it forever free from Executive domination and interference?

Mr. GWYNNE. I have not the slightest doubt of it. In answer to the question suggested by the chairman of the committee, the framers of the Constitution understood, at least, and realized the value of impeachment as a check and balance, and they adopted it for that purpose. One thing indispensably necessary to constitutional government is that the checks and balances must be in the Constitution itself. It is impossible to have constitutional government with checks and balances if one body can devise out of its own ingenuity schemes for checking the other body which are not in the Constitution itself. [Applause.]

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, it is indeed with great reluctance that I take exception to the position taken by our distinguished chairman, for whom we have indeed a most abiding affection; but I deem it my duty, notwithstanding, to take issue with him, because this question is highly important and should be deliberated from every possible angle.

Mr. Chairman, from my review of the cases, the Constitution itself, the authorities, and the debates in the original Constitutional Convention, I am firmly of the conviction that we have no authority whatsoever to pass this bill. I sympathize fully with the objectives sought; I believe that the trial of an accused judge by impeachment is highly unsatisfactory; nevertheless, despite my sympathy with the objectives of the bill, I do not believe that it can be accomplished legally or constitutionally. There is no short cut. If we want to change the method of trial of judges accused, we must follow the Constitution. To do it in the way that our distinguished chairman wishes to do it would require, beyond peradventure of doubt, a constitutional amendment.

We often grow impatient with our judiciary, and especially so when they decide against us or when they in their deci-

sions or opinions develop economic or political views differently than we would, or when we do not agree with the results generally, even though it does not affect us materially; but when sensible men viewing in retrospect what our district courts, our circuit courts, and our Supreme Court have done they will have naught but praise for our courts. Consider the record for years and our courts will come forth triumphant. I grow somewhat impatient when I hear so many improvident attacks upon our judiciary. Even in the debate on this bill today intemperate remarks have been made with reference to their work. Those remarks have no place here.

I want to punish judges when they merit punishment. I would be derelict in my duty if I would not impeach a judge whom I felt was guilty of high crimes and misdemeanors or guilty of misbehavior, but I do not want to take means of punishing the judges unless those means are legal and constitutional.

I want to maintain as much independence for our judiciary as is possible, and the only way that we can maintain an independent judiciary is to make attack upon them difficult, not too easy; otherwise the judges will no longer be independent, but will truckle to this influence and that influence, to this personage and that personage, and we would, therefore, strike a decided blow at the judiciary and destroy their independence. [Applause.] Now, insofar as you make these attacks upon the judiciary easier I am against it.

The other evening I was reading from the famous French philosopher Montesquieu. He said:

> There can be no liberty if the power of judging be not separated from the legislative and the executive powers.

Insofar as this bill will make attacks upon the judiciary easier, since the impeachment is more difficult, you will not have that distinct and necessary separation between the Executive and the judiciary, between the legislative and the judiciary, particularly since the prosecuting officer in these proceedings would be a member of the President's Cabinet, a most responsible agent of the Executive, the Attorney General. The power to attack courts, especially in these parlous times, should be sparingly used. Impeachment is difficult. It should remain so.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. SABATH. But the Attorney General could not proceed until the House by majority vote had decided that impeachment was necessary.

Mr. CELLER. That is true beyond question, but there is the gravest and the highest responsibility placed upon the Attorney General with reference to the duties outlined for him in this bill.

When we consider the history of our district judges and our circuit judges, it is well to keep in mind that there have been comparatively few impeachments during the 150 years of our existence as a nation, very few. District judges as a class, just like Congressmen as a class, have had within their ranks a few renegades. The judges are not all perfect, you cannot help it, they are human; but just as we in the House have had our renegades and have punished them, so the outside agencies have punished theirs.

In 148 years since the Constitution only nine judges have been impeached. Of the nine judges impeached, five were found innocent. Only four were found guilty.

Since the bill has been changed to include an appeal to the Supreme Court, my criticisms in my minority record against failure of appeal were well taken. We now have appeal.

Just because one or two have strayed from the path is no reason why we should bring a wholesale indictment against all of the judiciary in the land. That is the feeling behind this bill, and that is one of the reasons why I am opposing it.

Mr. SUMNERS of Texas. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Texas.

Mr. SUMNERS of Texas. May I ask the gentleman from New York if it is not a fact that the small number of prosecutions has resulted from the protection which the House has given, acting as a buffer, and if we do not reserve that in this bill?

Mr. CELLER. I do not agree with the gentleman. It is a very simple matter for a man to rise and impeach a judge. If he wants to take the responsibility, let him do so, but Members may be fearful at times to take the responsibility of impeachment. That is unfortunate. The mere fact that during 150 years we have only had nine judges impeached, and only four successfully, I repeat that our judiciary is as good as the judiciary of any land under the sun.

Mr. SHORT. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Missouri.

Mr. SHORT. The gentleman is making a splendid argument. Does he not feel it is much better to tolerate the abuses of a very few than to intimidate all the members of the judiciary by setting up a new plan?

Mr. CELLER. I agree with the gentleman.

Mr. HANCOCK of New York. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from New York.

Mr. HANCOCK of New York. Is it not true that one of the nine judges the gentleman mentioned a moment ago was a Justice of the Supreme Court and would not come within the jurisdiction of this bill?

Mr. CELLER. The gentleman is right, and I thank him for his observation.

Mr. HANCOCK of New York. And the judges of the Commerce Court have been abolished, which further reduces the number.

Mr. CELLER. Even taking the nine, the House was mistaken apparently in five and only four were found guilty of the charges for which impeachment was had.

I may say with all due deference to the author of the bill that the best argument against its validity is its novelty. I said this in the minority report and I am going to repeat it:

> It scarcely can be believed that the framers intended vesting Congress with an important power and then so skillfully concealed it it could not be discovered save after 150 years.

[Applause.]

Speaking of the independence of the judiciary, I meant to say a few moments ago what Hamilton said so skillfully and effectively:

> This independence of judges is equally requested to guard the Constitution and the right of individuals. The precautions for their responsibility are comprised in the article respecting impeachment. They are liable to be impeached for malconduct by the House of Representatives and tried by the Senate, and if convicted may be dismissed from office and disqualified from holding any office. This is the only provision on the point which is consistent with the necessary independence of the judicial character.

I have before me the Federalist, volume 2, numbers 65 and 66, with contributions by Hamilton, Madison, and Jay. It covers the matter of impeachment. There is a clear indication that the framers of the Constitution wished to limit beyond any question the right to impeach and try judges, to limit the right of removal, to the Congress of the United States. Particularly we are told that efforts were made to set up a different tribunal. An effort was made to set up the Supreme Court as a tribunal to try these recreant judges. We are told by these savants that the framers in the Constitutional Convention rejected every solitary one of the proposals other than the one we find in the Constitution.

Now, that is the best argument in the world. They rejected every single proposal, except that the House shall impeach and the Senate shall try the cause. The House shall be the sole entity to bring impeachment charges. We are told in article I, section 2:

> And the House of Representatives shall have the sole power of impeachment.

We are told in article I, section 3:

> The Senate shall have the sole power to try all impeachments.

The use of the word "sole" in those two particulars undoubtedly is most significant, particularly in the light of the history of the Constitutional Convention, which we are told rejected all alternatives except the one we have followed for 150 years. Therefore, I cannot lay too great emphasis on the use of the word "sole" in two instances. To my mind the conclusion is inescapable that the only way you can try

these judges is by the method that the Constitution allows us to use, and I do not care what you call the trial, whether impeachment, ouster, removal, or by any other name.

Mr. LEAVY. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Washington.

Mr. LEAVY. Under this act is not the sole method, manner, or way in which proceedings may be instituted still lodged with the House of Representatives?

Mr. CELLER. Yes; but we are adding another remedy. We cannot add that remedy because the Constitution forbids, because the Constitution says there shall be one sole tribunal, not a tribunal composed of the Supreme Court Judges or a tribunal composed of three Circuit Court of Appeals judges selected by the Supreme Court, not three Daughters of the American Revolution or three presidents of chambers of commerce. If we have the right to say that a Supreme Court Justice shall select the Circuit Court judges to act as a tribunal, then we have the equal right to say Tom, Dick, and Harry shall be the court to try these district judges. We would equally have the right to say that three presidents of three distinct chambers of commerce, or three members of the Daughters of the Nile, or three Members of Congress, or three women of the Ladies' Sewing Circle of Tallahassee, Fla., may try these judges. You have the same right in one case as you have in the other. I deny that you can do that. If we have the right to set up another ouster court, we can with equal grace pick our own judges. We are the sole judges of the judges.

Just because the Senators have not done their duty in hearing the causes, and just because Senators walk in and out of an impeachment trial and few, if any, remain throughout the entire proceeding, and few, if any, have encompassed in their minds what it was all about, so far as these prior impeachments are concerned, is no reason why we should change the method or attempt to change the method. There is only one answer to the argument the Senators have not done their duty. They must do their duty, and they should be criticized into doing their duty. They must be made to do their duty. They could easily have a subcommittee hear the case, and that subcommittee could report to the Senate. The fewer members of the subcommittee could and would attend all hearings.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Tennessee.

Mr. TAYLOR of Tennessee. Whether the Senators are actually present or not, they read the hearings and are informed when the time comes to vote.

Mr. CELLER. I think that may be sound. However, it was argued that if the Senators do not do their duty and therefore we must change the method, but I cannot see any efficacy in that argument.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. SHORT. Sometimes Members of the House are a little derelict in their duty. I am sorry that more Members are not on the floor now to hear the very clear, cogent, and convincing speech of the gentleman from New York.

Mr. CELLER. I thank the gentleman for those kind words. I agree to settle for half.

Mr. LUDLOW. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. LUDLOW. I am trying to get at the truth of this matter with the limitations of a layman's mind. May I ask the gentleman if we do not hear it said all the time that Federal judges are too far removed from the people? We hear that criticism reiterated over and over again. If we enact a system whereby punitive measures will be applied to delinquent Federal judges by the courts, and thus remove their trial from Members of Congress who are elected by the people, will not judges be further removed than ever from the people? Is that not an objection to this bill?

Mr. CELLER. I think that is, indeed, a very sound argument.

Mr. KERR. Does the gentleman think the question of good behavior refers to the offenses designated here for which a person is impeachable?

Mr. CELLER. I shall come to that in a moment.

Mr. DICKSTEIN. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. DICKSTEIN. Under the present system, before a Member of Congress presents charges he at least gives them study and consideration before the House is asked to act. If this bill becomes law, a Member could at any time submit a charge, whether right or wrong, and then, automatically, from what I gather from this argument, the matter would be referred to some committee and then referred to this tribunal of three judges.

Mr. CELLER. I think the gentleman is somewhat in error. Under our present practice there must be a resolution of the House to impeach.

Mr. DICKSTEIN. I appreciate that.

Mr. CELLER. Under this proposal there must likewise be a resolution to start the proceedings.

Mr. DICKSTEIN. But it comes from no responsible source. We would have to take the word of some other people who say this judge did this, that, or the other thing. Has the Committee on the Judiciary power under this bill, if it becomes law, to investigate?

Mr. CELLER. Oh, yes.

Mr. DICKSTEIN. That is what I want to know.

Mr. CELLER. I presume our Committee on the Judiciary would not act unless they had investigated, and they would undoubtedly initiate the proceeding in both instances, under the present practice and under the proposed practice.

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York.

Mr. COLE of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. COLE of Maryland. If the present system, principally because of the attitude of the Senate, justifies this legislation, and we create a more dignified forum, so to speak, for future trials, why is it the judges of the circuit court of appeals are not entitled to the same consideration?

Mr. CELLER. I do not know why. I think the point is well taken. If one district judge can be tried by three circuit judges, I can see no reason why the reverse should not be true. I cannot see why a tribunal of three district judges could not be set up to try one circuit judge. What is sauce for the goose is sauce for the gander, and if we have the power to do all this, we can try circuit judges in one way and district judges in another way. There is no question about the fact we could try the district judge one way and the circuit judge another way. But why treat them differently. They are all Presidential appointees.

Mr. O'CONNOR of Montana. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I want to get on with my argument, and this is the last time I shall yield.

Mr. O'CONNOR of Montana. I want to get the gentleman's view as to whether or not the term "during good behavior" is not more elastic than the provision set forth in section 4 of article II with reference to impeachment?

Mr. CELLER. I shall come to that in a moment.

With reference to the matter of good behavior, here we are setting up a court which is in its nature a criminal court, and we deny right to jury trial, a right granted to the meanest smuggler. The remedy this bill provides is of a criminal nature because there are important punishments and serious sanctions. The judge loses his job as it were, and is relegated to private life and disgraced. This is really a criminal proceeding, a criminal trial.

What do you do? You say to one of the judges, "You are guilty of misbehavior. You have not been behaving yourself." What in the world is good behavior? I do not know what good behavior is. No standard is set up in this bill. The commonest felon, when he is informed against or when an indictment is brought against him, must be charged with a specific crime, and the crime must be indicated specifically and succinctly. He must know unmistakenly and exactly of

what he is accused. In this case you do not do that. You say that a man shall be answerable because he did not behave himself. Where lies the truth in this regard? I do not know. What is one man's meat is another man's poison. What may be good behavior to Green may be misbehavior to Lewis. Roosevelt today may be accused of an impeachable offense by one great class of people, and by another great class of people may be praised to the skies for the same activity.

I repeat, where does the truth lie? What is good behavior? What is the standard of good behavior? I maintain, therefore, this term is so indefinite that there is no due process, and every one of us is entitled to due process of law. This right is imbedded in the Constitution. If due process is not provided for in this bill the courts will undoubtedly frown upon it. What is due process?

In the case of *United States* v. *Cohn Grocery Co.* (256 U. S. 81) it was held that due process of the law requires that acts defining the offense should be specific enough so that its meaning could be determined from the law itself. The Court said:

> The Congress alone has the power to define crimes against the United States. This power cannot be delegated to the courts or juries of the country.

We cannot, therefore, delegate this power to circuit judges to try a particular judge who is accused in this indefinite, vague way.

> Therefore, because the law is vague, indefinite, and uncertain; and because it fixed no immutable standard of guilt but leaves such standard to the variant views of different courts and juries, one may be called upon to define it; and because it does not inform the defendant of the nature and cause of the accusations against him, I think it is constitutionally invalid, and the demurrer ought to be sustained.

This is important also. Every one of us should have the right to set up the defense of res adjudicata, namely, that we were accused of some crime or some offense and had been acquitted; but in this particular instance, of what have you been acquitted? You have been acquitted because you were good. Somebody else may bring another charge against you at some subsequent time based on the same state of facts. You cannot tell. The charges are too indefinite.

For these reasons, and many others which I shall put in the RECORD, I believe this is clearly and palpably unconstitutional. [Applause.]

I herewith insert some of my remarks from my minority report:

CONGRESS CANNOT LEGISLATE CONCERNING THE TERMS AND TENURE OF OFFICE OF THE JUDGES

This is purely a constitutional matter imbedded in the Constitution. The tenure of office for life during good behavior—anything that affects the tenure of the judges—must be as the Constitution dictates. It is not a matter of legislation. A trial for misbehavior, therefore, must be in pursuance of the Constitution.

INTENT OF FRAMERS OF CONSTITUTION CONCERNING OUSTER OF JUDGES

A study of the debates in the Constitutional Convention, and particularly those of Monday, August 27, 1787, clearly indicate that the framers of the Constitution intended only one method of ouster of judges, impeachment. It was on that day that they discussed the provision that judges should hold office during good behavior. Delegate Dickinson, of Delaware, proposed, as a method for removing judges, additional to impeachment, that they "may be removed by the Executive on the application by the Senate and House of Representatives." (It is not recorded that he argued that what the Congress may do it may undo.) The champions of an independent judiciary were stirred to vigorous and immediate dissent. The proposal almost unanimously was voted down. (See Warren's The Making of the Constitution, 532.) Would not the framers of the Constitution have been surprised to learn that, themselves spurning an alternative of impeachment almost identical with it, unwittingly they had empowered Congress to adopt any alternative it chose.

The power to try judges, or remove them from office, would clearly be limited to impeachable offenses, under the general doctrine that where a constitution names certain things as constituting offenses, and gives specific powers with reference to certain subject matter, it is intended to be exclusive. Mr. Cooley, in his work on Constitutional Limitations (eighth edition, p. 139), quotes this rule as follows:

"Another rule of construction is, that when the Constitution defines the circumstances under which a right may be exercised or a penalty imposed, the specification is an implied prohibition against legislative interference to add to the condition, or to extend the penalty to other cases."

The Supreme Court of Mississippi in *State* v. *J. J. Henry* (87 Mississippi Reports, 125; 40 Southern Reporter, 152), under clause (d) of the first syllabus, says:

"Where the Constitution enumerates power granted or denied, it must be held to have named all of the powers so dealt with and as being, with the necessary implications, the sole limit of authority or restriction."

To the same effect is the case of *Rhode Island* v. *Massachusetts* (12 Peters, 657; L. Ed. 1233) and *Myers* v. *United States* (272 U. S. 52; 71 L. Ed. 160).

Mr. SUMNERS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Arkansas [Mr. MILLER].

Mr. MILLER. Mr. Chairman, I do not presume I can make a logical argument in 10 minutes, if I were capable of making one; but this matter is now in such shape that I think a few desultory remarks may be in order on some of the things that seem to be misunderstood.

I do not think there is anything specially new or novel about this proceeding at all. I believe it is admitted by everyone who has thought about it that the words "good behavior" constitute and raise a justiciable issue. I think this is admitted.

It is further admitted that the proposed bill takes nothing from the power of Congress—takes nothing from the Senate and takes nothing from the House on the question of instituting impeachment proceedings or the Senate in trying impeachment proceedings. The only thing it does is that it initiates or sets up machinery whereby we may in fact judicially try the question of good behavior. Now, what do we mean by this? When a man is appointed to hold office during good behavior, he receives a life estate in that office subject to that condition precedent or subject to his good behavior.

This was the law in England at the time of the adoption of the Constitution. The argument has been made here with respect to the necessity of preserving the independence of the judiciary. I do not think there is anybody in this House who wants to preserve the independence of the judiciary any more than I do, or will go any further than I will in preserving the independence of the judiciary.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Not right now, please.

But let me ask you this question: Is the judiciary of the United States any more independent than the judiciary of England? Is it not a well-known historical fact that the judiciary of England is probably the most independent judiciary of any country in the world? Now, what is the law in England and what was the law at the time the words "good behavior" were placed in this particular provision of the Constitution? The Acts of Settlement, passed in 1700, contains the words "good behavior", stating that the judges of the English courts shall hold office during good behavior.

Now, what was the law at that time as to how they might be removed, and how can they be removed now in England? Suppose a judge in England today is guilty of conduct that is not good behavior, how is he removed? There are four proceedings by which he may be removed. Understand, a so-called impeachment in England is just as effective as it is here. One is a proceeding by a writ resembling the writ of scire facias, and he is tried in a court. The commentators say that in a case of misconduct not amounting to a legal misdemeanor the appropriate course appears to be by scire facias to repeal the patent or to repeal that provision of the patent that has been issued to him, his commission to hold the office. The next is, when the conduct amounts to what a court might consider a misdemeanor, then by information in the courts. Third, if it amounts to an actual crime, then by impeachment. Fourth—and in all cases at the discretion of the Parliament—by the joint exercise of the inquisitorial jurisdiction by joint address.

Now, you talk about destroying the independence of the judiciary by the passage of this bill. You will not destroy the independence of the judiciary by doing this, but you will serve notice on every one of the members of the Federal

judiciary that we simply expect them to make a reality out of the limitation on their tenure during good behavior. This is all you will do. You are not taking anything from these judges. You are not hampering them in the least, and you are not interfering with the free and untrammeled exercise of their duty.

It has been suggested by my distinguished friend from New York that if this law is passed there will be a flood of resolutions and there will be a number of trials. There will not be any such thing unless a judge ought to be tried. Do you think the House of Representatives would pass a resolution and put a man upon trial if we were not convinced he was guilty of conduct which was other than good behavior? Certainly, we would not, and on the other hand, suppose a man had committed a crime, a high crime or misdemeanor, what would happen? We would impeach him. Why would we impeach him? Because that kind of man not only ought to be removed from office under this section of the Constitution but the Senate ought to have the right to pass further judgment upon him, as provided by the Constitution, and bar him from ever holding another office of trust under the United States Government.

Mr. CASE of South Dakota. Mr. Chairman, will the gentleman yield now?

Mr. MILLER. Let me proceed just a little further, please.

The distinguished gentleman from New York pleads that we must protect the judiciary, and that to pass this resolution will be letting down the bars to Tom, Dick, and Harry to bring charges against them.

I do not know, but I do not think a majority of this House would ever place a district judge or any other judge of a court upon trial on any frivolous charges. It has not been done in England. We have given some serious consideration to this matter. The trouble about the whole thing is that in the average mind, and even the distinguished gentleman from New York [Mr. CELLER] in his minority views said, that Federal judges hold office during life or during good behavior. That is just a common expression of a belief that has grown up. There is not anything mentioned about holding office for life. The distinguished gentleman further said that there were no dead words in the Constitution. I agree with him. There are no dead words in the Constitution. Good behavior means something. If it means something, where are we going to try the issue, and is it included in high crimes and misdemeanors or is it not a more comprehensive term? It is, and that is the point in this case. Good behavior is a wider term, because under the law in England at the time good behavior was put into our Constitution it included things that were not recognized under the English law as high crimes and misdemeanors, and therefore the writ of scire facias was applicable for removal of a judge for other than conduct of good behavior.

There is nothing wrong in this. Something was said in the minority views that intimated that this question was debated on the floor of the Convention. It was debated on the floor of the Convention, and I refer you to Mr. Madison's notes as my authority. When the tenure section was agreed upon, Mr. Dickinson proposed an amendment by adding the words "and may be removed by the Executive upon a joint address of the two Houses." That amendment was rejected, and Mr. Sherman said that would be all right if it were not for the fact that a joint address does not mean a trial. [Applause.] He was for a trial and that is provided for under the proposed bill.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. GUYER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. REED].

Mr. REED of Illinois. Mr. Chairman, since February 5, when the President transmitted to this Congress his message relative to a proposed reorganization of the Federal judiciary, Nation-wide interest has been manifest concerning that branch of our Government that deals with the administration of justice. Senators, Representatives, public officials, bar associations, newspapers, and magazines have tendered approval or disapproval of the President's plan and our Constitution has been quoted, requoted, and misquoted with vehemence by partisans espousing both sides of the controversy that has been raging since that date. At the present time it appears as if the net results of that now famous contest will be a definite understanding of the power that the Executive shall exercise affecting the judiciary, and a liberal education accorded the people of the United States in constitutional law. Unfortunately, legislation at this session which would tend to strengthen and make more effective the administration of justice has not had the consideration it merited owing to the sensational attraction that has occupied the center of the stage.

The tumult and the shouting having somewhat subsided, I trust that the Congress will today give its favorable consideration to the bill introduced by the eminent chairman of the Committee on the Judiciary providing for trials and judgments upon the issue of good behavior in the case of certain Federal judges.

When the framers of our Constitution met in Philadelphia 150 years ago, they realized that public officers thereafter entrusted with the control of our Government would, after all, be human beings with all the faults, weaknesses, and frailties to which mankind is subject. Accordingly, they wrote into the fundamental law a provision that "the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors" (art. II, sec. 4). They provided that "the House of Representatives * * * shall have the sole power of impeachment" (art. I, sec. 2) and that "the trial of all crimes except in cases of impeachment shall be by jury * * *" (art. III, sec. 2). They further provided that "the Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

> Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law (art. I, sec. 3).

And finally they provided that "the President * * * shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment" (art. II, sec. 2).

Mr. MASSINGALE. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. Yes.

Mr. MASSINGALE. There, in my judgment, is a matter for at least serious thought upon my own part. The gentleman is reading the words of the Constitution about the judgment in impeachment cases.

Mr. REED of Illinois. Yes.

Mr. MASSINGALE. And the language is before the gentleman, that the judgment in impeachment cases shall be removal from office.

Mr. REED of Illinois. And it may be disqualification for holding office of honor thereafter.

Mr. MASSINGALE. Yes. The judgment in this proposed bill shall be only removal from office.

Mr. REED of Illinois. That is correct.

Mr. MASSINGALE. Here is a question I should like to have the gentleman's opinion on. Suppose we rendered a judgment of removal from office under this bill and then impeachment proceedings should be instituted and had and a conviction obtained, what would the gentleman think, for instance, of a plea of res adjudicata? The basis upon which a conviction and judgment can be entered in an impeachment proceeding is removal from office. If removal from office has already been effected, then would it be possible to render a complete and constitutional judgment in an impeachment proceeding?

Mr. REED of Illinois. I do not think impeachment would lie after removal from office, because there have been many times when impeachments have been commenced in the

Senate and have been dismissed because of the constitutional question that you cannot remove a man from office when he is already out.

Mr. MASSINGALE. That is a matter explained somewhat differently by other members of the committee.

Mr. REED of Illinois. Mr. Chairman, these clauses of the Constitution which I have read are the sole and only provisions of that document that relate to impeachments, and constitute a means by which the President, Vice President, and all civil officers can be removed from office upon conviction of certain specified offenses, to wit: "Treason, bribery, or other high crimes and misdemeanors" (art. 11, sec. 4), by the Senate sitting as a court of impeachment.

In the 150 years that the American people have enjoyed constitutional government 12 public officials have been brought to the bar of the Senate on charges preferred against them by the House of Representatives. Of these 12 persons, one was a President of the United States, one an Associate Justice of the Supreme Court of the United States, one a Secretary of War, one a United States Senator, one a judge of the United States Commerce Court, and seven were United States district judges. Experience in these cases has taught us that trials by impeachment are long, cumbersome, and unsatisfactory. At the time of the adoption of the Constitution, the Senate was composed of 26 Members—one more than the present membership of the Committee on the Judiciary of this House. Several of the standing committees of this body today exceed in number the total membership of the United States Senate of that period. The addition of new States has swelled its membership to 96, an unwieldy body to sit and act, as it must in impeachment trials, as both a court and jury. It is composed of busy men, who cannot and will not divest themselves of the time they must necessarily devote to their lawmaking activities and concentrate, analyze, and digest the intricate testimony offered and evidence adduced in an impeachment trial. They are legislators rather than jurists. Except in cases involving high public officials they should not be required to set aside their legislative duties, paralyzing for weeks the lawmaking function of our Government, and don the robes of a judicial tribunal. It is an imposition to require them to sit in judgment on proceedings to oust a Federal district judge when matters of vastly greater importance should occupy their time and energies. As a court and jury acting under these handicaps they render fair and impartial justice to neither the accused nor the accuser.

Roger Foster in his Commentaries on the Constitution of the United States said:

> Impeachment trials are a survival of the earliest kinds of jurisprudence, when all cases were tried before an assembly of the citizens of the tribe or State. Later, ordinary cases, both civil and criminal were assigned to courts created for that purpose but matters of great public importance were still reserved for a decision of the whole body of citizens or subsequently of the council of elders, heads of families or holders of fiefs."

Surely now, after 150 years, when our Nation has grown in population from 3,929,214 to 128,429,000 souls, when it has expanded from 13 to 48 sovereign States, when its domain stretches from the Atlantic Ocean on the east to the Pacific on its west, when its trade and commerce have increased a millionfold, when its citizens have had the rich experience of a century and a half of self-government, it would seem advisable, if permitted by the basic law of the land to discard an archaic and cumbersome mode of discharging unworthy and incompetent minor officials from the public service for a better method that would be more simple, efficient, and just.

But let us look again to the Constitution. Section 1 of article III says, "The judges, both of the Supreme and inferior courts shall hold their offices during good behavior * * *." This necessarily means that they may be removed in case of bad behavior. It means that the tenure of their offices is determined by their own personal and official conduct. If they misbehave their actions in so doing create a justiciable issue to be passed upon in a manner prescribed by law. Some tribunal must determine whether the actions of the accused judge were of such a nature as to constitute misconduct and if so, that his tenure of office has expired by his own misdeeds.

But some will say "What is good behavior? This bill doesn't define it. What is good behavior to one man may be bad behavior to another." My answer to that inquiry would be to propound another. "What is good behavior now under the Constitution? And what is the meaning of 'high crimes and misdemeanors'? What is the definition of 'fraud', 'due process of law', and 'life, liberty, and the pursuit of happiness?'" These are general terms, and there has never been a court or a legislator that has had the wisdom to be able to state a definition of these terms in language capable of including every possible state of facts, and write it into the law of the land.

An eminent former member of this body who was one of the managers on the part of the House in an impeachment proceeding some years ago in defining "high crimes and misdemeanors" to the Senate said:

> Mr. President, * * * outside of the language of the Constitution * * * there is no law which binds the Senate in this case today except the law which is prescribed by their own conscience, and on that and on that alone, must depend the result of this trial. Each Senator must fix his own standard; and the result of this trial depends upon whether or not these offenses we have charged * * * come within the law laid down by the conscience of each Senator for himself.

Can it be said that a court composed of legally trained jurists is less capable of passing upon the admissibility of evidence and the merits of a case involving the right of a judge to continue in an office he is alleged to have disgraced than a group of legislators many of whom are not trained in law? An innocent judge would prefer to be tried by his colleagues.

Let us look again at the Constitution and let us suppose for the moment that all of the provisions thereof that relate to impeachments had been omitted therefrom. Judges would still hold office only "during good behavior." Can it be said that these words have no meaning and that they are dead words in the Constitution? I think not. They are not self-executing. They require enabling legislation to give them vitality. They have lain dormant for 150 years because Congress chose to proceed by the more cumbersome method. The eighteenth amendment to the Constitution prohibited the manufacture, sale, or transportation of intoxicating liquors for beverage purposes, but this amendment, too, would have remained a dead provision of the fundamental law if Congress and the several States had not enacted legislation to make it operative.

It has been pointed out that judges are not appointed for life but merely during "good behavior", and it has been said that these words must be construed with the "high crimes and misdemeanor" clause in the impeachment section. Most authorities admit that there is little, if any, difference in the meaning of the two terms. It is plainly apparent that the President, Vice President, and all civil officers—which includes judges—may be removed from office by impeachment. The terms of the President and Vice President are 4 years. Yet their tenure of office can be terminated by a judgment of the United States Senate that they have been guilty of the offenses specified in the Constitution. Does not the same thing apply to judges, even though their term of office is not fixed definitely? Suppose our forefathers in the Constitutional Convention had fixed the tenure of judges at "life" instead of "during good behavior", as was at one time proposed. Would they not be removable by impeachment just the same as they are now? Would the insertion of the word "life" in place of the words "during good behavior" make one single iota of difference in the trial of judges by impeachment? Why, then, was there an exception placed in the Constitution as to judges as compared with other civil officers? Perhaps an uncanny insight into the future led the framers of the fundamental law of our land to believe that the less the legislative or executive branches of our Government had to do with the removal of judges the more independent they would be in their judgments. Senators and Representatives may be expelled by their colleagues for good cause. The Executive may remove his subordinates if they

are dishonest or inefficient. Why should the courts not possess the same power?

The bill under consideration is merely an exercise by Congress of its legislative power to "constitute tribunals inferior to the Supreme Court" and to "make laws * * * necessary and proper for carrying into execution" its constitutional prerogatives (art. I, sec. 8).

Briefly, this proposed legislation provides that upon the passage of a proper resolution by the House of Representatives stating that in the opinion of the House any Federal district judge has been guilty of misbehavior within the meaning of section I of article 3 of the Constitution, the Chief Justice of the United States shall convene or cause to be convened the circuit court of appeals of the circuit in which the judicial district of the judge is situated in a special term for the trial of the issue of good behavior of such judge. It provides that judges of other circuits may be called by the Chief Justice to sit on said court; that the Attorney General shall prosecute on behalf of the United States; and that the judgment of the court, in case of conviction, shall be that the judge is removed from office. It provides for an appeal from that judgment to the Supreme Court of the United States and that the judgment of that tribunal shall be final and binding.

It assures both the accuser and the accused of a trial before a tribunal that is judicially minded and learned in the law.

It relieves the United States Senate of the burden of constituting itself as a court at the sacrifice of its legislative duties.

It accomplishes everything that is contemplated by impeachment but does it efficiently and impartially.

It surrenders none of the rights now existing to try judges by the impeachment method if Congress so prefers.

It gives the courts the opportunity to purge themselves of those who are unworthy.

Mr. Chairman, in my judgment, this is one of the most constructive measures that has been proposed at this session of Congress, and I trust it will receive the enthusiastic support of this House. [Applause.]

Mr. GUYER. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. TOLAN].

Mr. TOLAN. This is indeed a large question to discuss in the short time of 5 minutes, but shall do the best I can. When this legislation was first mentioned I was not in favor of it, but having served on the Judiciary Committee with our great chairman, Mr. SUMNERS—and by the way he is one of the great constitutional lawyers in the United States, if not the greatest—he finally persuaded me that he is right. Men, and particularly lawyers, are so married to precedents that it takes a mental crowbar to pry them loose. We have been going along here for 150 years saying that the only remedy for removal of judges is by impeachment. I call attention to a fact that probably has not been brought out today. Do you Members realize that the constitution of every State in the Union provides for impeachment of various officials of States, and that by statute in nearly every State in this Union we have independent remedies such as accusation and others where the sole issue tried is the question of removal from office and this trial is by the court and independent of impeachment and criminal proceedings. For instance, the Attorney General of the United States was mentioned. The attorney general of the State of California has a perfect right to file an accusation against the secretary of the treasury in that State and remove him, independent of impeachment. There you have it in the States of the Union. That is all we are asking here now.

Let me say another thing, if I may. I do not know all about this by any means, and I answer this proposition on account of someone mentioning that this legislation was an attack on the judiciary. Do you mean to tell me that the judiciary of the United States would not rather be tried in a court where the judges will listen to the evidence and look into their faces? Would you not, as a judge, rather be tried before three judges of the circuit court of appeals than to be tried before the Senate of the United States? This is no disparagement of the Senate, because they have other work to do; but would you not rather be tried before three judges of the circuit court than before the Senate and have 4 or 5 Members out of 96 listen to the testimony and decide upon your fate? I certainly think you would. When the framers of the Constitution said the judicial power of the United States shall be vested in one Supreme Court and such inferior courts as Congress may provide, and that the judges shall hold office during good behavior, and that their salaries shall not be diminished during their continuance in office, nothing was mentioned about impeachment, and it means that judges can hold office just so long as they behave themselves. It means the judiciary has the right to purge itself by removing its members when they are guilty of misbehavior. Why is that so? The President of the United States can remove officers under him. He is the executive branch. He does not have to impeach them. A Member of the House of Representatives can be removed without being impeached.

[Here the gavel fell.]

Mr. SUMNERS of Texas. I yield the gentleman from California 1 additional minute.

Mr. TOLAN. So the House of Representatives can purge itself of a Member who has been guilty of misbehavior, and this without impeachment. The Senate can do it without impeachment. The executive branch can do it. Therefore why cannot a Federal judge be removed without impeachment?

I think this is a constitutional measure, very meritorious legislation, and hope you will support it. [Applause.]

[Here the gavel fell.]

Mr. GUYER. Mr. Chairman, I yield 15 minutes to the gentleman from Alabama [Mr. HOBBS].

Mr. MICHENER. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. HOBBS. Certainly.

Mr. MICHENER. Mr. Chairman, the gentleman who is yielding time on this side is yielding much of the time to those in favor of the bill. As a member of the committee, I do not like that kind of treatment.

Mr. GUYER. I beg the gentleman's pardon. I gave him time but neglected to mark it on my pad. I will yield him time later.

Mr. HOBBS. Mr. Chairman, in order to relieve the embarrassment, I yield back to the gentleman from Kansas the time he so kindly gave me, in order that the gentleman from Michigan or anyone else who cares to may oppose the bill.

Mr. MICHENER. How much time is there left on that side?

Mr. SUMNERS of Texas. Forty-one minutes.

Mr. MICHENER. And the gentleman on our side has yielded most of the time to those in favor of the bill.

Mr. HOBBS. I have relieved that embarrassment.

Mr. GUYER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. HANCOCK].

Mr. HANCOCK of New York. Mr. Chairman, I will try to keep within the 5 minutes, because I have already cluttered up the RECORD with my views on this subject. On Thursday I put some remarks in the RECORD in opposition to the bill, thinking it was coming up on Friday when I could not be present. But let me briefly make a résumé of my arguments against the bill before us.

In the first place, I am afraid I have one of those immature minds referred to by our genial chairman, which cannot find in article III any authority for the removal of a Federal judge from office. If article I did not exist, the article in which the House is given sole authority to impeach and the Senate the sole power to try impeachment cases, and if article II did not exist, which states the grounds on which a civil officer may be removed, then I think I could find in article III some authority for setting up a tribunal to try the issue of good behavior; but as I look at it, when you use such general language as the good behavior clause of section I, article III for authority to remove a judge from office, you

must look elsewhere in the Constitution for specific grounds of removal and the procedure to be followed. The vague ambiguous language of article III is limited by the definite provisions of article I and article II.

It was not any oversight or carelessness that made it difficult to remove judges from office. The framers of the Constitution made every possible effort to make judges independent and secure in their tenure of office. They knew that popular rulers sometimes become despots and they knew, too, that legislative bodies frequently become the rubber stamps of the Executive; so they safeguarded the judiciary as a separate and coordinate branch of Government by freeing them from unconsequential charges and assuring them of fair trials by the direct representatives of the people. Waiving the question of constitutionality, is it wise to enact such a law as this at the present time when there is a spirit of lawlessness and revolution in the land? Is it wise to put on the statute books what must be construed as an attack on the courts? Is it going to give aid and comfort to those who are opposed to our form of Government? When the judiciary is no longer independent we will have no protection against fascism, communism, despotism, absolutism, and the other isms which are so repugnant to Americanism. The framers deliberately set up safeguards for the judiciary of this country.

Have you read the bill carefully? Please read the first page at least. It states that the House of Representatives may pass a resolution stating that in its opinion reasonable grounds exist for believing that Judge So-and-so's conduct or behavior has been other than good behavior within the meaning of section 1 of article III. This bill purports to provide the causes and method of removing Federal judges entirely independent of any law or constitutional provision except section 1 of article III. What is there in that section which defines good behavior? There is no hint as to what good behavior might be, or bad behavior, or fair behavior. This bill would leave the judges open to attack on the most trivial charges. It would make it possible for a hysterical or prejudiced House of Representatives to attack and harrass every honest courageous judge in the judiciary, and to intimidate all the rest of them. It is extremely unwise to have such a bill on the books at this time. It constitutes a very definite threat to the independence of the court, without which democracy cannot survive.

The third question I have in mind is whether such a bill is necessary to accomplish the change which our distinguished chairman seeks. I know that it is not even remotely in his mind to weaken the court. He does feel, however, that an impeachment trial is a burdensome, lengthy, awkward, unsatisfactory method of trying judges for misconduct. We agree with him in all that. I want to call attention to the fact that this bill does not offer the sole remedy for obtaining the reform which the chairman of the Committee on the Judiciary seeks to accomplish. He himself has suggested another means of reaching his objective, constitutional, satisfactory, and fair. Since the Senate sits as a court, it has the power of a court to appoint what might be likened to a referee, or a special master in a court of law to hear evidence and make findings. Through such a procedure it would not be necessary to take up the 2 or 3 weeks' time of the Senate that the average impeachment trial requires while other public business is delayed. It is entirely within the power of the Senate to delegate to a special master, namely, a committee of its own making, the duty to hear whatever evidence it thinks necessary, to make a determination and report, on which the Senate would take final action.

I appeal to you, gentlemen, not to pass this bill hastily or without serious thought and a realization of its implications. There is a grave question as to its constitutionality; the bill contains language under which some future House, elected on a wave of prejudice or temporary emotion, could persecute honest judges when the country needs them most; if the objective is to save the Senate from the duty of remaining in session for long periods to hear the evidence in impeachment trials, that purpose can be accomplished in another way. The potentialities of this bill, taken in connection with recent developments in this country, seriously threaten the permancy of American institutions.

Mr. SUMNERS of Texas. Mr. Chairman, I yield 15 minutes to the gentleman from Alabama [Mr. HOBBS].

Mr. HOBBS. Mr. Chairman, before I begin a discussion of this most important and wise piece of legislation, a manifestation of the real statesmanship of the author of the bill, I cannot refrain, even though the time be limited, from pausing to pay tribute to him whom I consider one of the major prophets of constitutional law in this Nation—yea, in the world today—the gentleman from Texas, the Honorable HATTON W. SUMNERS. [Applause.]

My distinguished colleague on the Judiciary Committee, the gentleman from New York [Mr. CELLER], asks: "Where does the truth lie?" He reiterates it both in his minority report and on the floor three times here today. It gives me pleasure to point to the majority report, penned by HATTON SUMNERS, and to answer the question by saying, "There is the truth with respect to this matter." [Applause.]

Mr. Chairman, in common with many of you, I love the distinguished chairman of the Committee on the Judiciary, but that is not the reason that I am for this bill. I have the utmost confidence in his legal opinion on any subject, but that is not the reason I am for this bill. I think it marvelous that we have with us today as the author of this bill the only man, living or dead, who has ever participated in three impeachment trials before the Senate of the United States; and, therefore, I the more respect his judgment; but that is not why I am for this bill. I glory, however, in the fact that the cause we are pleading for here today is led by such a man, a man in whose integrity of thought and judgment this House may well repose the utmost confidence. [Applause.]

It seems to me perfectly true that the experience we have had with impeachment in these 150 years of our national existence has abundantly proven that there is no need of a 16-inch gun to shoot the twig from under a sparrow! We laboriously load, we shoot, and the twig falls, once in a while. The sparrow flies away to other fields. But such a big cannon is absolutely unnecessary and a waste of time, effort, and ammunition.

We respectfully submit that in this bill there is a better way. A smaller gun with a surer aim has been devised by the master mind who heads this committee, and it is presented for your acceptance or rejection today.

I want to emphasize again that this bill does not mean change of one jot or one tittle of the law of impeachment. Not if we would, could we, and we would not if we could, change one syllable of the impeachment power. We take nothing away from this House. The same deliberation must be a condition precedent to this mode of procedure that there is to the other, but we say to the House that after a complaint has been made by a responsible person and after the Judiciary Committee of the House has weighed it on the scales of its judgment with the utmost of its scrupulous care, we will then report to the House what we think on the subject.

Then the House has the choice of the two roads.

Is it a matter of such moment to the Nation that the usual functions of Senate and Senators should be paralyzed for weeks? Is it of such importance that we should pay, as we did in the Louderback case, from $500 to $1,000 per witness to bring them across the continent from San Francisco? Or shall we designate three judges to go to San Francisco and there sit and try the case and dispose of it in an orderly and expeditious manner?

In my judgment, the first great reason for the enactment of this bill is for the sake of the bench; for the sake of the men who are now adorning the woolsack, who lend glory to the administration of justice in this country.

Not 1 percent of the occupants of the bench of the district courts of the United States have ever disgraced themselves, or their office, or brought the administration of justice into disrepute. For those honored judges the ninety and nine percent, I plead, in the first place, for the

enactment of this bill. We need a more expeditious, a more certain remedy than that which is provided in the impeachment power. I want to say today that which I think needs to be said, that in all of the history of the American Nation there has been only one conviction of a district judge of the United States in a contested impeachment trial. We have had 150 years of experience. One hundred and fifty years are gone and with all of the hundreds of complaints that have been registered in that time, only 12 impeachment trials have been ordered by this House. There have been two convictions of judges in contested cases, one of a judge of the Court of Commerce and the other a district judge.

Am I critical of the Senate? No. The next reason I am for this bill is for the sake of the Senate. The Senators need the relief which this bill gives them. When the Constitution was written that body had only 26 Members. If my recollection be correct, there were then only 15 district judges in the United States. Now we have 96 Senators and 154 United States district judges. Each district judge at that time loomed large on the national horizon because of the fewness of their number. Now they are lost in the crowd, so to speak.

This bill might well be entitled: "For the relief of the Senate." We come before you and ask that some relief be given to that august body that has measured up splendidly under the handicaps with which it has contended. It has done as much of its duty as those men, who have always been worthy to sit in the seats of the mighty, have been able to perform, as beset as they are with public business and other official duties.

Mr. HANCOCK of New York. Will the gentleman yield?

Mr. HOBBS. I yield to the gentleman from New York.

Mr. HANCOCK of New York. According to the present practice the Senate does not hear the evidence. Is it not the rule that only a very few Senators hear the evidence, usually members of the Judiciary Committee?

Mr. HOBBS. I think that is so.

Mr. HANCOCK of New York. Would it not be just as satisfactory for the Senate to designate a committee of its own to hear the evidence outside the Senate Chamber and thus save the time of the Senate? There would be more justice. You would not delay public business and you would be within the Constitution. Does not the gentleman believe that?

Mr. HOBBS. I believe that with all my heart and I made a speech along that line 2 years ago. But may I say in response to the inquiry that I do not think such a practice would be in the class with this remedy in satisfaction. I believe this is infinitely better.

Let me hasten to a discussion of the constitutionality of this bill. Is it constitutional? You have every bit of the law in the world right here on this blackboard. That is all there is. Someone has injected into this debate—I think it was the gentleman from Oregon [Mr. MOTT]—the question as to whether or not if we struck out the words "during good behavior" and substituted "for life", the power of impeachment would apply. He says we could not use impeachment if the tenure of office was definitely fixed. How about the tenure of office of the President of the United States? Is there anything indefinite about 4 years? The Constitution says he shall hold office for 4 years. It does not say anything about good behavior in his tenure, and yet we impeached a President and came within one vote of convicting him.

I think that is a full and complete answer to the gentleman's objection. We can impeach even though the tenure is fixed and definite. That is the only place in the Constitution where you will find any good behavior clause, and the reason for it is that the members of the Constitutional Convention knew the time would come when there would be a statesman of the caliber and stature of HATTON W. SUMNERS who would bring life to a provision which they wrote in the Constitution and work out a constitutional method of enabling the judiciary to purge itself.

They talk about the doctrine of expressio unius, exclusio est alterius, a lot of Latin which in this connection means nothing. The Supreme Court of the United States nine different times has held it not applicable in the connection here contended for. Here are the words of the Constitution: "The President, Vice President, and all civil officers." That includes judges. Therefore, if there be any civil officer who can be removed from office withcut impeachment, their logic and that argument falls, does it not?

The Supreme Court of the United States has nine different times held that there are civil officers who may be ousted without impeachment—Myers against United States, Wallace against United States, Shurtleff against United States, Parsons against United States, and Blake against United States. All were civil officers appointed by the President with the advice and consent of the Senate. The Supreme Court of the United States held that without consulting the Senate, without consulting any person whomsover, the President could, ex mero motu, kick them out.

Heads of departments have power to remove their appointees, as decided in United States versus Perkins and Keim versus United States. Courts of law have the same power, as decided in Ex parte Hennen and Reagan against United States.

I want to ask the gentleman from New York [Mr. CELLER] one question. Does the gentleman think the framers of the Constitution were dumb? Of course he does not. The gentleman knows they knew what they were talking about and doing.

Mr. CELLER. Does the gentleman want me to answer?

Mr. HOBBS. Yes.

Mr. CELLER. Of course they were not dumb.

Mr. HOBBS. They knew their business.

Mr. CELLER. They knew their business, and we must realize they knew their business. Therefore, when they said the Senate shall be the sole tribunal to try impeachments and the House shall be the sole power to bring the impeachment we should abide by what they said. This is the only method they wrote into the Constitution.

Mr. HOBBS. I will answer that in just a minute, but I am asking the gentleman if the framers meant to say this method of impeachment was to be the sole method of removal from office, then why, in God's name, did they not say so?

Mr. CELLER. They did say so, beyond question.

Mr. HOBBS. Where is it? I challenge that statement. I demand the proof. If the gentleman proves it, I will vote against the bill. The gentleman cannot prove it, because there is not a word in the Constitution such as he states. I demand the proof or retraction.

Mr. CELLER. I shall be glad to give to the gentleman if the gentleman will yield the balance of his time to me.

Mr. HOBBS. I yield nothing, and I demand proof of what the gentleman has just stated. I say there is no truth in it. There is not a word in the Constitution to support such a statement.

Mr. HANCOCK of New York. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. No; I cannot yield. I am sorry. I have only 3 minutes.

Of the five methods of ouster known to the English common law, which is in large part the law of America today, this method of impeachment was given to Congress when the Constitution was written. Why? It had to be put into the Constitution because it was a ceding to the legislative branch of the Government of a power over both the executive and judicial branches, and without this express grant no vestige of any such power could even be claimed. I cite you to the Myers case and to the latest pronouncement of the Supreme Court in the Humphreys case, where the coordinate and separate functions of the three coordinate branches of the Government are stressed, and where that doctrine of separation is laid down.

In conclusion, may I say this bill is the only hope of the judiciary. It is the only hope of this Nation to survive as a democracy. It is the hope of the administration of justice. Justice must be kept pure. It is not only for the sake of the judges, but for the sake of the Nation, and for the perpetuity of our democratic institutions that we are pleading today. The spring from which the stream of justice flows must be pure. All men should be able, confidently, to drink therefrom, tasting the sweetness of its purity, while slaking the thirst of their souls for the essence of truth, for righteousness saturated with mercy.

I beg of you your most earnest consideration, not in a partisan spirit, but in a spirit of statesmanship, for we are challenging you to the long view, the high view. Opportunity knocks at your door today. You have a chance to strike a blow for the salvation of the soul of our institutions and the administration of justice. [Applause.]

Mr. GUYER. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, it is, indeed, in a spirit of temerity that I venture to express my views about the constitutionality or the advisability of enacting this bill into law. I say temerity, because the chairman of the committee has vouchsafed that all of the good lawyers of the country are agreed as to its constitutionality. Now, of course, I do not claim to be a constitutional lawyer or a good lawyer of any other variety, but in my judgment there is more than serious doubt as to the constitutionality of this measure.

Mr. SUMNERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. I hope the chairman of the committee will excuse me, because my time is so limited.

Mr. SUMNERS of Texas. I will yield the gentleman 1 minute. I simply want to say that I take it all back. I did not know how the gentleman stood. [Laughter.]

Mr. MICHENER. The chairman is always a courteous gentleman. I admire him much. However, I think possibly he does "overstate himself" a mite when he indicates that there is a unanimity of opinion in the legal profession as to the constitutionality of this bill.

The gentleman from Texas, the chairman of the committee, has to my personal knowledge been giving serious study and doing much work on this subject for more than 10 years. He feels that under the present law the procedure providing for the removal of Federal judges from office is too cumbersome, and he has been casting about in an effort to discover the solution. I was associated with the gentleman from Texas as one of the managers on the part of the House in the impeachment case of Judge English, of the eastern district of Illinois, in 1926. I, too, realize some of the difficulties under the present system. I, too, have given considerable thought to proposed remedies. I think my mind ran along with that of the chairman in this regard until he discovered this hidden power in the Constitution. The study of the chairman has made it possible for him to discover a latent power in the Constitution which this bill attempts to vitalize. In other words, in language that will be well understood by old-time Methodists, we have both been at the mourners' bench seeking light. At last the chairman has received the revelation while, possibly unfortunately, the spirit has not yet made itself manifest to me. I realize that in these days it is sometimes difficult to maintain a consistent position and, at the same time, keep pace with the times. Possibly my mind is not flexible enough to grasp modern-day interpretations of our Constitution. The truth is that I have grown up in that school respecting the Constitution and the fundamental things for which it stands, and I know that in that instrument is the only place where we find the rights, freedom, and liberty of our people written in plain words. There is the guaranty.

I have great respect and admiration for the chairman's legal opinion and his well-thought-out conclusions. The fact that I cannot always agree with him possibly indicates that I am sometimes wrong. Maybe the whole world is out of step on this thing but me. However, be that as it may, I am willing to proffer several suggestions.

The Congress can be engaged in no more serious or fundamental work than the impeachment or removal from office of the judiciary. The importance of the task warrants solemnity of treatment. As we approach the consideration of this measure two questions necessarily present themselves.

First, has the Congress the constitutional power to do that which is contemplated?

Second, is the policy embarked upon in this bill desirable and advisable?

In reaching an answer to the first question it is well that we have before us the pertinent provisions of the Constitution, which are as follows:

Section 2 of article I of the Constitution provides that—

> The House of Representatives * * * shall have the sole power of impeachment.

Section 3 of article I provides that—

> The Senate shall have the sole power to try all impeachments.

Section 4 of article II provides that—

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Section 1 of article III provides that—

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

It is conceded by the proponents of this bill that section 4 of article II cannot in any way be changed or altered by congressional action without constitutional amendment. Therefore the Federal judges are civil officers within the meaning of the Constitution and removable by impeachment. Regardless of any legislation enacted by Congress, the right to impeach Federal judges remains in the Senate. That is admitted.

It is the contention, however, that section 1 of article III limits the tenure of office of the Federal judiciary to a term "during good behavior", and that article III has no relation whatever to section 4 of article II, but that in the judicial section another method is provided for removing these "civil officers." The chairman of the committee says "this is to be a suit by the United States against a judge for violating the conditions of his contract" and that the question of good behavior is a justiciable issue and, therefore, can be tried and disposed of by the judiciary. The bill goes so far as to provide that the prosecution shall be by the Attorney General, the legal arm of the executive department, and shall be before a court selected by the Chief Justice, who is appointed by the Executive, from the circuit court of appeals of the district in which the accused judge resides. The most appealing thing about this proposal is its novelty. The gentleman from Alabama [Mr. HOBBS], who has just preceded me, would have us believe that the framers of the Constitution intended that members of the judiciary might be removed by impeachment but, at the same time, they tucked away in article III a concurrent or an additional power to do the same job. He indicates in his argument that the Constitutional Convention—

> knew the time would come when there would be a statesman of the caliber and stature of HATTON W. SUMNERS, who would bring life to a provision which they wrote in the Constitution, and work out a constitutional method of enabling the judiciary to purge itself.

In view of what actually happened in the Constitutional Convention, I find no warrant for Judge HOBBS' conclusion.

Alexander Hamilton, one of the framers of the Constitution, in The Federalist (no. LXXIX) speaking about the judiciary, wrote:

> This independence of judges is equally requisite to guard the Constitution and the rights of individuals * * *. The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate, and if convicted may be dismissed from office and disqualified from

holding any other. This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which I find in our own Constitution in respect to our own judges.

I doubt not that further evidence is obtainable indicating that the Constitutional Convention intended that judges should be removed by impeachment only, and had no idea that 150 years after the adoption of the Constitution, in the name of expediency, a microscopic examination of the Constitution would bring to light a hidden power, always present but never visible, whereby a short cut might be adopted to remove from the judiciary members whose conduct was other than good.

I listened with much interest to the constitutional argument made by the gentleman from Iowa [Mr. GWYNNE], and for the additional reasons given by him I do not believe that the Congress has the power to deprive a member of the judiciary from trial by the impeachment court, as above indicated. If this were a new question, that would be different, but the master legal minds for more than a century and a half have given study to the same proposition, and up to this time none have been bold enough to contend that this type of legislation is constitutional. A well-established practice, based upon precedent, is now available as a guide in the trial of impeachment cases. There is no difficulty in understanding what treason or bribery comprehend, but there has been question as to whether or not behavior other than good behavior constitutes "high crimes and misdemeanors" within the meaning of section 4 of article II. This question, however, has finally been settled as expressed by the late Chief Justice Taft, speaking before the American Bar Association in 1913, when he said:

> Under authoritative construction by the highest court of impeachment, the Senate of the United States, a high misdemeanor for which a judge may be removed is misconduct involving bad faith or wantonness or recklessness in his judicial actions, or in the use of his official influence for ulterior purposes. By the liberal interpretation of the term "high misdemeanor" which the Senate has given there is now no difficulty in securing the removal of a judge for any reason that shows him unfit.

It seems strange that the late Chief Justice, in his study of the Constitution in connection with the removal of Federal judges for misbehavior, overlooked this power which is here proclaimed.

The chairman of the committee and the gentleman from Alabama [Mr. HOBBS], the principal proponents of this innovation. have presented no court decisions in support of their contention as to the constitutionality. Mr. HOBBS tells us: "You have every bit of the law in the world right here" in section 4 of article II and in article III of the Constitution on this proposition. We are told this is pioneering; therefore let us apply common sense in the light of what the framers of the Constitution did and said at the time, not forgetting the interpretation accepted, practiced. followed, and believed to be the law for the last 150 years.

There is another thing that makes this procedure impossible to me. Section 1 of article III provides that—

> The judges, both of the Supreme and the inferior courts, shall hold their offices during good behavior.

I repeat this language to call your attention to the fact that "the Supreme and the inferior courts" are treated as a class and as a group, and it is my judgment that even though the Congress had the right to create another inferior court for the purpose of deciding the justiciable question of good behavior, the Constitution does not give power to set up one type of standard of good behavior for Supreme judges and circuit judges and another type of behavior for district judges. If this article of the Constitution gives the Congress power to do what is here claimed, it surely requires a uniform law and procedure as to all judges coming within the class enumerated. Particular attention is called to the punctuation in article III.

Bear in mind that no definition of good behavior is to be found in this bill, and its proponents will refuse to accept any amendments attempting to set up any standards. Yet it is insisted that punishment shall be meted out to a judge whose conduct does not meet the approbation of the specific tribunal happening to be called to determine his case. If this same judge was charged with murder, embezzlement, or robbery, the statutes would define the crime. The court would have a yardstick or guidebook. Here all is left to the discretion of the particular forum operating on the particular judge. Is this reasonable or constitutional? If the Congress can do this, then it can create any partisan court it sees fit to try the judge. The forefathers never intended anything of the sort. Just a resolution by the House that there is reasonable cause to believe that the conduct is not good is all that is necessary.

Mr. HOBBS. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. Yes.

Mr. HOBBS. To ask if the accused under such a case as would be made under this bill would not have the time-honored right, as every other accused has had, of demanding a bill of particulars?

Mr. MICHENER. I do not know and the gentleman does not know. Under the bill he would not. He would have no rights. Congress provides nothing. He is turned over to a tribunal to be tried with authority in that tribunal to make rules and regulations.

Mr. HOBBS. And to ask further if there has been any proceeding in impeachment yet where the accused has not always been granted a bill of particulars.

Mr. MICHENER. We are not dealing with impeachment. A code of rules, or a practice has grown up in the Senate and has been established, and we have there a set practice.

If we should find that there is constitutional warrant for this legislation, then we must give consideration to the question as to whether or not its enactment at this time is desirable and advisable.

That this measure is prompted by expediency can hardly be controverted. The gentleman from Alabama complains that throughout the preceding 150 years only 12 impeachments have been ordered by the House, and there have been only two convictions in the Senate. It is said that the time of the Senate is too valuable to be toyed away in determining whether or not a United States district judge has misbehaved. It is also insisted by the gentleman that even though the proposed bill only requires the House to pass a resolution that there is reasonable cause to believe that a judge's conduct is bad, the House in each case will prepare specifications the same as under the impeachment procedure. I agree that this is a possibility but not a requirement.

If the specifications are prepared, however, and the House passes on these cases, the same as it does in impeachment cases, then the gentleman's argument in one particular fails, because there is no reason to believe that future Houses will act differently than past Houses. At the same time it is insisted that the Senate is too busy and that it will not give consideration to the cases, and therefore will not impeach. Special reference has been made to the Louderback and Ritter cases, with which cases the present Congress is familiar. The vote in the House on the Louderback case was 183 for impeachment and 142 against impeachment. The vote in the House on the Ritter case was 181 for impeachment and 146 against impeachment. There was some doubt in the House. It requires a two-thirds vote in the Senate to convict. Louderback was acquitted. Ritter was acquitted on each specific count; and then, giving the most liberal interpretation to the term "good behavior", was convicted of misbehavior on the theory that the sum total of the things charged against him brought his high office into disrepute. It has been argued here that it should not require a 16-inch gun to remove a district judge from the bench, and that this bill provides "a smaller gun with a surer aim."

Mr. GUYER. He also said the caliber was too big.

Mr. MICHENER. Yes; he said the Senate caliber was too big.

In view of this debate, I am just wondering what the real purpose of this bill is. In one breath we are told that present impeachment is too cumbersome; in another breath that the time of the Senate is too valuable to be wasted on

such minor matters; in another breath that this bill, if enacted into law, will "purge the bench of those few who still disgrace it by dishonesty and corruption"; in another breath that this measure is necessary "to protect the honest judiciary of this country against being smeared up by a little handful of crooks that ought to be off the bench."

If there are crooks, corrupt and dishonest judges on the bench at this time, if these facts are known to Members of Congress, then it would seem to be their duty to proceed, giving the facts to the House, invoking the power of impeachment, and let the House vote upon these specific charges, and then let the Senate discharge its duty as the high Court of Impeachment.

If the effect of this bill is to make it easy to threaten, intimidate, and impeach district judges, then I am sure that we should all be opposed to it. If there are corrupt judges serving at this time, and we have knowledge of that fact, there is no justification in waiting for a supplemental law to try the cases. We have the machinery now.

If there is a shorter, more expeditious, legal, and just method of examining and determining the question of misbehavior on the part of Federal judges, then we all want to adopt that method. We do not want to indulge in any doubtful experiments or resort to a rule of trial and error at this particular time. The courts should have the confidence of the country, and the House should do everything within its power to guarantee integrity in the courts.

I appreciate the importance of this measure, but I cannot agree with my good friend, the gentleman from Alabama [Mr. HOBBS] when he says, "In conclusion, may I say this bill is the only hope of the judiciary. It is the only hope of the Nation to survive as a democracy."

In times like these we need honest, courageous judges just the same as we need honest, courageous legislators and executives. The decisions of the courts cannot please everyone. There are always two sides to a lawsuit. There always has been and there always will be disgruntled litigants yelping at the heels of courageous courts. We may be able to simplify the procedure of impeachment but there can be no substitute. A trial by the Senate and a two-thirds vote cannot be superseded by a trial by a statutory creation and a majority vote.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. GUYER. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. SAUTHOFF. Mr. Chairman, not being a member of the Committee on the Judiciary, I was not familiar with the discussions held in that committee, but I have listened very attentively all afternoon to the arguments made on the floor, and certain questions have arisen in my mind which have not yet been answered. I trust some member of the committee can enlighten me in regard to those questions.

When Judge Ritter was tried I attended some of the hearings. I became convinced, as must everyone else who attended that trial, that no judge, under the present system of impeachment, could possibly have a fair and impartial trial. Judge Ritter did not have it, and I do not think any other judge ever could get it, because the jury absents itself from the room during the trial, and that would make a mistrial in any court in any jurisdiction in the United States. Yet that is what occurs in the Senate during an impeachment trial. So when this measure was brought in I felt greatly relieved that something was being devised that might bring about a fairer, more just, more equitable method of trying judges whose conduct was in question.

Let me point out to you what occurs to me as something that ought to be considered. Let us say that the House impeaches a district judge, that it certifies this resolution to the Chief Justice, calling upon him to constitute a court of three circuit judges to try this man, and they proceed under this law, conceding for the moment that it is constitutional, and that at the same time a hostile Senate of the United States, jealous of its prerogatives, proceeds to try this man under impeachment proceedings, as it is conceded it has a perfect right to do. The three judges of the circuit court find him guilty of misconduct and misbehavior and unfit for the bench, while the Senate of the United States, constitutionally created, finds him not guilty. What is he, guilty or not guilty? As far as I can see there is no method under the present bill which would obviate such a situation arising.

One more thing. Everyone is entitled to a trial by jury. I am a firm believer in the right of trial by jury. Even a common bootlegger has the right to trial by jury, and the verdict of a jury of 12 of his peers must be unanimous to find him guilty of the offense with which he is charged. Yet here is a judge of a district court who may be tried by only three men, and they may find him guilty and mark him for life, bring his name down into eternal disgrace, on the judgment of what? Of two of these judges, or unanimously? We do not know from the bill. In the case of the Senate, its verdict must be by two-thirds of those sitting. This bill does not say whether a two-thirds vote on the judge being tried is sufficient. Let us concede that it is. Then he is to be found guilty and marked for life by the votes of two men. I cannot lend myself to that kind of a trial. I am opposed to it. I would at least give him an equal chance with the bootlegger.

I am satisfied that the bill is unconstitutional. Section 1, article III, relates only to the terms of the judges and their compensation, while section 4, article II, relates to the method of removal of all civil officers.

Another objection to the bill is the fact that it gives no definition of what constitutes bad behavior. Is drunkenness off the bench and not in a public place misbehavior? If a judge off the bench voices his opinion against war, is he misbehaving? If a judge off the bench bets on a horse race or a ball game, has he misbehaved? To some people these actions constitute grave offenses, to others they are not sufficient grounds for removal.

Another serious objection is found on page 2, lines 21 and 22. I read from the bill:

> No appeal shall lie from the judgment of the court.

What kind of justice is this? Surely it is not American justice, for the humblest of our citizens has the right of appeal.

This measure requires many changes before it is satisfactory. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman and colleagues, I yield to no Member of this House in my devotion to uphold and maintain an independent Federal judiciary or in my devotion to the Constitution of the United States. On the 17th day of May of this year I made a speech on the floor of this House in which I expressed as forcefully as I could my opposition to the President's so-called court-reform bill, and I shall continue to oppose that measure with vigor, because in my opinion it will break down the independence of the Federal judiciary and make this coordinate branch of our Government subservient to the Executive. I also stated in that speech:

> The very life of a democracy depends upon an able, fearless, honest, impartial, and independent judiciary.

It is my opinion that the measure before us would have a tendency to make the judiciary more independent and at the same time provide a means to remove from the district bench any dishonest or unworthy member. This measure is not a part of and has no connection whatever with the President's so-called court reform bill. If I had the impression that this measure would in the least lessen the independence of the judiciary, I should be opposing and not supporting it. Knowing our distinguished chairman of the Judiciary Committee, Judge SUMNERS, as I do, I am thoroughly convinced that he is an able and honest advocate of an independent judiciary and of the Constitution. I may be wrong, but it is my opinion that there is no Member of the House or Senate,

Republican or Democrat, who is more sincerely in favor of an independent judiciary and in upholding the Constitution than Judge SUMNERS.

I am unable to understand the alarm that is expressed by some Members on each side of the Chamber. For instance, my good friend from Wisconsin [Mr. SAUTHOFF] says:

> Suppose that three judges should try a judge under this bill, and suppose that at the same time the United States Senate would try him on impeachment charges.

That could not happen because this three-judge court, under the terms of this bill, could not try any judge unless and until the House of Representatives by a resolution authorized such action. The Senate could not try anyone on impeachment charges unless and until the House of Representatives had voted a bill of impeachment. We cannot conceive of the House passing a resolution authorizing the three-judge court to try a judge, as provided under this bill, and at the same time voting impeachment proceedings and have the judge tried before the Senate. The House of Representatives would not do such an inconsistent and foolish thing. Our friend from Wisconsin also insists that accused judges should have a trial by a jury, as a bootlegger has. The proceeding set up in this bill is not a criminal proceeding. It is a civil action instituted to determine whether or not the judge has been guilty of bad behavior. Our friend argues at the same time for impeachment of judges before the Senate. The accused would not have a jury trial there. He also says he attended the impeachment trial before the Senate of District Judge Ritter, and that many of the Senators absented themselves from the Chamber during the trial and did not hear the testimony and see the conduct of the witnesses.

He asserts that Judge Ritter did not and could not have a fair trial under such circumstances. I cannot understand why any Federal judge would not prefer to be tried by a court of his peers—three Federal judges—instead of being tried in such a haphazard way by the United States Senate. I should think that every Federal judge, if he were innocent, would welcome an opportunity to be tried by these circuit judges rather than by the Senate. He is bound to prefer such a trial unless he is guilty and feels that these judges would see his guilt and find him guilty. If he were an honest man and an innocent man why should he object to being tried by three experienced and capable judges? [Applause.]

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. ROBSION of Kentucky. I yield.

Mr. MICHENER. But is that not the position of the judges? The judges are not objecting to this bill.

Mr. ROBSION of Kentucky. My friend [Mr. MICHENER] has pointed out that he has been present and observed one or more impeachment trials before the United States Senate and many of the Senators were absent. They did not hear the witnesses testify and that under those circumstances the accused did not have a fair trial. My friend from Michigan says that this measure proposing a trial before three circuit court judges would break down the independence of the judiciary and would cause judges to fail in their duty for fear they might be tried before this tribunal of judges. Now he says that the judges themselves are not objecting to this bill. Why is my friend from Michigan objecting to it if the judges who may be tried before this tribunal are not objecting? [Laughter and applause.]

Mr. MICHENER. Some of us are devoted to the Constitution.

Mr. ROBSION of Kentucky. I am just as devoted to the Constitution of my country as my friend from Michigan or any other man or woman of this House.

FEDERAL JUDGES HOLD DURING GOOD BEHAVIOR

Section 1, article III, of the Constitution provides:

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

The Constitution creates but one court, and that is the Supreme Court. It gives Congress the power to create inferior courts. Congress has created district, circuit, and other Federal courts, and does not this provision of the Constitution give Congress the power to set up the court provided in this bill to try district judges? We now have approximately 165 Federal district judges. Many people have been led to believe that a Federal judge is appointed for life. They are not appointed for life. They hold their offices "during good behavior." If they are of good behavior for life then they can hold their offices for life.

A Federal judge has tremendous power and exercises a very wide influence. In order that our judges might be free from the control or domination of the other two coordinate branches of our Government and might be free and independent to hear and determine all cases coming before them on their merits and give equal justice to all, the Constitution set them apart in a class by themselves. No change can be made in their salaries during their terms of office. They serve as long as they are of "good behavior."

As we have pointed out, the very life of our democracy depends upon an independent, honest, impartial, and courageous judiciary. The judges themselves should appreciate the honor they have been given and meet the conditions under which they were selected. It is of great moment to the future welfare of this Nation that the people have faith in our courts, and I deplore the attacks that have been made on our courts by the President and some other leading men of this country.

If the influence of our Federal judiciary is to be maintained and the people continue to respect our courts, the judges must by their good behavior justify the confidence and respect of the people. Is there a man or a woman in this House who favors continuing in office a Federal judge who is not of "good behavior?" It will hurt and not help our country to have judges free and independent who are not honest and not of "good behavior."

This bill proposes to set up a tribunal of three circuit court judges to try any judge charged with bad behavior. This court would hear the evidence, and if the court finds that the accused district judge has been of bad behavior, they find him guilty. If the judge is guilty of bad behavior, he certainly cannot complain, because he was appointed and accepted the high office under the conditions set out in the Constitution that he is to hold office "during good behavior."

How is one of these district judge brought to trial under this bill? It is not done in a careless or haphazard manner. In the first place, there must be a resolution introduced in the House charging the judge with bad behavior, and, of course, this resolution would set out in terms wherein the accused had been guilty of bad behavior. It might be treason, high crimes, misdemeanors, or other bad conduct unbecoming a Federal district judge. This resolution would then be referred to the Judiciary Committee of the House, made up of 25 members, Democrats and Republicans. The Judiciary Committee would hear witnesses and other testimony that it might desire, and that great committee would then report the resolution to the House with the recommendation that it pass or do not pass. The House, in its wisdom, would then take up the resolution, debate it, and vote on it. If the House favored the resolution, the Chief Justice of the Supreme Court would select three United States circuit court judges to hear and determine the issue as to whether or not the accused judge was guilty. Under this bill the House would appoint managers or prosecutors to institute the proceedings in court and appear before this special court, and they would present the evidence and the law in support of the charges against the accused judge.

The Judiciary Committee and the House itself have over a period of 150 years exercised great care in the making of charges against Federal judges. I am advised that in 150 years impeachment charges have been voted by the House against only nine Federal judges. The introduction of the resolution in the House and its consideration by the Judiciary Committee and by the House of Representatives under

this bill will require just as much formality and no doubt will be given just as careful consideration as an impeachment resolution. The accused will appear for trial before three trained and experienced circuit court judges. It will mean a real trial. The court will hear all the evidence and see the demeanor and conduct of the witnesses, and, of course, to convict will require the votes of two of the three judges. The accused judge is entitled to a fair and impartial trial.

The conviction of a Federal judge under this bill or by impeachment takes from him not only his high position but takes from him and his family something of much greater value if he is an honest man, and that is his good name. We cannot for a minute entertain the idea that these circuit judges who constitute this court, who themselves hold their offices during good behavior and who are free from political influence, would stultify themselves by convicting one of their innocent brother judges. The House of Representatives and the United States Senate are each the judges of the conduct of their own Members, and each one can expel its own Members who they think have been guilty of such conduct as does not entitle him or her to remain a Member of these respective bodies. The executive branch of the Government, without any interference from the Congress or the courts, may remove the appointees of the President and other executive officers.

The proceeding authorized by this bill gives the judiciary branch of the Government, after the House of Representatives has submitted the charges, the authority to clean its own house if it needs cleaning, and I am unable to understand why anyone would maintain that this measure, if adopted, would break down the independence of the judiciary. It seems to me that it would strengthen the judiciary in its own thinking and in the respect and confidence of the American people. No judge need have any fear except one who has broken the terms of his contract and has failed to be of good behavior.

There is no stronger defender of the Supreme Court and the Federal judiciary than I am. They are a splendid group of men. I have never known of any Federal district judge in my own State that has not been of good behavior. The Savior found one crook and traitor among the Twelve. Even in the ministry we find a few who are disloyal to their principles and to their church. And now and then a Federal judge falls by the wayside and brings the Federal judiciary into disrepute. The Federal judiciary must be kept clean, honest, impartial, and independent. If we permit a few dishonest, corrupt, or bad-behavior judges to remain in office it will break down the confidence of the American people in this great branch of our Government and result in irreparable damage to our Nation.

How long should a Federal judge who is not "of good behavior" continue to hold one of these high positions? He should not hold any longer than charges can be properly made and a fair trial had and ousted from his office. [Applause.]

IMPEACHMENT

Section 4, article II of the Constitution provides, "The President, vice president, and all civil officers of the United States shall be removed from office on impeachment and for conviction of treason, bribery, or other high crimes and misdemeanors." It is urged that there is no other method of ousting a Federal judge than by impeachment. May I point out that it has been held time and again by the Supreme Court of the United States that the President and other officials of the executive branch of the Government may remove their appointees without impeachment. To impeach a judge a resolution of impeachment is introduced in the House and referred to the Committee on the Judiciary and, after investigation, it reports the resolution back to the House for action. If a majority of the House votes favorably on the resolution the accused official is ordered before the United States Senate for trial, and it requires a two-thirds majority in the Senate to convict the accused. On conviction the Senate removes the accused from office and may disqualify the accused from holding any other office under the United States Government in the future. It will be observed that impeachment proceedings in the House are identical with the proceedings authorized under this bill, except under the impeachment proceedings the accused is tried before the United States Senate and under this bill he is tried before a court composed of three circuit judges.

The bill before us does not take away any of the power of the House to impeach any district judge. It merely gives the House additional right to proceed as set forth in this bill. No other civil officer of the Government is appointed with the conditions in his appointment such as there is for Federal judges.

The President, other executive and civil officers, members of the House and Senate are appointed or elected for a definite period of years, while judges of the Supreme Court or a judge of the lower Federal court is selected for a period of good behavior. We contend that when a judge ceases to be of good behavior his term of office may be brought to an end, and in the very nature of the case Congress has the right to set up a course of procedure to try out the issue of fact as to whether or not the judge has been or has not been of good behavior, and under this bill Congress merely sets up a three-judge court to try that issue, and if it is found that he has not been of good behavior this court may enter a judgment terminating the term of office of the accused judge, but this court cannot disqualify the accused judge for holding office in the future as in the case of impeachment before the Senate. There is nothing in this bill to prevent the House from using the impeachment procedure against a district judge if it desires to do so. Impeachment proceedings are cumbersome and unsatisfactory. There are 96 United States Senators. Every minute of their time is taken up with pressing legislative and other official business. In order to give the accused a real trial, the sort of trial that any accused person is entitled to, it would be necessary for these 96 Senators to lay aside practically all of their other duties and for 10 days or perhaps 2 weeks sit as a jury, hear testimony and arguments for and against the accused. In the impeachment trial of a district judge at times there were less than a dozen Senators present. Eighty or more were absent, yet at the conclusion of the trial the roll was called and all of these Senators were called upon to vote to convict or acquit the accused.

It is not my purpose to speak disparagingly of the Senate in handling an impeachment proceeding. Anyone who has been a Member of that body knows that it is humanly impossible to have all of the Senators present all of the time for a period of 10 days, 2 weeks or more, sitting as a jury. If they did, momentous and pressing interests of the Nation and their respective States and thousands of individuals would suffer. Yet the accused, as a matter of fairness, is entitled to have all of the Senators present to hear every witness and see the demeanor and conduct of each witness.

We now have approximately 165 Federal district judges. In the very nature of things there will be questions arising from time to time as to the conduct of some of these district judges. As a group, there has been no finer group occupying the bench in this country or in any other country, but some no doubt will fall by the wayside, and if this should occur, the bill before us provides a sane, sound, fair, and expeditious method by which the guilt or innocence of the accused may be established. The accused with his good name and all at stake is entitled to a fair and impartial trial by persons peculiarly fitted in training and experience to give him such a trial. I am giving this measure my support because I think it will be good for the bench, for the country, and for the accused. [Applause.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I am sure that the Members of this House want to do what is right about this thing. Some apprehension is expressed here that is remarkable. Members want to protect the judiciary, they say. They are afraid for judges to be tried by judges.

Now, let us look at this bill a minute. What do we do? We give to the judges of this country the best protection. Let us see if that is not so. We are going to either leave the Senate as the only tribunal or we are going to pass this bill. We protect those judges against disgruntled litigants. How? We leave the power to protect them in this House. Is that not right? All the testimony here is that this House has sent very few cases to the Senate. The House of Representatives stands between the judiciary and the opportunity of anybody to harass them or destroy their independence of judicial action. We leave that arrangement undisturbed; that remains. Then we give them another protection under this bill. We undertake by a better method than impeachment to protect the honest judiciary of this country against being smeared up by a little handful of crooks that ought to be off the bench. Is that not right? [Applause.] Then what else do we do by this bill? Do we send them to the Senate, where gentlemen who criticize this bill say they cannot get a fair trial? No; we send them to a court of three judges. What is the objection to that? We provide the House an opportunity to choose between that court and the Senate, which you criticize. True, they are prosecuted by the Attorney General. The Attorney General represents the United States in all suits of the United States.

This is to be a suit by the United States against a judge for violating the conditions of his contract. Is the judge helpless? The judge can be represented before three other judges, by the best lawyer he can employ. It is difficult to understand some of the attitudes today with regard to what is here proposed. There is a man over there who has as sound judgment as anybody I have ever seen, and I believe, if it were not for this present controversy about the Supreme Court, he would not have any question about this bill. He will not have it by tomorrow morning, because he thinks, and he thinks fast. [Laughter and applause.]

Now we have done a good job. I do not take credit for this. By the way, I want to say to the gentleman from Michigan [Mr. MICHENER] I take back everything I said about these constitutional lawyers, but I will tell you the truth; I do not know a single man who can rank as an authority on constitutional law, who has examined this question, who does not believe this to be a justiciable issue that can be tried in a court. There may be, but I have not found them. I had this matter examined, after I had arrived at a tentative conclusion, by the legislative reference bureau, and they gave the opinion that under English procedure there were four methods of removal, and one of the methods was to proceed by scire facias. Try it in a court as we propose. There was no greater authority in the world on English constitutional law than Mr. Coke, and he wrote that judges were removable by scire facias. There is not any question about it. Todd in his Parliamentary Government in England, at page 192, says:

> When the office is granted for life * * * the forfeiture must be enforced by scire facias whether judicial or ministerial offices.

Now, what are we going to do about it? It is constitutional. These words "during good behavior" mean something. I want to protect the courts. I realize that our system of government, like our bodies, must have these three vital organs through which to function. We must have an independent judiciary. We must have a responsible legislature; responsible to the people; we must have an executive branch of the Government, but I know in my study of government that the way to protect government is to keep it clean. [Applause.]

There is too much tendency in a popular government, when power is being abused, to take the power from the office.

When the time comes in some great crisis when a strong government is necessary we find that the government has been so weakened by this process that it cannot meet the crisis and the people in disgust turn from a weak government to a dictator. Instead of taking power from the office, what we should do is to take from the office the man who abuses power. [Applause.]

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. MICHENER. If we have this bunch of crooks on the bench today about whom the gentleman is talking we have the power to impeach them now and have the law on them. Why does not the gentleman bring in some resolutions against these men he thinks should be removed?

Mr. SUMNERS of Texas. We are talking about the system now, and about the law we are trying to pass now. The gentleman is fixing to vote against it. He wants to continue to send the House in its charge against judges over to the Senate which he knows cannot afford to take the time of the Nation properly to try the case. I say that to my distinguished friend. Why, if Dickens were to look in on that situation and see a whole Senate turn aside from its duties in order to determine a case that ought to be determined by a court, he would make us ridiculous through all history—the idea, serious men and women like you hesitating in decision between an opportunity to try a justiciable issue in a court where it ought to be tried or sending it over yonder and making the Senate turn aside from the Nation's business and sit there hearing a case that should be tried in the courts. You know they will not do it. I do not blame the Senate for not wanting to turn aside from the big questions before them to try an issue that in all common sense ought to be tried in a court. That is where it ought to be tried, before a court, not before a legislative body, a political body, talking about politics.

I have heard many things said about the court since this controversy but I never heard it said until today, never even heard it intimated by anybody that three judges of the circuit court of appeals trying a district judge might stultify themselves in order to convict an honest man and remove him from office. [Applause.] I have heard a good many things, but I never heard that until today. If I believed that, I would not for a minute believe our courts could live. No, sir; it is not true, it is not true. I do not believe that the Chief Justice of the Nation would pick three men who would go on the bench trying a Federal judge, a brother judge, and because they were appointed by a President stultify themselves and bring in a judgment of guilt against an innocent man. Why do men talk that way now? What do we mean now?

Here is the horse-sense thing to do, and that is all this committee has tried to do. We have set up a tribunal to try an issue that ought to be tried in a court. That is not all; we have left the House of Representatives standing between the judges and any disgruntled litigants who might want to put them on trial. No judge will have to face that court of three men until the Committee on the Judiciary shall have investigated under the commission of the House and said that he ought to be tried. That is not all; no judge will face trial before that tribunal until this House, after consideration of the facts, shall have sent its request to the Chief Justice of the United States to assemble the tribunal. If you believe that the Chief Justice of the Supreme Court would assemble a tribunal that would not give any man a fair trial, if you do, then you ought to join with those who would strike it down and remove it from the whole structure of our Government. That is the most remarkable argument I have heard against this bill; the most remarkable argument I have heard in this House since I have been a Member of the Congress.

What do you mean? What are you driving at? Where do you want a justiciable issue tried? We have got to choose between two methods. The Committee on the Judiciary has done its part. I appreciate the generous words of my

friend, HOBBS. I do not deserve them. I, having pioneered in this thing, I have worked it out as best I could in the bill that we have brought in here. It is based on 20 years of actual contact with the problems that are involved.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. SABATH. Is it not the gentleman's opinion and conviction that these judges against whom charges will be preferred, will obtain a fairer trial and more just treatment than they themselves have accorded in many instances to unfortunate litigants who have appeared before them?

Mr. SUMNERS of Texas. Yes; my friend from Kentucky [Mr. ROBSION] made one of the best statements in a short length of time ever made on the floor of the House. He pointed out that it is not a fair trial that these judges get now. We want them to have a fair trial. How are they going to have it? Where do you want them to have it? Where do people go for fair trials? They go to the courts of the country. Let it be in the courts of the country. That is what we propose to give to these judges by this bill. We want them to be independent of any politics, of anybody. We want them to be independent of the crooks in office.

Mr. MASSINGALE. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes; for a brief question.

Mr. MASSINGALE. What does the gentleman think of the direction of the judgment in this case? It says here he shall be simply removable.

Mr. SUMNERS of Texas. That is right.

Mr. MASSINGALE. When we take into consideration the Constitution which prescribes the terms and form of the judgment in impeachment cases.

Mr. SUMNERS of Texas. It has nothing to do with impeachment. That is the constant confusion in our minds.

Mr. MASSINGALE. The question I wanted the gentleman to answer, if he would, is this, if I am not bothering him.

Mr. SUMNERS of Texas. No; if the gentleman will be quick. I have just a few minutes left.

Mr. MASSINGALE. Impeachment provides for removal from office and this just simply says "if removed."

Mr. SUMNERS of Texas. Yes.

Mr. MASSINGALE. Can the two coexist?

Mr. SUMNERS of Texas. They can coexist for the same reason in your State you can impeach an officer who steals public money and you can bring him into court in an ouster suit and put him out of office.

Mr. MASSINGALE. If I thought the gentleman was absolutely right, without doubt, I would go along with him.

Mr. SUMNERS of Texas. Take it on faith and leave out the doubt.

Mr. MILLARD. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from New York.

Mr. MILLARD. I appreciate the ability of the gentleman.

Mr. SUMNERS of Texas. I am all right. Proceed a little faster.

Mr. MILLARD. Does not the gentleman see danger in turning over to a partisan Attorney General the prosecution of a judge?

Mr. SUMNERS of Texas. No.

Mr. MILLARD. The gentleman does not see any danger in that?

Mr. SUMNERS of Texas. Of course, this is not perfect.

Mr. MILLARD. The Attorney General is partisan.

Mr. SUMNERS of Texas. Yes; the gentleman and I are partisan. We are both partisan, but we legislate for the Nation.

Mr. MILLARD. I am talking about the Attorney General. The gentleman does not see any danger in that?

Mr. SUMNERS of Texas. No. It could hurt, of course. But the Attorney General is the law officer of the Nation; you cannot get away from that, and he represents the United States in all prosecutions. This is a national prosecution. It gives the judge the protection of being tried by three judges. This judge has the right to have as good a lawyer to represent him as the Attorney General and, remember, the Attorney General cannot initiate this suit. He prosecutes all other suits for the Government. The Judge being charged, is represented by his own counsel.

[Here the gavel fell.]

The CHAIRMAN. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That whenever a resolution of the House of Representatives is directed to the Chief Justice of the United States which states that in the opinion of the House there is reasonable ground for believing that the behavior of a judge of any court specified in section 4 has been other than good behavior within the meaning of that term as used in section 1 of article III of the Constitution, the Chief Justice shall convene, at a place and time designated by him, a court consisting of any three judges of the circuit courts of appeal designated by him. Such court shall have jurisdiction to determine the right of such judge to remain in office.

Mr. MILLER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Committee amendment offered by Mr. MILLER: Strike out section 1 and insert in lieu thereof the following:

"That whenever a resolution of the House of Representatives is directed to the Chief Justice of the United States, stating that in the opinion of the House there is reasonable ground for believing that the behavior of a judge to whom this act applies, as provided in section 6, has been other than good behavior within the meaning of that term as used in section 1 of article III of the Constitution, the Chief Justice shall convene, or cause to be convened, the circuit court of appeals of the circuit in which the judicial district of the judge is situated in special term for the trial of the issue of good behavior of such judge. The Chief Justice shall designate three judges of the circuit courts of appeal (one of whom he shall designate as presiding judge and any one or more of whom may be judges of the circuit court of appeals of circuits other than the one convened in special term) to serve on such court. Such court shall have jurisdiction to determine the right of such judge to remain in office.

"SEC. 2. All of the facilities, services, and equipment of the United States in the circuit in which any such court may sit which may be appropriate and useful for the purpose of such court are hereby made available for its use, and every officer of the United States is hereby required to cooperate with each such court and its several members and to make available all necessary courtroom and office facilities, stenographic and other services; and the clerk and marshals of the circuit ccurt of appeals in any circuit in which any such court may sit are each hereby required to serve such court in the same manner, and as fully as they are, respectively, required to serve the United States Circuit Court of Appeals of that circuit.

"SEC. 3. It shall be the duty of the Attorney General, by himself or by counsel designated by him, to institute on behalf of the United States, and to represent the United States in, a civil action in such court to determine the right of such judge to remain in office. In any such action the United States shall be a party to such controversy and shall have all the rights and duties of a plaintiff in a civil action in the Federal courts, and the judge shall have all the rights and duties of a defendant in such an action. All matters of procedure in any such action shall be governed by rules prescribed by the Supreme Court, but the trial shall be without a jury.

"SEC. 4. If the court determines that the behavior of the judge has been other than good behavior within the meaning of that term as used in section 1 of article III of the Constitution, the judgment of the court shall be that the judge is thereupon removed from office, but no other penalty shall be imposed by the court.

"SEC. 5. From the judgment of any such court, either the United States or the defendant may, within 30 days after its rendition, but not later, appeal to the Supreme Court of the United States. Notice in writing of the taking of such appeal must be filed in the office of the clerk of the trial court and also of the Clerk of the Supreme Court of the United States, and a copy thereof must be served on opposing counsel. Such appeals shall be subject to and governed by the rules of practice and procedure now regulating appeals to the Supreme Court of the United States, or such rules as may hereafter be adopted by the Supreme Court of the United States. The judgment appealed from shall remain in full force and effect and shall be final and binding unless or until it be reversed by the Supreme Court of the United States upon appeal. If the judgment appealed from be that of removal from office, the appellant shall forthwith cease to have any power, authority, or right to act as judge, but his salary shall be paid him until the determination of such appeal.

"SEC. 6. This act shall apply to all judges of courts of the United States, the District of Columbia, and the Territories and possessions who hold their offices during good behavior, except the judges of the United States Court of Appeals for the District of Columbia, the judges of the circuit courts of appeals, and the Justices of the Supreme Court of the United States."

Mr. CELLER (interrupting reading of amendment). Mr. Chairman, a parliamentary inquiry, or shall I wait until the Clerk concludes the reading of the amendment?

The CHAIRMAN. The Chair would suggest the gentleman wait until the reading of the amendment is completed.

Mr. MICHENER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The Clerk will finish the reading of the amendment.

Mr. WADSWORTH (interrupting reading of amendment). Mr. Chairman, a point of order. This is an amendment to the second section.

Mr. MICHENER. Mr. Chairman, an amendment should be offered to only one section at a time. The gentleman offered an amendment at the end of section 1. If he is going to offer these other amendments, and it is in the shape of a single amendment, then we will accept that if he will give notice that he will offer amendments striking out the other sections as we reach them.

Mr. MILLER. That is right.

The CHAIRMAN. The gentleman will have the opportunity to make that announcement at the conclusion of the reading of the amendment.

Mr. WADSWORTH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WADSWORTH. Is it necessary for the Clerk to read amendments which the gentleman intends to offer to section 2 at this time? We have not reached section 2.

Mr. MILLER. I am offering this as a substitute for the entire bill now pending before the House.

Mr. WADSWORTH. The entire bill?

Mr. MILLER. Yes.

Mr. MICHENER. It is a substitute for the bill.

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. Can an amendment in the form of a substitute amendment for the entire bill be offered without striking out all after the enacting clause?

The CHAIRMAN. You can strike out the first section and insert a substitute for the bill.

Mr. MICHENER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MICHENER. After the first section is read, do I understand the ruling of the Chair is that the rest of the bill may be read where an amendment to one section has been offered? If that is the ruling, it is something new.

The CHAIRMAN. The gentleman from Arkansas is offering an amendment striking out section 1 of the bill and inserting in lieu thereof a substitute for the entire bill.

Mr. MICHENER. If it is a substitute, that is something else. The gentleman did not so state. Of course, the only difference is with respect to the time for debate.

Mr. WADSWORTH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WADSWORTH. When the Clerk finishes reading the amendment as offered, what is the question then before the House?

The CHAIRMAN. The amendment which is now offered.

Mr. WADSWORTH. The question will be on the substitute?

Mr. MILLER. On the substitute; yes.

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. Suppose some Member wishes to offer an amendment to the substitute, in what form shall he have the right to offer such an amendment?

The CHAIRMAN. He may offer it as an amendment to the substitute.

Mr. CELLER. Then it will be an amendment in the second degree in every case.

Mr. CASE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CASE of South Dakota. Under the ruling of the Chair, when may amendments to the substitute amendment be offered? Will the bill then be read by sections?

The CHAIRMAN. Amendments to the substitute may be offered while it is pending. The Chair may say that it is in order to perfect the substitute by amendment before the question is put on agreeing to the substitute.

The Clerk concluded the reading of the amendment.

Mr. EBERHARTER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. EBERHARTER. Mr. Chairman, I make the point of order that the substitute amendment offered by the gentleman from Arkansas [Mr. MILLER] is not germane to section 1 of the bill.

The CHAIRMAN. The amendment is offered as a substitute for the bill and is obviously germane to the pending bill. Therefore, the Chair overrules the point of order.

Mr. MILLER. Mr. Chairman, this amendment is offered in accordance with the action of the committee. The committee first reported the bill H. R. 2271, which you all have. Later it became necessary, in the judgment of the committee, that the original bill (H. R. 2271) be amended. On June 17 the chairman of the committee, the gentleman from Texas [Mr. SUMNERS], had printed in the RECORD at page 7740 the proposed bill as it would appear with various amendments which the committee had adopted.

In order that the matter may be presented logically this amendment is offered as a substitute for the bill H. R. 2271 by offering an amendment to strike out all after the enacting clause and substituting the amendment of the committee. If the substitute is adopted, I then propose, when sections 2, 3, and 4 of the original bill are reached, to move to strike such sections from the bill, so the bill then before the House will be the one which has been passed upon by the committee and recommended by the committee, and which appears in the RECORD at pages 7740 and 7741.

This is the bill which has been discussed in the debate this afternoon. Section 1 of the bill is the section in which we set up the court composed of circuit judges. The next section provides the machinery for the trial. The third section designates the Attorney General the prosecuting officer. Then further provision is made for appeal, and so forth. In other words, the bill which has been discussed and argued before the Committee of the Whole House this afternoon is the one which I am offering now on behalf of the committee as a substitute for the original bill.

Mr. MICHENER. Will the gentleman state wherein any constitutional objection to the original bill, which everybody was urged in the debate awhile ago, is corrected by this amendment?

Mr. MILLER. I am not undertaking to say. However, I do say that this is the bill which was discussed by the proponents this afternoon. The one I have offered as a substitute is the one which was discussed.

Mr. MICHENER. This is a better bill than the one which everybody thought they were discussing this afternoon.

Mr. MILLER. I did not think anybody was mistaken about what was being discussed this afternoon.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Yes.

Mr. BOILEAU. I may say I have heard a number of Members around here who have said they did not know anything about it, and I confess I did not know anything about it.

Mr. MILLER. I am sure the gentleman from Wisconsin knew about it, because a man who is as studious as the gentleman in reading the RECORD would have known of the amendment.

Mr. BOILEAU. I thank the gentleman, but I assure the gentleman that studious as I may be, I am not a mind reader. I have been on the floor all the afternoon with the exception of about 15 minutes and nothing was said about any other bill during the afternoon. I am advised by other gentlemen who have been here all the time that until this minute nothing has been stated on the floor about any other

bill except the bill which has been the subject of debate today. I assume all Members thought that bill was the only one to be considered today.

Mr. MILLER. I am sure the gentleman knew or should have known by the exercise of the ordinary diligence and great intelligence he usually exercises that the original bill would be amended.

Mr. BOILEAU. What gentleman on the floor, Member of the committee or anybody else, referred to this bill in the debate?

Mr. MILLER. The provisions of the amendment which I am offering were discussed generally. I defy the gentleman to apply the arguments which were made here to any bill other than the one which has just been offered.

Mr. BOILEAU. I submit to the gentleman that all the argument which was made this afternoon can apply very well to the bill H. R. 2271, which all of us had in our hands this afternoon.

[Here the gavel fell.]

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I listened with a great deal of attention to the remarks of the chairman of the committee, the distinguished gentleman from Texas [Mr. SUMNERS]. The gentleman stated that he knew no one who was more or less expert on the Constitution who would say this bill was unconstitutional.

I took the trouble to go to the United States Law Review to obtain an expression of opinion from judges and lawyers all over the country. The editor of the United States Law Review, without taking sides, published some questions which I pointedly asked with reference to the bill. I have received over 150 replies from judges, students, professors of law at various colleges, and others throughout the country, conversant with constitutional law, and the preponderant majority of my replies have been to the effect that the bill is unconstitutional. Even most of the judges down in Texas who have replied to me, say in so many words that in their opinion there is no warrant in the Constitution for this provision.

If there is no objection, I should like to insert in the RECORD the letters and communications which I have received from these students and experts throughout the country, indicating that the bill is unconstitutional.

The gentleman from Alabama [Mr. HOBBS], my very dear friend who sits next to me, has issued a challenge to me, and has asked me to show by reference to the Constitution or by reference to the debates in the Constitutional Convention, that there was any argument or any basis for this additional method of removal. I refer the gentleman to the debate in the Constitutional Convention held as of Monday, August 27, 1787, which clearly indicates, to my mind, that the framers of the Constitution intended only one method of ouster of judges, namely, impeachment; I shall read briefly from the debates in the Constitutional Convention of that day, when they considered the matter of the judiciary and the ouster or removal of judges:

Dickinson of Delaware, seconded by Gerry and Sherman—all adherents of State sovereignty—now moved that the judges "may be removed by the Executive on the application by the Senate and House of Representatives."

In other words, an additional remedy was offered.

G. Morris objected that "it was fundamentally wrong to subject judges to so arbitrary an authority." Rutledge said that "if the Supreme Court is to judge between the United States and particular States, this alone is an insuperable objection." Wilson observed that "the judges would be in a bad situation if made to depend on every gust of faction which might prevail in two branches of our Government." Randolph said that it would weaken the independence of the judges. The motion was rejected, Connecticut alone supporting it.

If our good friend will read further, he will find that similar motions involving different or other methods of ouster or removal of judges were also considered and rejected. So the conclusion is inescapable. The distinguished chairman of our committee stated at the inception of his remarks that at the time of the framing of the Constitution there were four well-known methods of ouster. Inasmuch as the framers of the Constitution selected one method of impeachment, by inference, beyond any question of doubt, all other methods were rejected by the framers; but even beyond that the debates indicate that all the other methods were debated and considered and every one of them was rejected.

So I believe I may say I have met the challenge of my good friend from Alabama.

The letters referred to by Mr. CELLER are as follows:

UNITED STATES COURT, EASTERN DISTRICT OF NEW YORK,
Brooklyn, N. Y., June 21, 1937.

Hon. EMANUEL CELLER,
Judiciary Committee, House of Representatives,
Washington, D. C.

MY DEAR CONGRESSMAN: Thank you for sending me copy of your minority report in connection with H. R. 2271.

I trust that it will not be considered indelicate for me to observe that the document seems to present unanswerable arguments. If it is desired to facilitate or accelerate the removal of district judges from office, the right way to do it is through an amendment to the Constitution.

With every respect, I beg to remain,
Faithfully yours,

MORTIMER W. BYERS.

SUPREME COURT,
Jackson, Miss., June 7, 1937.

Hon. NELSON W. WARNER,
United States Law, 253 Broadway, N. Y.

DEAR SIR: Replying to your letter of May 29, with reference to the bill introduced by Hon. HATTON W. SUMNERS, providing for the trial of certain Federal judges upon the issue of good behavior, I desire to say that in my opinion the bill would be unconstitutional. Section 4 of article II provides that "the President, Vice President, and all civil officers shall be removed from office upon impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors." Article I of the Constitution provides that the Senate shall be the sole power to try all impeachments, etc.; and it also provides that the House of Representatives shall choose its Speaker and other officers, and shall have the sole power to impeach. Section 1 of article III of the Constitution provides, "The judges of the Supreme Court and inferior courts shall hold their offices during good behavior, and shall at stated times receive for their services compensation which shall not be diminished during their term of office."

These sections are to be construed together, and the words "during good behavior", in my judgment, mean so long as they have not committed an offense named in section 4 of article 2, quoted above. It will be noted from this section that the offenses for which a judge may be removed from office are treason, bribery, "or other high crimes and misdemeanors." The words "high crimes and misdemeanors" are not perfectly defined, and it is possible that Congress might specify what crimes other than treason and bribery would constitute impeachable offenses. The power to try judges, or remove them from office, would clearly be limited to impeachable offenses, under the general doctrine that where a constitution names certain things as constituting offenses, and gives specific powers with reference to certain subject matter, it is intended to be exclusive. Mr. Cooley, in his work on Constitutional Limitations, eighth edition, page 139, quotes this rule as follows:

"Another rule of construction is that when the constitution defines the circumstances under which a right may be exercised or a penalty imposed, the specification is an implied prohibition against legislative interference to add to the condition, or to extend the penalty to other cases."

The Supreme Court of Mississippi, in *State* v. *J. J. Henry* (87 Miss. Repts. 125, 40 Southern Reporter 152), under clause (d) of the first syllabus, says "Where the constitution enumerates power granted or denied, it must be held to have named all of the powers so dealt with and as being, with the necessary implications, the sole limit of authority or restriction."

To the same effect is the case of *Rhode Island* v. *Massachusetts* (12 Peters, U. S. Repts. 657, 9 L. Ed. 1933) and *Myers* v. *U. S.* (272 U. S. 52, 71 L. Ed. 160).

In my opinion it was clearly contemplated that impeachment would be the only method of removing judges from office. Of course, judges would be subject to the criminal law and punishable for other offenses than those named, as any other citizen; but it would not be permissible for the House of Representatives to institute proceedings from the concurrent resolution, or by action of the House alone, because amendment no. 5 to the Federal Constitution would require the action to be instituted by indictment if there was to be a trial for crime.

The comment of Mr. CELLER, your Congressman, that the bill "does not define or explain 'good behavior' " is well taken, as due process of law would require the acts constituting good behavior to be defined with reasonable certainty before rights could be forfeited.

The Constitution of the United States created a government of separate departments, and the giving to one department power

over another would clearly be confined to the grant in the Constitution itself, and could not be extended by the Congress to include other powers or subjects.

In an article in volume 8 of the Mississippi Law Journal (February 1936), at page 283, I have dealt at considerable length with the subject of impeachment, and that article may be considered in connection with this letter upon the subject. I have no objection to the publication of this letter, or to any use that may be made of it in discussions in the Congress upon the Sumners bill. It will be seen from the article on impeachment that it is my view that an impeachment is a judicial trial, and that the charges of offenses committed, which are relied upon to constitute misbehavior, must be high crimes and misdemeanors, as distinguished from petty crimes and misdemeanors, and that the offenses must be defined by the law. It was never intended to give any officers or persons arbitrary powers.

Yours very truly,

GEO. H. ETHRIDGE.

UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF ILLINOIS,
Danville, June 7, 1937.

Mr. NELSON W. WARNER,
United States Law Review,
253 Broadway, New York, N. Y.

MY DEAR MR. WARNER: I have your letter of May 29 enclosing copy of Sumners' bill and Congressman CELLER'S letter.

I feel a great hesitancy in commenting upon the bill, because of my official position. So far as my personal feelings are concerned, I would have no objection whatever to the legislation. It occurs to me, however, that there would be a serious question as to constitutionality. I have not gone into that feature.

Yours very truly,

WALTER C. LINDLEY.

WATKINS, GRANT & WATKINS,
Atlanta, Ga., June 7, 1937.

Mr. NELSON W. WARNER,
United States Law Review,
253 Broadway, New York City.

DEAR SIR: Receipt is acknowledged of your letter of May 29 in which you ask a discussion of a bill proposed by Congressman EMANUEL CELLER. Knowing Chairman SUMNERS and Congressman CELLER as I do, I feel some diffidence in expressing an opinion about a bill prepared by them.

It does not seem to me that the proposed bill sent out with your letter could be held constitutional.

In article I of the Constitution, sections 6 and 7, there is conferred judicial power to try impeachment cases and a limit is fixed as to the judgment in such cases. It seems to me this is an exclusive remedy. In article II, section 4, "civil officers" are included in those officers removable by impeachment. This would seem to include judicial officers.

In article III, section 1, good behavior is prescribed as a requirement. It seems to me probable that good behavior, being so indefinite, furnishes another evidence of the exclusive power of the Senate.

There is another question suggested by section 2 of article III, Is an impeachment trial a case "in law and equity"? I am aware of the fact that a quo warranto was at common law a case at law but that writ ran to title and not to the political question. If this is a political question, of what constitutes good behavior.

Briefly, these are my reasons for believing that the proposed statute would be unconstitutional. I can see reasons why it would be an advisable statute if it could be constitutionally passed. You have leave to print this if you desire.

Yours truly,

EDGAR WATKINS.

TYE, SILER, GILLIS & SILER,
Williamsburg, Ky., June 7, 1937.

UNITED STATES LAW REVIEW,
253 Broadway, New York City, N. Y.

GENTLEMEN: I have your circular letter of May 29, together with clipping from your issue of June 1937, and I have carefully read and considered the letter of Representative EMANUEL CELLER, as well as the copy of bill recently introduced by the chairman of the Judiciary Committee of the House.

In the language of the wild and woolly West, it occurs to me that this is simply an effort on the part of Congress to pass the buck. In the first place, I have a very serious doubt as to the constitutionality of this bill. It might be well characterized as an effort to circumvent the Constitution, of which we have had overmuch in recent days.

I know of no legislation more important than that of impeaching an unworthy official, high or low, and certainly Congress should not shirk from this plain, constitutional duty. The argument that it does not have time will not appeal to the average American. I have a half-grown suspicion that it would be quite difficult to find a Representative or Senator who does not waste enough time during his term of office to try all impeachments from now to kingdom come. My attitude toward this and kindred legislation can be summed up in four words, "I am agin it." Why turn over such highly important procedure to three judges of the circuit courts of appeal or to any number of judges, for that matter, when the New Deal would seem to question the competency and honesty of the judiciary as a whole? Let the matter rest and remain where the framers of the Constitution saw fit to place it. In the light of recent legislation I have become quite fearful lest the multiplication table, or the Ten Commandments, be either repealed or amended.

Leave is hereby granted to print this letter, or any part thereof, together with the name of the writer.

Yours truly,

H. H. TYE.

LAW OFFICES, DULLAM & YOUNG,
Bismarck, N. Dak., June 7, 1937.

UNITED STATES LAW REVIEW,
253 Broadway, New York City.

GENTLEMEN: I have yours regarding the bill providing for ouster proceedings against United States district judges for misbehavior.

In my judgment there is doubt as to the constitutionality of the bill. Laying that to one side, the measure seems inequitable and unnecessary. It will tend to impair the independence of the judiciary. It does not prescribe a guide for use by the judges who will be called to determine the right of one against whom charges have been preferred to remain in office.

Should use be made of this letter I prefer that it be done without my name.

Very truly yours,

CLYDE L. YOUNG.

BOSTON, *June 7, 1937.*

Mr. NELSON W. WARNER,
United States Law Review:

Replying to your letter of May 29, 1937, addressed "to a limited number of members of the bar", asking for an expression of opinion relative to the subject matter of Congressman CELLER'S letter with reference to "a bill to provide for trials of and judgment upon the issue of good behavior in the case of certain Federal judges", I am perfectly willing to express my opinion thereon.

As I view the question, the queries of Mr. CELLER, other than the first referring to the constitutionality of the proposed bill, are immaterial for I believe that the method proposed is outside of constitutional authority and that the proposed legislation cannot be considered without relation to the provision of the Constitution referring to impeachment.

It seems to me clear that article I, section 3, "the Senate shall have the sole power to try all impeachments", was intended to, and does, cover the entire field. It was intended to place the judges in a situation where they might act with freedom and fearlessness, subject only to removal by the Senate. The present comprehensive constitutional provision does not permit the removal of a judge by the method proposed by merely changing the name of the impeachment and the tribunal.

In my opinion such new authority might well impair the independence of the judiciary, particularly under the circumstances so well stated in Mr. CELLER'S letter.

So far as I am informed, no such condition of affairs exists with reference to the judges of the District Court of the United States as to make such legislation necessary.

I do not agree with the theory that "there is a sort of legal contract between the Government and a judge." A judgeship creates a status which can be changed solely by the method provided in the Constitution, that is by the Senate upon impeachment.

It does not seem to me a reason for such legislation that in trials for impeachment the Members of the Senate do not perform their full duty. The Constitution evidently assumes the Senators would act conscientiously and in accordance with their duty in such proceedings. If they do not carry out this expectation, some method should be devised to secure the proper performance of such duty. This seems to be another case of an attempt to short-circuit constitutional requirements, of which there have been other examples within recent times.

JAMES M. SWIFT.

UNITED STATES DISTRICT COURT,
Dallas, Tex., June 8, 1937.

UNITED STATES LAW REVIEW,
253 Broadway, New York, N. Y.

GENTLEMEN: Being on the bench, I have hesitated to respond to your request of May 29.

I have concluded, however, that a judge is still a citizen and may appropriately speak upon such critical legislation as may be directed at the fundamental law of the land—provided, of course, he does so in a proper, dignified, and nonpolitical attitude.

The United States Constitution fixes the method for amendment. Time and again the people have exercised their rights thereunder.

That instrument having fixed the method of impeaching and depriving national judges of office may not be superseded by any congressional act which would shorten the life tenure in some unauthorized, unconstitutional manner.

The most serious malady of 1937 is the tinkering with the Constitution by legislation rather than by the vote of the people—the real masters in this Government.

A constitutional amendment which defines "good behavior" or which fixes other methods of trial than in the Senate, would place the matter squarely before the people.

The question is not exactly like the perpetual inquiry made by the expedientists who sporadically attack the constitutional requirements as to indictment, but it grows out of impatience with fixed methods. Many would like to do away with the so-called cumbersome method of bringing the citizen to trial.

It is rarely wise to forget that truth is everlasting, and, that fundamentals are never unnecessary, though at times they may defeat us.

Sincerely,

WM. H. ATWELL.

CONNOR & CONNOR,
Wilson, N. C., June 5, 1937.

EDITORS OF UNITED STATES LAW REVIEW:

Your circular letter of May 29, signed by Mr. Warner, enclosing copy of letter from Representative CELLER and copy of bill introduced by Representative SUMNERS received.

For 150 years it has at least tacitly been understood that the removal of a judge from office shall be by impeachment.

A judge is a civil officer; the Senate is constituted a Court of Impeachment. If a district judge may be removed by an act of Congress, a circuit court of appeals judge may be removed; a member of the Supreme Court may be removed; in fact, any civil officer may be removed without a trial by jury and with no appeal.

If three justices of the circuit court of appeals may constitute the court, then any three citizens appointed by the President or by any other officer named by Congress, they likewise constitute the court.

The recited fact that the Senators do not properly discharge the functions of their office is no excuse for the creating of an extra constitutional court. The proper remedy is for the Senators to perform their duty.

H. G. CONNOR, Jr.

BALTIMORE, MD., *June 8, 1937.*

Personally, I can see constitutional authority existing nowhere to justify such legislation. While the existing method is burdensome and cumbersome, that fact gives no power to Congress to shift such trials from the Senate to the courts referred to. Many times the C. C. A. is no better than the lower courts. There is very little difference between the two types of judges. The responsibility should remain where it is now placed. If any change is to be made, a specially constituted court should be created, though I don't like that, either. A high type of court, of that kind, would, however, be less objectionable than any other.

GEO. WASHINGTON WILLIAMS.

RAPID CITY, S. DAK., *June 9, 1937.*

EMANUEL CELLER,
Judiciary Committee, House of Representatives,
Washington, D. C.

DEAR SIR: The United States Law Review sent me a copy of a letter written by you to the Review appending a copy of the bill introduced by Mr. SUMNERS of Texas, chairman of that committee.

I have some doubt about the constitutionality of such an act, but I do not think myself competent to express an intelligent opinion as to its constitutionality. Assuming that such an act would be constitutional, I would prefer to have the fitness of judges to continue in office determined by such a court as is contemplated by the bill. This assumes that the judiciary is to continue to be independent.

Spokesmen for the administration now admit what was formerly evaded or denied; namely, that the executive branch of the Government is trying to control the judiciary. Until this matter is settled, it would be well to wait before such a bill as has been introduced is enacted.

In other words, even though the bill contemplates a trial before a court—which I prefer—it would be, in my opinion, better to wait until we find out whether the courts are to maintain their status as a coordinate instead of a subservient department of the National Government.

Yours very truly,

WALTER G. MISER.

This morning's mail brings a letter from the United States Law Review containing your own letter on Chairman SUMNERS' bill providing a new form of ouster proceeding against United States district judges for "misbehavior." Without being able now to take the time to study the question more closely, I had always supposed that the removal of a Federal judge could only take place by formal impeachment, and that inasmuch as the Senate has "the sole power to try all impeachments", this precluded assigning the function of trying "good behavior" to any other body. Offhand, therefore, I should have supposed that the attempt to assign this function to three judges of the circuit court of appeals would conflict with the provision that the Senate shall have the sole power to try all impeachments. Impeachment, as I understand it, is a method of trial reserved for high officials of the Government. Lack of good behavior is a ground for instituting an impeachment by the House before the Senate. Chairman SUMNERS must, however, have some argument available to support his bill, and I should be glad of an opportunity to read that argument.

With kind regards, I am,

Very sincerely yours,

EDWIN M. BORCHARD,
Professor of Law, Yale University.

SOUTH BEND, IND., *June 5, 1937.*

In re House bill—Judicial good behavior.

Hon. EMANUEL CELLER,
House Office Building, Washington, D. C.

MY DEAR MR. CELLER: I have read with a great deal of interest your letter to the United States Law Review and also the circular letter issued by it under date of the 29th ultimo.

I offer my comments in respect to the bill designed to supplant the present method of impeachment of Federal judges briefly and succinctly in this way:

Those responsible for the authorship of the bill are clearly ignoring the fundamental imports and connotation of the word "impeachment" as the same is used in article I, section 3, of the Federal Constitution. Those conceiving the bill assume that the word "impeachment" as in that section used and the term "good behavior" as used in article III, section 1, have no relationship to each other or the method of determining the grounds for impeachment and the method of ascertaining the existence of "good" or "bad" behavior are separable.

Essentially, of course, the word "impeachment" as used in the Constitution has the clear and distinct meaning of "official accusations." The term "high crimes and misdemeanors", in my judgment, also envisages every conceivable misconduct on the part of an encumbent of judicial office which would affect his capacity to discharge his duties as judge or seriously reflects upon the dignity of his office. The authors unquestionably assume that the term "misdemeanors" has the technical aspect of misconduct amounting to perpetration of an offense prohibited by law. The founders of the Constitution, I am certain, meant to give to the term the broader signification, to wit, any ill behavior or misconduct of sufficient gravity to indicate the unfitness of the encumbent to continue in office.

To summarize, unless, in my opinion, the Constitution be amended so as to permit the vestiture of a body other than the Senate to try out articles of impeachment (accusation), the proposed act would be clearly unconstitutional.

Very truly yours,

WALTER R. ARNOLD.

Mr. BOILEAU. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. BOILEAU moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. BOILEAU. Mr. Chairman, I have taken this means of obtaining the floor because I want to talk as soon after the discussion of the gentleman from Arkansas [Mr. MILLER] as possible. The gentleman from Arkansas stated that one with my diligence should certainly have discovered the fact that the committee intended to offer this substitute amendment. I appreciate the fact that the gentleman's statement was made with some suggestion of good humor, but I call his attention to the fact that not one single member of the Committee on the Judiciary and not one single Member speaking on the floor this afternoon made any suggestion that a substitute amendment was going to be offered at this time. Only one statement was made by anybody about any proposed amendment, and that was a statement made by the gentleman from Texas, the chairman of the Committee on the Judiciary, when he said that at the proper time he was going to offer an amendment that would provide for an appeal, either on the part of the United States or on the part of the judge involved in the particular case.

This is the only suggestion of any amendment, and no one, including the gentleman from Arkansas, in the debate today referred to any committee amendment, other than the statement about appeals, and not a single Member of this House gave any intimation that we were going to have a substitute amendment offered at this time.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. MILLER. A comparison of the substitute offered by me with the original bill would reveal that the only material difference is the fact that we provide for an appeal by the judges in section 5 of the proposed substitute.

Mr. BOILEAU. I did not have opportunity to thoroughly analyze this bill that appears in the CONGRESSIONAL RECORD of some days ago, but section 2 is far different from section 2 of the bill before the House.

Mr. MILLER. There is some difference there.

Mr. BOILEAU. And I submit that there is a material difference between the two bills. The gentleman said that I should, by the exercise of due diligence, have discovered that

we were talking about two different bills, and he said that all of the argument this afternoon was with reference to the bill that appears on page 5946 of the RECORD and not with reference to this bill before the House. I defy the gentleman from Arkansas [Mr. MILLER] or anyone else to refer to one single item on the floor this afternoon which does not apply to the bill before the House. It may be that the gentleman and others had the other bill in mind, but I submit to the gentleman that I read this bill before we considered it on the floor, and that all the argument presented this afternoon was applicable to this bill, H. R. 2271.

Mr. MILLER. H. R. 2271 does not provide for appeal.

Mr. BOILEAU. I made the statement about the amendment, which the gentleman said he was going to offer, providing for an appeal, but the other arguments apply to the bill H. R. 2271.

Mr. MILLER. There have been some arguments this afternoon based on the personnel of the court.

Mr. BOILEAU. Yes.

Mr. MILLER. And the methods suggested and debated are in accordance with the substitute rather than with the original bill.

Mr. BOILEAU. Discussion with reference to the selection of judges provided that the Chief Justice of the United States should appoint three of the judges of the circuit courts of appeal, and that is practically all the discussion there was this afternoon with reference to that procedure, and that applies to the bill H. R. 2271.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. SHORT. And the resolution and report both apply to H. R. 2271.

Mr. BOILEAU. Yes. I submit there are not 10 Members of this House, outside of the Committee on the Judiciary, who had any idea that this substitute amendment was to be introduced. I do not desire to make such a point as to that, but the gentleman from Arkansas indicated that I should have known. I submit that all of the other Members of the House had the same impression that I had, and none of us, except perhaps those on the Committee on the Judiciary, were informed that this amendment was to be offered in the form of a substitute for the whole bill.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. BOILEAU. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. O'CONNOR of Montana. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. O'CONNOR of Montana. If there is practically no difference in these bills, what difference does it make whether we discuss this bill or the substitute?

Mr. BOILEAU. I submit my only purpose at the time I addressed my remarks to the gentleman from Arkansas [Mr. MILLER] was to ask for information; and I submit to my friend from Arkansas—and I am glad to recognize him as a good friend of mine—in reply to my query, when I was looking for information, tried to give the impression that the Members of the House should realize what the members of the committee had in mind. For that reason I absolve myself of all blame, and I do not believe anyone can say that I have not made a reasonable effort to ascertain what was in the minds of the committee when this bill was under consideration.

Mr. SHORT. And there was not the slightest inkling during all of the debate about the substitute until the debate had entirely closed.

Mr. BOILEAU. I thank the gentleman for substantiating my remarks.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. MICHENER. I hope the substitute will be adopted. There are some very important amendments.

Mr. BOILEAU. I have not been addressing my remarks with reference to the merits of the two proposals. I have not had a chance to read over the substitute. I do not know what it is. I know what this bill is, and I know that I would not vote for it. I do not know whether I would vote for the substitute or not. I hope the members will have ample opportunity to consider the bill we are about to consider.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. SUMNERS of Texas. Mr. Chairman, I rise in opposition to the amendment. I hope that this confusion may not disturb our vote on this very important matter. As a matter of fact, as has been stated, there is but one important change proposed. I admit that we have not been as careful as we ought to have been, in making reference to these amendments, but I shall make a statement as to what was done. The Committee on the Judiciary agreed to two amendments in all, the important one granting the right of appeal. That has been discussed. The one dealing with the construction of the court, as the gentleman will observe, has only to do with the question which might have arisen as to the constitutionality of the original arrangement, but the amendment with reference to the court leaves untouched the fact that the court is to be convened by the Chief Justice, and that he may bring in additional judges after the court has been convened.

There was some question as to whether or not the facility of the court would be available to this new court, and that was made clear by amendment. In addition to that explanation, in justice to the committee, I direct attention to the fact that anticipating the importance of this matter, I made a statement on June 17 calling the attention of the House to the fact that this identical amendment which has been offered by the gentleman from Arkansas [Mr. MILLER], would be offered. That amendment was printed in the RECORD for the information of the House. Due to the fact that that amendment had been printed in the RECORD with notice given from the floor of the House and there was not any important amendment offered except the one giving the right of appeal which has been discussed here today, the committee certainly did not realize it was unfair to the House. We are sorry Members feel we have been. When you examine the debate and read the proposed amendment that was printed in the RECORD for your information on the 17th you will see that the bill which you are going to be asked to pass upon is the bill that has been debated here today and which was printed in the RECORD several days since.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. BOILEAU. I wish to make it clear that I do not make any insinuation that the committee deliberately misled the House. I do say, however, that practically all Members with whom I have had an opportunity to discuss this matter did not happen to know about this particular amendment. I was one of those, and I think we should not be accused by the gentleman from Arkansas [Mr. MILLER] or anybody else of not using due diligence.

Mr. SUMNERS of Texas. I will straighten him out. I will make him come over and apologize to the gentleman. [Laughter and applause.]

Mr. HOBBS. Did not the chairman state in presenting this amendment that this amendment was going to be considered?

Mr. SUMNERS of Texas. Yes. You will find that in the RECORD. The main thing is that this bill which you are going to be asked to vote on directly is the bill that was debated today.

Mr. TERRY. In section 2 of the original bill it says, "It shall be the duty of the Attorney General, by himself or by counsel designated by him", and this committee had also "or of such counsel as may be designated by the House of Representatives."

Mr. SUMNERS of Texas. We did not feel justified in risking the proposition of the House designating somebody to institute and prosecute a suit in the name of the Federal Government.

Mr. TERRY. There has been some criticism of that sentence.

The CHAIRMAN. The time of the gentleman has expired. All time on this motion has expired.

The question is on the motion of the gentleman from Wisconsin to strike out the enacting clause.

The quesiton was taken, and the motion was rejected.

Mr. WADSWORTH. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WADSWORTH to the committee amendment: Section 3, line 1, strike out the words "Attorney General" and insert in lieu thereof "managers designated by the House of Representatives."

Mr. WADSWORTH. Mr. Chairman, the amendment which I have just offered is an attempt—perhaps a feeble one—to carry out my suggestion made in my remarks on this bill during general debate. It is impossible for any Member of the House to identify any amendment, because none of us has a copy of this substitute. The amendment cannot be designated by page or line. It is merely offered as an amendment to section 3. It was in the second section of the original bill. I understand it must be offered before the substitute is acted upon or it may not be offered at all.

Perhaps a great many Members who are now present heard my protest against the injection of the executive department into the trial of a judge. My protest was against that provision of the bill which has the effect of naming the Attorney General of the United States as the prosecuting officer to try this judge before this special court made up of circuit court judges. The gentleman from Texas, chairman of the Committee on the Judiciary, has intimated in the remarks he made this afternoon that were it not for another court issue now pending—and I hope dead—it would not have occurred to me to have made this suggestion or this argument. As a matter of fact, I am thinking entirely upon the form of our Government. I do not care who is President or who is Attorney General when I give consideration to the machinery set up in this bill for the prosecution of a judge. I do not believe it is wise or safe with respect to the future independence of our judiciary to place in the hands of the President of the United States—and that is what you do when you name the Attorney General—the power to prosecute a judge before a court. In my judgment, if the House of Representatives is to initiate the proceedings that this resolution transmits to the Chief Justice of the United States to start this judicial process by which a judge is tried, the House of Representatives should stay in the picture until the case is closed.

Why should the House, which presents the charges, step aside and pass the "buck"? Why should it be handed to the Attorney General and have him marshal all the executive power—and no one can tell the character of the power that may be marshaled by the executive branch against the judge whose opinions may have been unpopular to the administration—why should the House subject a judge to that kind of treatment from another branch of the Government not affected? The House should pursue the charges with its own managers, just as it does under present procedure. When we bring impeachment proceedings against a judge and it goes to the Senate, the evidence is presented by the managers on the part of the House. That is the plea I make—that the managers on the part of the House, if there is to be a prosecution, do the prosecuting.

[Here the gavel fell.]

Mr. GREENWOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I cannot see the potency of the argument of the gentleman from New York against the cause being tried by the Attorney General, who represents the United States Government. In the first place, if the House of Representatives should send managers, they would represent another department of the Government that would be trying the judiciary or prosecuting the cause. The gentleman assumes that the executive department would be less competent or more inclined to prejudice than the House of Representatives. I cannot see the potency of this argument. The Attorney General tries all cases in which the United States is a party, and certainly within this class of cases would fall a good-behavior case against one of the members of the judiciary after the indictment or charges have been filed by this House. Under the laws of Indiana an indictment for crime is brought by the grand jury summoned by the court, but they do not try the cause. The prosecuting attorney or the attorney for the Commonwealth tries the cause upon the indictment brought by the inquisitorial body, the grand jury.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. MICHENER. That is true, and that is the very objection here, that the Executive executes the laws, the courts determine the laws. The Attorney General would undoubtedly be a party when he appeared as a prosecutor.

Mr. GREENWOOD. I understand the question of the gentleman, and I do not agree with his position at all. The Attorney General up to this time has had nothing to do with this case. The evidence has been presented before the Judiciary Committee of this House. This committee has inquired into it and brings the charges for trial because of misbehavior. He has only one thing to do as the representative of the United States Government—that is, to try the issue on the charges that have been brought by this body and which will be substantiated by evidence introduced by him the same as in any other lawsuit.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. TERRY. Under the provisions of this bill the House would prefer charges in a resolution sent to the Chief Justice. May not the Attorney General add charges of his own accord?

Mr. GREENWOOD. I understand that the issue will be joined upon the articles of indictment that are brought from this body.

Mr. TERRY. Is the Attorney General confined to the charges preferred by the House?

Mr. GREENWOOD. He is confined, under the rules of the court, to present his evidence in an orderly way, according to rules laid down by the court, the same as he would have to do in any other case that he were trying, and I think that that is quite proper.

All three departments of the Government are interested in the judiciary being kept clean and being kept on a high and dignified plane. One department brings the charges, this body. The Attorney General, who is not accountable to anybody except to perform his duty under his oath, in representing the United States Government is charged with presenting the case to a court that is summoned by the Chief Justice of the United States, a court of judges to try one of the members of their judiciary. What could be fairer? Would any judge object to his fellow judges on the bench trying his cause when they have been selected by the Chief Justice of the United States? It seems to me this would give him a fairer trial than he would receive through the political processes of impeachment to be tried by the Senate of the United States; and we must bear in mind the fact that the time of the Senate is needed for other purposes.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. TERRY. Then it is my understanding that the gentleman believes that the Attorney General cannot add charges to those brought by the House.

Mr. GREENWOOD. I have no reason to believe, from a reading of the bill, that he could add to the charges.

[Here the gavel fell.]

Mr. MICHENER. Mr. Chairman, I move to strike out the last word.

Mr. MILLER. Mr. Chairman, will the gentleman yield to permit me to submit a unanimous-consent request?

Mr. MICHENER. I yield.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from New York to the substitute do close in 10 minutes.

Mr. WADSWORTH. Mr. Chairman, reserving the right to object, the only request I would make is that I be given the opportunity to perfect the amendment. As it was read to the House it was not complete. This indicates how difficult it is to draft amendments.

Mr. MILLER. Of course, the House will act on the amendment as it is finally reported by the Clerk.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MICHENER. Mr. Chairman, this substitute provides—

That whenever a resolution of the House of Representatives is directed to the Chief Justice of the United States, stating that in the opinion of the House there is reasonable ground for believing that the behavior of a judge to whom this act applies, as provided in section 6, has been other than good behavior within the meaning of that term as used in section 1 of article III of the Constitution, the Chief Justice shall convene—

And so forth. This is the only resolution required to compel the Chief Justice to convene a court and notify the Attorney General. No indictment is drawn.

I presume the Attorney General will then start an investigation. The House does not have to give a single particular. All that is necessary is to allege that the House has reason to believe that the conduct of a certain United States judge is not good conduct, whereupon the Attorney General is turned loose with his Department to ferret out and find out, if he can, wherein the conduct is bad. An indictment is then drawn. There is no indictment provided for in this bill. Here we are writing a statute. We are abandoning the regular impeachment proceedings as heretofore known. All that is necessary is to comply with the statute. Its terms are clear and unmistakable. All that is necessary is a reasonable belief in the mind of Congress that something might be wrong with some judge's conduct. Mere rumor or the political influence of a disappointed litigant might put the judge on trial. I say it is perfectly ridiculous.

Mr. CHURCH. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Illinois.

Mr. CHURCH. Could not these charges grow out of the lower courts, where the Attorney General has prosecuted before this judge, and that same Attorney General go back before that judge in this proceeding?

Mr. MICHENER. Yes. If you want to talk about possibilities, not probabilities, you might try the man under this procedure here, if it is constitutional, and if you do not like the result, you could then have some Member here impeach the judge, because you cannot get rid of the impeachment feature of the Constitution. You cannot eliminate impeachment proceedings against Federal judges, and you cannot impeach a Federal judge under the Constitution unless he is a civil officer. If after 150 years we discover that a Federal judge is not a civil officer, then we have wrongfully prosecuted judges in impeachment trials.

Mr. CHURCH. Then will not this amount to a club that can be used by an Attorney General of the United States to be held over every district judge in the United States if the lower House happens to vote in favor of proceeding against some judge, thereby enabling the Attorney General to go out to try that judge?

Mr. MICHENER. The same Attorney General would go out and investigate and would file an information embodying the charges. He would not be limited by anything other than the statutory resolution taking the case to the Chief Justice.

[Here the gavel fell.]

Mr. HOBBS. I rise in opposition to the pro-forma amendment.

Mr. Chairman, methinks I see in the distant future prosecutions inaugurated under the bill that we are going to pass this afternoon, and methinks I hear the distinguished gentleman from Michigan snorting in the same old rage against it, when we are drawing the bill of particulars in this House, as we will.

The gentleman knows when we talk about an indictment for murder, the indictment does not read "for murder." It reads that John Smith killed Pete Brown by shooting him with a pistol against the peace and dignity of the State. Yet we call it murder. The same thing applies here.

There is not a man, woman, or child with intelligence above the level of that of an imbecilic doodle who does not know what misbehavior on the part of a judge is. Yet we have no other idea than to set forth in detail, exactly wherein every accused judge has failed to maintain good behavior. We will be glad to give each one of them a bill of particulars.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. HOBBS. I yield to the gentleman from Oregon.

Mr. MOTT. It is true under the law by which an indictment is drawn, the same law defines what is murder?

Mr. HOBBS. Yes.

Mr. MOTT. So that when the indictment states what John Doe did it definitely states he has committed murder and murder is then proven. But in this bill good behavior is not defined.

Mr. HOBBS. Nor is any other constitutional provision defined, but the courts have the power and capacity to define every one and can do so with no difficulty whatever in the instance of the good-behavior clause.

Mr. DIES. Will the gentleman yield?

Mr. HOBBS. No; I am sorry I cannot, because I want to pay my respects again to my good friend the senior member of this committee. In my former remarks I asked him if the framers meant that impeachment should be the sole mode of ouster, why did not they say so? He said they did. I demanded the proof. He has not produced it, and has shifted from his claim of support in the Constitution to his new position that the debates of the Convention justify his assertion. I accept the new challenge. The debates, according to Madison and his notes, give absolutely not one syllable to justify his comment that this bill is outlawed by the Constitution or any provision of it. Why, of course, the Constitutional Convention voted down the proposal to give the Executive the power to kick any judge out of office on the application by Congress. That was but a modification of the English mode of ouster by an "address to the Crown." Thank God, we then had and now have no Crown in the United States! The Supreme Court was rejected as a "high court of impeachment" because it was thought that in impeachment trials a member of the Supreme Court would frequently be the defendant. You will search in vain for a word against anything even resembling what this bill proposes. There is not an intimation or hint of opposition to any such suggestion.

The framers of the Constitution knew why that good-behavior clause was put in there. They wrote a contract with every judge that he should only hold office during good behavior. They knew that eventually we would need an enabling act to utilize the power implicit therein. We are supplying that need today.

May I assure my good friend from Michigan, and the other distinguished gentlemen who seem worried that a corrupt judge might not know about his own sin, that this House will always see to it that the accused is furnished with a full, clear, and specific bill of particulars.

Mr. MICHENER. Will the gentleman yield?

Mr. HOBBS. I yield gladly to the gentleman from Michigan.

Mr. MICHENER. I am sure that we will, if it ever comes to that, but under this bill as drawn we are not required to do it. All you need to do is to pass a resolution that you believe a certain judge should be investigated and

that is the purpose of sending this thing to the courts and have the Attorney General make an investigation.

Mr. HOBBS. I do not believe, and the gentleman does not believe, and nobody else believes, there will be any such foolish resolution ever passed by the House of Representatives as one reading that such-and-such a judge has been guilty of conduct which is not good behavior. We will say that he misbehaved in the following stated particulars. We will specify them, to the complete satisfaction of the accused judge and his counsel, then, what is more, we will prove those charges, and purge the bench of those few who still disgrace it by dishonesty and corruption. [Applause.]

[Here the gavel fell.]

Mr. WADSWORTH. Mr. Chairman, in accordance with my understanding with the gentleman in charge of the bill, I ask unanimous consent to modify my amendment in order to make it fit the text of the committee amendment and ask the Clerk to read the amendment as so modified.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read, as follows:

Modified amendment offered by Mr. WADSWORTH to the committee amendment: Section 3, line 1, after the word "the", strike out "Attorney General by himself or by counsel designated by him" and insert in lieu thereof the following, "managers designated by the House of Representatives", so that the first sentence of section 3 will read, "It shall be the duty of the managers designated by the House of Representatives to institute on behalf of the United States, and to represent the United States in, a civil action in such court to determine the right of such judge to remain in office."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York, Mr. WADSWORTH, to the committee amendment offered by the gentleman from Arkansas, Mr. MILLER.

The question was taken, and on a division (demanded by Mr. WADSWORTH) there were—ayes 83, noes 45.

So the amendment to the committee amendment was agreed to.

Mr. HANCOCK of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hancock of New York to the committee amendment:

On page 1, line 6, after the word "that", strike out "the behavior of", and after the figure "4", in line 7, strike out the balance of the line, all of line 8, and all of line 9, down to and including "Constitution" and insert in lieu thereof "has been guilty of acts of corruption, neglect of duty, or incompetence (which must be specifically set forth in said resolution)."

Mr. HANCOCK of New York. Mr. Chairman, possibly this amendment is not offered at the appropriate place in the substitute amendment, but I do not know how to do so. We have no copy of the substitute before us. I would like to have it considered at the proper place in the substitute amendment.

The object of my proposed amendment is perfectly clear. It has been stated before by myself and a half dozen other speakers, and cannot be denied, that if this bill becomes law it will be possible for the House of Representatives to hale a judge before a court of three on the most trivial charges or on charges containing no specifications of misconduct. It would be sufficient to pass a resolution reading something like this—

Resolved, That a certain judge has been guilty of behavior other than good behavior, and be it further resolved that the Chief Justice of the Supreme Court be directed to convene a court to try that issue.

There is a limitation, "good behavior within the meaning of section 1 of article III of the Constitution." But in that section there is no difinition of good behavior. There is no guidepost, there is no standard, there is no measuring stick whatever. Whatever the House designates as misbehavior becomes misbehavior, or it need not specify anything. In order to give the accused judge the same small safeguard enjoyed by the humblest defendant in a criminal case, my amendment proposes to let the judge know the specific charges against him. I define "misbehavior" as incompetence, neglect of duty, or corruption, and requires specifications. If there are other forms of judicial misconduct than these, I would be glad to include them, but it seems to me it is an utter absurdity to leave it open for a future Congress—I am not talking about this Congress—to persecute a good judge on a general charge of "behavior other than good behavior."

The gentleman from Alabama [Mr. HOBBS] says he cannot conceive of any House of Representatives bringing in what is in the nature of an indictment against a Federal judge without a bill of particulars, without specifications. The gentleman is in favor, in each case, of giving the charge with great particularity. If so, why should he object to putting such language in the bill? I can conceive of a Congress which would be so political, so prejudiced, a Congress such as those we had after the Civil War, that it would deny to stout-hearted judges the rights of the lowliest criminal. If you believe judges should be entitled to know the charges against them, then vote for this amendment. The most contemptible crook has a right to know the accusation against him in every jurisdiction I ever heard of, except modern Russia.

Mr. SUMNERS of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a pretty serious matter. Good behavior is not defined in the Constitution. I would not be candid or honest with the House if I did not say this legislation in a sense is experimental. However, I believe enough in the institutions of this Government and the persons who are in charge of administering the affairs of this Government to believe that the things about which gentlemen are apprehensive will not develop. As a matter of fact, if we now have a House of Representatives and courts which will do the things these gentlemen seem apprehensive will be done, it is proof positive we have passed the time when we can operate a system of free representative government.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. MILLER. As a matter of fact the only provision in the Constitution about impeachment is simply that the House of Representatives shall have the sole power of impeachment, and under that provision of the Constitution there has never been an article of impeachment preferred which was not particularized, and that is what will necessarily follow here.

Mr. HANCOCK of New York. If the gentleman will yield, this is not an impeachment proceeding; it is something entirely different.

Mr. MILLER. I know; but it is an ouster proceeding.

Mr. SUMNERS of Texas. It is provided in this bill that the whole proceeding shall be under rules promulgated by the Supreme Court. We cannot undertake to set out what constitutes bad behavior, because we cannot anticipate what a judge may do. The minute you enumerate what cannot be done, then you exclude all other bad behavior for which judges should be removed.

Mr. HANCOCK of New York. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. HANCOCK of New York. Can the gentleman think of any form of official misconduct other than corruption, neglect of duty, or incompetence, for which a judge should be removed? If so, I should be glad to include it in my amendment.

Mr. SUMNERS of Texas. That is the point. My distinguished friend says if there is any act of a judge which would constitute misconduct within the meaning of that provision of the Constitution, he now would be glad to enumerate it. In other words, he wants it to be so that a judge can be removed for any act which is violative of the good-behavior provision of the Constitution. The way to make that certain is to leave the good-behavior provision

in the Constitution exactly as it is and to make provision for removal if he violates it.

May I call attention again to the fact that the distinguished gentleman from New York has just stated that if he knew there were any other things which would constitute misbehavior within the meaning of that provision of the Constitution, he now would include it. The way to be sure we include it is not to enumerate them. [Applause.]

[Here the gavel fell.]

Mr. MILLER. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from New York to the committee substitute do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HANCOCK] to the committee amendment offered by the gentleman from Arkansas [Mr. MILLER].

The amendment to the committee amendment was rejected.

Mr. CASE of South Dakota. Mr. Chairman, I offer an amendment, which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. CASE of South Dakota to the committee amendment: In section 1, line 15, after the word "court", to strike out the period, insert a semicolon and the following words: "the Senate shall designate four of its Members to serve on such court."

THE SENATE'S VOICE IN REMOVAL OF JUDGES IS THE VOICE OF THE STATES AND THE PEOPLE

Mr. CASE of South Dakota. Mr. Chairman, I offer this amendment to call attention to what this bill is actually doing. This bill is changing the entire procedure in the matter of court tenure. It proposes to take from the Senate all voice in the removal of Federal judges.

Judges of district courts at the present time are appointed with the consent of the Senate, and section 3 of article I of the Constitution says "the Senate shall have the sole power to try all impeachments."

This means that at the present time the Senate has a voice in the appointment and a voice in the removal of any Federal judge. It has "the sole power to try all impeachments." If the proposed removals should be impeachment proceedings, if they had the dignity of impeachment proceedings, undoubtedly, the trial would have to be by the Senate.

You must hold one of two things, either charges are serious enough to impeach a judge, or they are too trivial to go through that procedure. If they are too trivial, then why should the power of the Senate to have a voice in the removal or nonremoval of the judge be curbed?

A removal from office is a removal whether you call it an impeachment, an ouster, or something else. By any name, it is a check on judicial tenure.

I do not know what the sentiment of this body may be. Perhaps we are not concerned with upholding the power and dignity of the Senate, but every argument in the development of the American Government with respect to the power of the Senate or the right of each State to have two Senators, is at stake here so far as the protection of the people or the protection of the judiciary is concerned. [Applause.]

If you say to the Senate that it shall have no voice in the removal of judges, there is no possibility of this bill being accepted by the Senate, because it strikes directly at what the Senate may or may not do at any time in preserving the integrity and independence of the judiciary.

You may vote this amendment down; it is probably unworkable to have a removal court consist of three judges and four Senators; but as surely as this bill goes to the Senate I look for the Senate to reassert its right to have a voice in the matter to tenure of judges in the United States. [Applause.] And for the sake of the rights of the people and the Union, which was made possible by the compromise which gave each State two Senators, I hope it does.

Mr. SUMNERS of Texas. Mr. Chairman, I hope the Committee will vote down the amendment of my distinguished friend, and I ask unanimous consent that all debate on this amendment do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota to the committee amendment offered by the gentleman from Arkansas.

The amendment to the committee amendment was rejected.

Mr. BURDICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURDICK to the committee amendment: Section 1, line 7, after the word "shall", insert the word "immediately."

Mr. BURDICK. Mr. Chairman, there is nothing serious about this amendment at all. The only purpose in offering this amendment is to get a chance to say just a few words in favor of the bill itself.

The way the rules of this House are organized there is no chance for anyone to discuss these bills unless he becomes a member of the committee. As everyone knows, I am a member of no committee except this Committee of the Whole House, and if we stayed here all night, I was determined that I would offer an amendment so that I could be heard on the bill. I want the people of this country to know how difficult it is to express yourself in the Congress of the United States. Some men have spoken four or five times on this bill who have indicated they do not know anything about it at all. [Laughter.] Let me say that there never has been and there never will be a prosecution of any Federal judge in this country under article III, section 1 of the Constitution that has been read here this afternoon, for bad behavior unless we set up the machinery for it. Every judge who has ever been tried and every judge who has been found guilty has been found guilty of one of these charges enumerated in article II, section 4 of an act amounting to treason, bribery, or other high crimes or misdemeanors. No judge has ever even been tried for misbehavior, and as one who has practiced in the Federal courts for a great number of years I know of a hundred different things that Federal judges are guilty of that make them unfit to sit on the bench, and none of these come under the provisions of treason, bribery, or high crimes or misdemeanors.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. BURDICK. No. Everybody has been yielding to the gentleman for the last 4 hours, and we have not received any further information. [Laughter.] Mr. Chairman, I did not make this motion for the purpose of inserting the word "immediately." I do not care what you do with it. I want to be heard in favor of this bill, and unless this Congress sets up machinery by which you can try judges whose conduct is bad but not amounting to treason, bribery, or other high crimes or misdemeanors, they will never be tried. [Applause.]

Mr. MILLER. Mr. Chairman, I ask unanimous consent that all debate upon the substitute amendment and all amendments thereto be now closed.

Mr. MICHENER. Mr. Chairman, I want to have 2 minutes.

Mr. MILLER. Then, Mr. Chairman, I modify that request by having debate close in 2 minutes.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent that all debate upon the substitute amendment and all amendments thereto close in 2 minutes. Is there objection?

There was no objection.

Mr. MICHENER. Mr. Chairman, I have asked these 2 minutes in order to tell the gentleman from North Dakota——

Mr. BURDICK. Mr. Chairman, will the gentleman yield?

Mr. MICHENER. No; not now.

Mr. BURDICK. Then I want as much time as the gentleman has.

Mr. MICHENER. Mr. Chairman, I want to take this minute or two to tell my courteous friend, the gentleman from North Dakota, that the Senate of the United States has determined that any conduct on the part of a judge which brings into disrepute his office as a judge is bad behavior. So there has been established a yardstick as to what constitutes behavior that is not good behavior on the part of a Federal judge. The Court of Impeachment has settled quite definitely that question. The accepted definition as announced by former Chief Justice Taft, and quoted by the gentleman from Iowa [Mr. GWYNNE], by the rule of precedent has become fixed and definite. Under the procedure contemplated by this bill no standard is provided.

The CHAIRMAN. The time of the gentleman from Michigan has expired. All time has expired. The question is on the amendment offered by the gentleman from North Dakota.

Mr. BURDICK. Mr. Chairman, I ask unanimous consent to withdraw that amendment.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Arkansas [Mr. MILLER].

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read.

Mr. MILLER (interrupting the reading). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with, and that sections 2, 3, and 4 of the original bill be stricken therefrom.

The CHAIRMAN. Is there objection?

There was no objection.

The matter referred to is as follows:

SEC. 2. It shall be the duty of the Attorney General, by himself or by counsel designated by him, or of such counsel as may be designated by the House of Representatives, to institute on behalf of the United States, and to represent the United States in, a civil action in such court to determine the right of such judge to remain in office. In any such action, the United States shall have all the rights and duties of a plaintiff in a civil action in the Federal courts and the judge shall have all the rights and duties of a defendant in such an action. All matters of procedure in any such action shall be governed by rules prescribed by the Supreme Court, but the trial shall be without a jury.

SEC. 3. If the court determines that the behavior of the judge has been other than good behavior within the meaning of that term as used in section 1 of article III of the Constitution, the judgment of the Court shall be that the judge is thereupon removed from office, but no other penalty shall be imposed by the Court. No appeal shall lie from the judgment of the Court.

SEC. 4. This Act shall apply to all judges of courts of the United States, the District of Columbia, and the Territories and possessions, who hold their offices during good behavior, except the judges of the United States Court of Appeals for the District of Columbia, the judges of the circuit courts of appeal, and the Justices of the Supreme Court of the United States.

Mr. MILLER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the amendment.

The CHAIRMAN. Under the rule the Committee will rise.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. COFFEE of Nebraska, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration the bill H. R. 2271, and pursuant to House Resolution 227, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered. The question is on agreeing to the amendment.

The question was taken and the amendment was agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

Mr. MICHENER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 221, nays 125, not voting 85, as follows:

[Roll No. 95]

YEAS—221

Aleshire	Duncan	Johnson, W. Va.	Poage
Allen, Del.	Dunn	Jones	Quinn
Allen, Pa.	Eberharter	Kee	Ramsay
Amlie	Eckert	Keller	Randolph
Anderson, Mo.	Edmiston	Keogh	Rayburn
Atkinson	Eicher	Kirwan	Reed, Ill.
Barden	Elliott	Kitchens	Reilly
Barry	Faddis	Kocialkowski	Rigney
Bell	Ferguson	Kopplemann	Robertson
Biermann	Fish	Lambertson	Robinson, Utah
Bigelow	Fitzpatrick	Lanham	Robsion, Ky.
Binderup	Flannagan	Lanzetta	Rogers, Okla.
Bland	Flannery	Larrabee	Ryan
Bloom	Fleger	Lea	Sabath
Boland, Pa.	Fletcher	Leavy	Sacks
Boyer	Forand	Lemke	Sanders
Boykin	Ford, Miss.	Lesinski	Schaefer, Ill.
Boylan, N. Y.	Frey, Pa.	Lewis, Colo.	Schulte
Bradley	Fries, Ill.	Long	Shanley
Brooks	Fuller	Luckey, Nebr.	Sheppard
Buck	Gambrill	Luecke, Mich.	Smith, Va.
Buckler, Minn.	Garrett	McClellan	Smith, Wash.
Burch	Gasque	McCormack	Snyder, Pa.
Burdick	Gavagan	McFarlane	South
Caldwell	Gearhart	McGehee	Sparkman
Cannon, Mo.	Gehrmann	McLaughlin	Spence
Cartwright	Gildea	McMillan	Stack
Champion	Gingery	Mahon, S. C.	Starnes
Chandler	Gray, Pa.	Martin, Colo.	Steagall
Clark, N. C.	Green	Mead	Sumners, Tex.
Claypool	Greenwood	Merritt	Sweeney
Cochran	Greever	Miller	Swope
Coffee, Nebr.	Gregory	Mitchell, Tenn.	Tarver
Coffee, Wash.	Griffith	Moser, Pa.	Teigan
Colden	Haines	Mouton	Terry
Colmer	Hamilton	Murdock, Ariz.	Thom
Cooley	Harlan	Murdock, Utah	Tolan
Cooper	Harter	Nelson	Transue
Costello	Havenner	Nichols	Turner
Creal	Hendricks	Norton	Umstead
Crosby	Hennings	O'Brien, Ill.	Vinson, Fred M.
Crosser	Hildebrandt	O'Brien, Mich.	Vinson, Ga.
Crowe	Hill, Ala.	O'Connell, Mont.	Voorhis
Cullen	Hill, Okla.	O'Connell, R. I.	Wallgren
Curley	Hill, Wash.	O'Connor, Mont.	Walter
Deen	Hobbs	O'Connor, N. Y.	Warren
Delaney	Honeyman	Pace	Weaver
Dempsey	Houston	Palmisano	Welch
DeMuth	Hunter	Patman	West
Disney	Imhoff	Patrick	Whelchel
Dixon	Izac	Patterson	Wilcox
Dorsey	Jarman	Patton	Williams
Doughton	Jenckes, Ind.	Peterson, Fla.	Woodrum
Doxey	Johnson, Lyndon	Pettengill	
Drew, Pa.	Johnson, Minn.	Pfeifer	
Driver	Johnson, Okla.	Pierce	

NAYS—125

Allen, La.	Evans	McKeough	Rutherford
Andresen, Minn.	Fitzgerald	McLean	Sauthoff
Andrews	Goldsborough	McSweeney	Secrest
Arends	Gray, Ind.	Maas	Seger
Ashbrook	Griswold	Mahon, Tex.	Shannon
Beiter	Guyer	Mapes	Short
Boehne	Gwynne	Martin, Mass.	Simpson
Boileau	Halleck	Mason	Smith, Maine
Brown	Hancock, N. Y.	Massingale	Snell
Bulwinkle	Harrington	Maverick	Stefan
Carlson	Hart	May	Sutphin
Carter	Hoffman	Meeks	Taylor, S. C.
Case, S. Dak.	Holmes	Michener	Taylor, Tenn.
Celler	Hope	Mills	Thomas, Tex.
Chapman	Hull	Mosier, Ohio	Thomason, Tex.
Church	Jarrett	Mott	Thompson, Ill.
Clark, Idaho	Jenkins, Ohio	O'Day	Thurston
Cluett	Jenks, N. H.	O'Malley	Tinkham
Cole, Md.	Kennedy, Md.	O'Neal, Ky.	Tobey
Cole, N. Y.	Kennedy, N. Y.	O'Neill, N. J.	Towey
Collins	Kenney	O'Toole	Treadway
Crawford	Kerr	Oliver	Wadsworth
Daly	Kinzer	Parsons	Wearin
Dickstein	Kleberg	Pearson	Wene
Dies	Kniffin	Polk	Whittington
Dirksen	Kramer	Powers	Wolcott
Ditter	Lambeth	Rabaut	Wolfenden
Dondero	Lamneck	Rankin	Wolverton
Douglas	Lord	Reece, Tenn.	Woodruff
Dowell	Luce	Rees, Kans.	
Eaton	Ludlow	Rich	
Englebright	McGranery	Rogers, Mass.	

NOT VOTING—85

Allen, Ill.	Drewry, Va.	Lucas	Schuetz
Arnold	Ellenbogen	McAndrews	Scott
Bacon	Engel	McGrath	Scrugham
Bates	Farley	McGroarty	Shafer, Mich.
Beam	Fernandez	McReynolds	Sirovich
Bernard	Ford, Calif.	Magnuson	Smith, Conn.
Boren	Fulmer	Maloney	Smith, W. Va.
Brewster	Gifford	Mansfield	Somers, N. Y.
Buckley, N. Y.	Gilchrist	Millard	Sullivan
Byrne	Hancock, N. C.	Mitchell, Ill.	Taber
Cannon, Wis.	Hartley	O'Leary	Taylor, Colo.
Casey, Mass.	Healey	Owen	Thomas, N. J.
Citron	Higgins	Peterson, Ga.	Vincent, B. M.
Clason	Hook	Peyser	White, Idaho
Cox	Jacobsen	Phillips	White, Ohio
Cravens	Johnson, Luther A.	Plumley	Wigglesworth
Crowther	Kelly, Ill.	Ramspeck	Withrow
Culkin	Kelly, N. Y.	Reed, N. Y.	Wood
Cummings	Kloeb	Richards	Zimmerman
DeRouen	Knutson	Romjue	
Dingell	Kvale	Sadowski	
Dockweiler	Lewis, Md.	Schneider, Wis.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Ellenbogen (for) with Mr. Bacon (against).
Mr. Magnuson (for) with Mr. Culkin (against).
Mr. Byrne (for) with Mr. Thomas of New Jersey (against).
Mr. Buckley of New York (for) with Mr. Knutson (against).
Mr. Arnold (for) with Mr. Bates (against).
Mr. McAndrews (for) with Mr. Allen of Illinois (against).
Mr. O'Leary (for) with Mr. Reed of New York (against).
Mr. Sullivan (for) with Mr. Kvale (against).
Mr. Schuetz (for) with Mr. Taber (against).

General pairs:

Mr. Luther A. Johnson with Mr. Crowther.
Mr. Cox with Mr. Gifford.
Mr. McReynolds with Mr. Millard.
Mr. Drewry of Virginia with Mr. White of Ohio.
Mr. Beam with Mr. Brewster.
Mr. Fulmer with Mr. Wigglesworth.
Mr. Mansfield with Mr. Plumley.
Mr. Taylor of Colorado with Mr. Clason.
Mr. Smith of West Virginia with Mr. Withrow.
Mr. Ramspeck with Mr. Shafer of Michigan.
Mr. Peterson of Georgia with Mr. Gilchrist.
Mr. Fernandez with Mr. Engel.
Mr. Cravens with Mr. Hartley.
Mr. Maloney with Mr. Schneider of Wisconsin.
Mr. Lewis of Maryland with Mr. Bernard.
Mr. Kelly of Illinois with Mr. Scrugham.
Mr. Smith of Connecticut with Mr. Boren.
Mr. Lucas with Mr. Kelly of New York.
Mr. Sirovich with Mr. Cannon of Wisconsin.
Mr. Somers of New York with Mr. Zimmerman.
Mr. McGrath with Mr. Casey of Massachusetts.
Mr. Citron with Mr. White of Idaho.
Mr. McGroarty with Mr. Cummings.
Mr. DeRouen with Mr. Wood.
Mr. Beverly M. Vincent with Mr. Dingell.
Mr. Owen with Mr. Ford of California.
Mr. Romjue with Mr. Dockweiler.
Mr. Peyser with Mr. Mitchell of Illinois.
Mr. Richards with Mr. Scott.
Mr. Farley with Mr. Hancock of North Carolina.
Mr. Sadowski with Mr. Phillips.
Mr. Healey with Mr. Jacobsen.
Mr. Hook with Mr. Higgins.

Mr. WOLVERTON changed his vote from "aye" to "no."

Mr. HAMILTON changed his vote from "no" to "aye."

Mr. WEARIN. Mr. Speaker, I voted by mistake for the gentleman from New York, Mr. MERRITT, when his name was called. I should like to have that correction made.

The result of the vote was announced as above recorded.

A motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENSION OF REMARKS

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their own remarks on this bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BOILEAU. Reserving the right of object, Mr. Speaker, this afternoon during the debate under the 5-minute rule there was some discussion between the gentleman from Arkansas [Mr. MILLER] and myself as to what had transpired during the general debate, with particular reference to a statement made by the gentleman from Arkansas that some Members had referred to the committee amendment during the general debate, at which time I stated I knew of no Member who referred particularly to the substitute amendment offered by the committee to the bill. If the Members of the House are to revise and extend their remarks, and any Member should, in the revision of his remarks, make reference to that substitute amendment, of course that would put me in a ridiculous position. If, on the other hand, the RECORD indicates I was in error I should be glad to apologize to the gentleman from Arkansas. I still think I am right in the matter. I shall not object, with the understanding that any remarks made prior to the statement I made on the floor should not contain any reference to the substitute amendment.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. SUMNERS]?

Mr. SUMNERS of Texas. Mr. Speaker, I am not sure that I understand the workability of that.

The SPEAKER. The Chair thinks it is proper to state that the Chair cannot undertake to censor any remarks that may have been made. The gentleman must object or not object to the request.

Is there objection?

Mr. BOILEAU. Further reserving the right to object, I shall not object, Mr. Speaker——

The SPEAKER. The Chair thinks it is proper to state that the statement made in explanation by the gentleman from Wisconsin will appear in the RECORD.

Mr. BOILEAU. I shall not object, Mr. Speaker; but in the event something should appear in the RECORD which would make it appear that I was wrong in my statement it would be necessary for me to make a further statement, and I would have to check up on the original transcript, which I would certainly do.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHAIRMAN OF THE COMMITTEE ON LABOR

Mr. DOUGHTON. Mr. Speaker, I offer a privileged resolution.

The Clerk read as follows:

House Resolution 251

Resolved, That MARY T. NORTON, of New Jersey, be, and she is hereby, elected chairman of the standing Committee of the House of Representatives on Labor.

The resolution was agreed to.

MEMBER OF COMMITTEE ON LABOR

Mr. DOUGHTON. Mr. Speaker, I offer a further privileged resolution.

The Clerk read as follows:

House Resolution 252

Resolved, That GRAHAM A. BARDEN, of North Carolina, be, and he is hereby, elected a member of the standing Committee of the House of Representatives on Labor.

The resolution was agreed to.

ORDER OF BUSINESS

Mr. SNELL. Mr. Speaker, I should like to ask the majority leader about the program for tomorrow. Of course, it is Calendar Wednesday, but I understand there will be an effort made to bring up a matter from the Committee on Ways and Means. Is that correct?

Mr. RAYBURN. That is correct.

Mr. RANKIN. Mr. Speaker, I desire to propound an inquiry to the gentleman from Texas. I understood the gentleman from Texas to say he intends to bring up a measure from the Ways and Means Committee tomorrow. Tomorrow is Calendar Wednesday, and the committees that have the call are entitled to the time, as I understand it, under the rules of the House.

Mr. RAYBURN. That is correct; and anybody can object who desires to object. However, it is thought that the matter from the Ways and Means Committee will take but a short time, and then we will go on with the Committee on Indian Affairs, and it will have its day tomorrow.

Mr. RANKIN. Mr. Speaker, I have objected to everybody getting time to speak on Calendar Wednesday for the reason that it seems that the only chance we have to get up a bill for veterans' legislation we now have on the calendar is when our turn comes on Calendar Wednesday. The Committee on Ways and Means can call up their legislation at any time because it is privileged. They do not need to ask unanimous consent. I hope that the gentleman from Texas will let that measure go over until Thursday instead of trying to take it up on Calendar Wednesday.

Mr. RAYBURN. The gentleman from North Carolina is going to ask unanimous consent tomorrow to call up the bill, which is very necessary.

Mr. RANKIN. What subject does it deal with?

Mr. RAYBURN. It provides funds for the operation of the railroad retirement act, and should be passed before the 1st of July.

Mr. RANKIN. I serve notice on the gentleman from Texas now that I am going to object to the Ways and Means Committee taking up any time on Calendar Wednesday until after we get our veterans' bill considered. That measure can wait till Thursday.

Mr. SNELL. The calendar has been called twice. The gentleman has had more than usual opportunity to get his bill before the House.

Mr. RAYBURN. Mr. Speaker, I may say to the gentleman from New York that we have called the calendar four times this session.

Mr. RANKIN. The Ways and Means Committee reports are privileged and can just as well be called up on Thursday as to be called up on Calendar Wednesday. I certainly shall object to the Ways and Means Committee taking up time on Calendar Wednesday until after we dispose of this widows, orphans, and gold star mothers' bill.

Mr. RAYBURN. Does the gentleman think his bill would be advanced by objecting to this request? I may say to the gentleman that the chairman of the Committee on Indian Affairs has agreed to this and will call up his Indian bills after the Ways and Means Committee bill is disposed of.

Mr. RANKIN. I understand; but it takes up the time of the House. After bills from the Committee on Indian Affairs are disposed of the call goes to other committees. Every other bill that is taken up on Calendar Wednesday by unanimous consent just postpones by that much the time when we can get a vote on this gold star mothers' bill.

Mr. RAYBURN. If the gentleman from Mississippi knew that the Committee on Indian Affairs had 15 bills, all controversial, he probably would not object.

Mr. RANKIN. I know, too, however, that Indian bills sometimes pass in the House as rapidly as they do in the Senate, and we might get rid of all the bills from that committee tomorrow. I hope the gentleman from Texas will carry the matter over until Thursday.

CONSTRUCTION OF PUBLIC WORKS IN THE DISTRICT OF COLUMBIA BY SECRETARY OF NAVY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to file a supplementary report on the bill (H. R. 6547) to authorize the Secretary of the Navy to proceed with the construction of certain public works in or in the vicinity of the District of Columbia, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PIERCE. Mr. Speaker, I ask unanimous consent that on Thursday next after the reading of the Journal and the disposition of matters on the Speaker's table I may be permitted to address the House for 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXTENSION OF REMARKS

Mr. SACKS asked and was given permission to revise and extend his own remarks.

The SPEAKER. The Chair thinks it is proper to state that under the previous order of the House the gentleman from Illinois [Mr. MASON] is entitled to be recognized for 15 minutes. The gentleman from Illinois has informed the Chair that it is not his purpose to use all of that time.

Does the gentleman from Illinois yield for the purpose of permitting the Chair to entertain these unanimous-consent requests?

Mr. MASON. I yield for that purpose, Mr. Speaker.

Mr. CHANDLER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include some remarks which I made at the dedication of the new Marine Hospital at Memphis a few days ago.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. POLK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the life and character of Warren J. Duffey, late a Member of the House from the State of Ohio.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my remarks and include therein an address delivered by my colleague the gentlewoman from Indiana [Mrs. JENCKES] in my district a few evenings ago in which she made many pertinent and kindly remarks relative to the subject of the payment of the war debts owed to the United States by foreign countries. I believe that her remarks on this subject deserve the careful reading of the Members of this House.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. QUINN. Mr. Speaker, I ask unanimous consent to revise my remarks in the RECORD and to include therein an address delivered by David Lawrence.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

[Mr. ALLEN of Delaware asked and was given permission to revise and extend his own remarks.]

Mr. O'NEILL of New Jersey. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the life and character of a former Member of this House, the late Franklin W. Fort, of New Jersey.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROGERS of Oklahoma. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include therein a resolution passed by the Oklahoma State Legislature.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERSONAL EXPLANATION

Mr. MURDOCK of Arizona. Mr. Speaker, on yesterday I was unable to be present at the roll call on the passage of the railroad retirement bill, being unavoidably detained. Had I been present, I would have voted "yea."

Mr. MASON. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SOIL CONSERVATION AND THE EVER-NORMAL GRANARY

Mr. MASON. Mr. Speaker and Members of Congress, I propose to use the time alloted to me, first, to discuss in general terms the so-called farm problem; and, second, to point out the major provisions of H. R. 3687, the Agricultural Adjustment Act of 1937, and comment briefly upon those provisions.

History records many attempts of man to ignore the unchangeable laws of God. Without exception each attempt has ended in disaster. History teaches, therefore, that mankind cannot ignore natural law and prosper.

In 1929 a Republican administration made a sincere attempt to solve the so-called farm problem by establishing a Federal Farm Board under the chairmanship of Alexander Legge. The intention of the Republican leaders was praiseworthy, the plan was unsound. In an address at that time to a group of Illinois farmers I said, "Congress has given the Federal Farm Board an impossible task to perform. It is bound to end in failure." It did end in failure. Many millions were spent, but little accomplished.

In 1933, when Secretary Wallace set out to bring about "the more abundant life" by destroying foodstuffs and curtailing production, he went contrary to natural law. He thought he could create wealth by destroying wealth. He attempted to feed the hungry by making foodstuffs scarce. It was an expensive experiment. It cost the Nation billions of dollars, yet to be paid, but did not solve the problem.

At that time I advocated the ever normal granary plan in speeches and newspaper articles. The following article, published in September 1934, expressed my views then; and I have had no reason to change them since:

WHICH—OVERPRODUCTION OR UNDERCONSUMPTION?

Times have changed. Twenty years ago every farmer, every farm adviser, and every farm expert were bending their energies, concentrating their thought, upon the problem of soil fertility. They advised rotation of crops. They studied the effect of limestone and phosphate upon the soil. They planned to capture nitrogen from the air and imprison it in the soil by growing clover and alfalfa. Their whole purpose was to make two blades of grass grow where one grew before, two bushels of corn grow where one bushel grew before. Our dairy, poultry, cattle, and hog experts devoted their energies toward breeding cows that would give twice the quantity of milk per cow; hens that would lay twice as many eggs per hen; cattle and hogs that would give more pounds of beefsteak and bacon per animal for the amount of feed consumed. The whole aim or object of farm life was to make foodstuffs plentiful, available to all, and thereby bring about prosperity and happiness for all.

But times have changed. Today, our farmers and our farm advisers seem intent upon making one blade of grass grow where two blades grew last year; 1 bushel of corn grow where 2 bushels of corn grew last year. Today, we deliberately plan to curtail milk production, pig production, beef production, to create a scarcity, to force higher prices, to bring back prosperity and happiness for all.

I am wondering about this new scheme of things. I am doubtful about the soundness of this scarcity plan. Most people are also wondering. I ask myself the question: With millions of people in need of food, starving, with millions of people in rags, is there a surplus of foodstuffs and cotton that must be destroyed? Should we plow under cotton, throw pigs into rivers, and destroy foodstuffs? Is the problem not one of underconsumption rather than one of overproduction, because the millions in want haven't the purchasing power to buy what they need and should have?

I am wondering today also why the Federal Government is spending millions of dollars out West to build dams, to impound water, to irrigate desert acres, to produce more crops, and at the same time the Federal Government is spending millions of dollars to keep out of production fertile Illinois acres. I confess I am confused. I am doubtful. I am wondering. I believe this deep, black, fertile Illinois soil was placed here to be made use of. I believe we are going contrary to common sense, and to nature, when we spend millions of dollars of taxpayers' money to make desert acres produce crops, and at the same time order fertile Illinois acres to grow weeds. Because I believe many of our Illinois farmers are wondering about these things, I want to tell an old, old story, a true story, one found in God's Holy Word, a story that has a direct bearing upon the farmer's problem today.

Many years ago in the land of Egypt the King was confronted with the problem of a real crop surplus. He didn't know what to do, so he called his Brain Trust in and held a consultation over the matter. One bright young professor, only 30 years old—Joseph, by name—suggested a plan that was approved by the King. So the King made Joseph a dictator over all the land and gave him full power over all crop production. Did Joseph order cotton plowed under? Did Joseph order cattle and pigs destroyed? He did not. What did Joseph do? He sent out word to all the farmers of Egypt to grow as much grain as they could, to make their fertile acres produce as much as possible, and he gave orders at the same time that all surplus crops should be bought from the farmers by the Government at a fair price. By doing this he pegged the price of corn and prevented prices of farm products from falling below a fair established price, and the farmers prospered and were happy.

You know the rest of the story; how the 7 fat years gave place to the 7 lean years. How chinch bugs, grasshoppers, and the drought brought about a scarcity, and famine was in the land. Then Joseph unsealed the cribs, opened the storehouses and granaries, and fed the people with the accumulated surplus. The Government even made a profit by selling to other nations who were also suffering from famine.

I wonder if the Egyptian plan, Joseph's plan, God's plan, as recorded in His Holy Word, was not set forth for the guidance and information of our Tugwells and Wallaces. I believe it was. I also feel that insofar as our Federal Government has followed this plan, it has done well. Pegging the price of corn at 45 cents was a good thing. Buying up wheat, cattle, hogs, and feeding the starving people with them was also a good thing. But the destruction of foodstuffs, the plowing under of cotton, the killing of millions of little pigs and brood sows about to farrow cannot be justified, even as an experiment. To my way of thinking it is nothing less than a national crime. As a boy I was taught that it was sinful to waste good food, to destroy anything needed by society. Wholesale destruction by the Government, with millions in need, can only be classed as sin on a large scale. Nothing good can come out of wanton, deliberate, ordered destruction of foodstuffs by any government that calls itself Christian. I am wondering if the gentlemen that ordered it, Tugwell & Co., consider themselves Christians.

I was criticized very severely by some of the farm leaders at that time for daring to find fault with Wallace's farm program. You will recall that September 1934 was before the "honeymoon was over." It gives me considerable satisfaction today to see that the ever-normal granary is now a part of the Wallace program for farm relief.

H. R. 3687, the Agricultural Act of 1937, now before the Committee on Agriculture, but not yet before the House, is a composite bill that covers the following major farm relief programs:

a. Soil conservation. (Good.)
b. The ever-normal granary. (Good.)
c. Restricted production. (Doubtful.)
d. Marketing quotas. (Doubtful.)

The soil-conservation program contained in the bill is designed, according to the language of the bill, "To conserve our national soil resources and prevent the wasteful use of soil fertility." This is in line with the program that Frank O. Lowden has advocated for many years. It is necessary in order to guard against a scarcity of food products in the future, with consequent high prices and necessity for large importations. I have labeled this section of the bill "Good."

The need for the ever-normal granary, provided for in this bill, has been brought home to the American people very forcibly the last few years by the unpredictable droughts, the devastating dust storms, and the grasshopper and chinch-bug plagues that have offset the puny, futile efforts of man to regulate production, and that made necessary the importation of $1,000,000,000 worth of farm products during the past year. Because of this, I have also labeled this section of the bill "Good."

The program of restricted production contained in the bill gives the Secretary of Agriculture power to determine the acreage that may be planted in each basic crop; to estimate the normal yield; to make allowance for a stated carryover; and, when necessary, to require the cooperating farmer to reduce the acreage allowed him for that crop, and divert it to other uses. This program is inconsistent when we consider the millions of dollars already spent, the millions of dollars now being spent, and the millions more just appropriated to be spent, for the purpose of placing in production vast stretches of desert acres, now idle, to compete with fertile acres already under cultivation. This is a plain case of one branch of the Government working at cross purposes with another branch; a case of "the right hand not knowing what the left hand doeth." Restricted reclamation of desert acres should go hand in hand with restricted production upon fertile acres. Until that is brought about I label this provision "doubtful."

The marketing quota provision, which is the only mandatory provision contained in the bill, states that the American farmer, whenever the total supply of any basic crop reaches a certain level above the established normal supply, shall be given a marketing quota by the Secretary of Agriculture,

and that if he sells any more than the marketing quota assigned him, he will be required to pay a penalty upon the excess sold of 50 percent of the parity price. The bill provides that penalties are to be recovered by civil action brought in the name of the United States by the United States district attorney in each district.

These are the provisions of the section concerning excess-marketing penalties. These penalties are to be applied to all farmers, whether cooperators or not, and are mandatory and restrictive upon all alike.

The argument advanced for this mandatory requirement is the necessity for stabilizing the market price for all; and the claim is that this is the only possible method of doing so when surpluses exist. Until more light is shed upon this provision of the bill, I have labeled it also "doubtful."

And now Mr. Speaker, I cannot resist calling the attention of the Congress to the fact that the two outstanding good features of the bill, soil conservation and the ever-normal granary, comprise essentially the farm program long advocated by the Honorable Frank O. Lowden, the grand old man of Illinois. He knows more about the Nation's farm problem than any other man in the United States. He has given more study to the problem than any other man.

He has given more time to it than any other man. He was interested in and fully aware of this problem when most of our present Government farm experts were still wearing diapers. He would have solved our farm problem long ago if he had been given the opportunity.

As you know, Lowden was a candidate for the Presidency in 1920 and again in 1928. Both times he was the farmer's candidate, the farmer's champion. If the Republican Party had nominated Lowden for the Presidency either in 1920 or in 1928, he would have been elected. But the Republican leaders that were in control of the Elephant upon each of those occasions could not see that there was a serious farm problem, and so they turned thumbs down upon Lowden. The result was continued distress for the farmers of the Nation, and the defeat of the Republican Party in 1932.

The farm problem is not a partisan problem. It is a problem that needs the best thought of the leaders on both sides of the aisle. It is one that requires sane, sound, careful, farseeing action if it is to be properly and permanently solved. It affects the welfare of the city dweller as well as the farmer. It has been with us a long time awaiting a proper solution. It should be solved by this Congress.

In conclusion, Mr. Speaker, I ask, Is Congress big enough and nonpartisan enough to solve the vexing farm problem? The answer is "yes", emphatically "yes"! The question is, however, Will we do it?

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. LUTHER A. JOHNSON, of Texas (at the request of Mr. THOMASON of Texas), on account of death in family.

To Mr. KVALE (at the request of Mr. BOILEAU), for 1 week, on account of illness.

To Mr. DEEN, for several days, on account of important business.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 10. Concurrent resolution accepting the statue of Gen. William Henry Harrison Beadle, to be placed in Statuary Hall; to the Committee on the Library.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 703. An act for the relief of Elbert Arnold Jarrell;

H. R. 937. An act for the relief of Goldie Durham;

H. R. 988. An act for the relief of Otis Cordle, a minor;

H. R. 1065. An act for the relief of Mrs. Louis Abner;

H. R. 1275. An act for the relief of Sarah L. Smith;

H. R. 2090. An act for the relief of John Knaack;

H. R. 2108. An act for the relief of Dorothy White, Mrs. Carol M. White, and Charles A. White;

H. R. 2226. An act for the relief of Leah Levine;

H. R. 2630. An act for the relief of R. N. Teague and Minnie Teague;

H. R. 2781. An act for the relief of Rev. Harry J. Hill;

H. R. 2801. An act for the relief of Claude Curteman;

H. R. 2935. An act for the relief of Montrose Grimstead;

H. R. 3055. An act for the relief of the estate of John E. Callaway;

H. R. 3451. An act for the relief of F. M. Loeffler;

H. R. 3575. An act for the relief of Albert Retellatto, a minor;

H. R. 3583. An act for the relief of Martin J. Blazevich;

H. R. 3812. An act for the relief of the estate of Rees Morgan;

H. R. 4023. An act for the relief of Lucy Jane Ayer;

H. R. 4064. An act making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1938, and for other purposes;

H. R. 4408. An act to provide for the renewal of star-route contracts at 4-year intervals, and for other purposes;

H. R. 5146. An act for the relief of Sarah E. Palmer;

H. R. 5214. An act conferring jurisdiction upon the United States District Court for the Eastern District of Arkansas to hear, determine, and render judgment upon the claim of Charles W. Benton; and

H. R. 5456. An act for the relief of Harold Scott and Ellis Marks.

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 4. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the original Norfolk (Va.) land grant and the two hundredth anniversary of the establishment of the city of Norfolk, Va., as a borough;

S. 102. An act to authorize the coinage of 50-cent pieces in commemoration of the seventy-fifth anniversary of the Battle of Antietam;

S. 119. An act to provide for the establishment of a Coast Guard station at or near Menominee, Mich.;

S. 187. An act providing for the suspension of annual assessment work on mining claims held by location in the United States;

S. 1374. An act to provide for the establishment of a Coast Guard station at or near Manistique, Mich.;

S. 1984. An act for the protection of the northern Pacific halibut fishery;

S. 2242. An act to further amend an act entitled "An act to authorize the collection and editing of official papers of the Territories of the United States now in The National Archives", approved March 3, 1925, as amended;

S. 2439. An act to extend the time for purchase and distribution of surplus agricultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation; and

S. J. Res. 111. Joint resolution to provide that the United States extend to foreign governments invitations to participate in the International Congress of Architects to be held in the United States during the calendar year 1939, and to authorize an appropriation to assist in meeting the expenses of the session.

ADJOURNMENT

Mr. RAYBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p. m.), the House adjourned until tomorrow, Wednesday, June 23, 1937, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON NAVAL AFFAIRS

There will be a meeting of the full committee at 10:30 a. m. (open) on Wednesday, June 23, 1937, for the consideration of H. J. Res. 296, suspending action by Navy selection boards. Important.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the committee on Thursday, June 24, 1937, at 10 a. m., to continue hearings on H. R. 6968, to amend the Securities Act of 1933.

The Bridge Subcommittee of the Interstate and Foreign Commerce will hold a hearing at 10 a. m. Thursday, June 24, 1937, on H. R. 7405 and S. 2156, Omaha-Council Bluffs Missouri River bridge.

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, June 29, 1937, on H. R. 5182 and H. R. 6917, textile bills.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization, Wednesday, June 23, 1937, at 10:30 a. m., on H. R. 4710, and H. R. 4353, 4354, 4355, and 4356 (Starnes). Executive session.

COMMITTEE ON THE DISTRICT OF COLUMBIA

A subcommittee of the committee will meet at 9:30 a. m. in room 345, House Office Building, on Thursday, June 24, 1937, to consider H. R. 6811, to require each streetcar and bus * * * to carry a crew of two men; and H. R. 6862, to prescribe the maximum fare on streetcars and busses; and other matters relating to the transportation system.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Committee on Merchant Marine and Fisheries will hold a public hearing in room 219, House Office Building, Washington, D. C., Tuesday, June 29, 1937, at 10 a. m. (eastern standard time), on H. R. 6039, and H. R. 7309, known as the Fishery Credit Act bills.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

675. A communication from the President of the United States transmitting a supplemental estimate of appropriation for the fiscal year ending June 30, 1938, for the Department of Agriculture, for rent of buildings in the District of Columbia (H. Doc. No. 270); to the Committee on Appropriations and ordered to be printed.

676. A communication from the President of the United States transmitting a supplemental estimate of appropriation for the Executive Office for the fiscal year 1938, amounting to $17,000 (H. Doc. No. 269); to the Committee on Appropriations and ordered to be printed.

677. A letter from the Secretary of War transmitting a letter from the Chief of Engineers, United States Army, dated June 21, 1937, submitting a report, together with accompanying papers, on a preliminary examination and survey of Chandler River, Maine, 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. VINSON of Georgia: Committee on Naval Affairs. S. 2193. An act to authorize the construction of certain auxiliary vessels for the Navy; with amendment (Rept. No. 1072). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAY: Committee on Military Affairs. H. R. 4705. A bill to authorize the transfer of a certain piece of land in Breckinridge County, Ky., to the Commonwealth of Kentucky; without amendment (Rept. No. 1075). Referred to the Committee of the Whole House on the state of the Union.

Mrs. HONEYMAN: Committee on Indian Affairs. H. R. 5974. A bill to authorize payments in lieu of allotments to certain Indians of the Klamath Indian Reservation in the State of Oregon, and to regulate inheritance of restricted property within the Klamath Reservation; with amendment (Rept. No. 1076). Referred to the Committee of the Whole House on the state of the Union.

Mrs. HONEYMAN: Committee on Indian Affairs. H. R. 5976. A bill authorizing the establishment of a revolving loan fund for the Klamath Indians, Oregon, and for other purposes; with amendment (Rept. No. 1077). Referred to the Committee of the Whole House on the state of the Union.

Mr. WARREN: Committee on Merchant Marine and Fisheries. H. R. 4642. A bill to provide for the conveyance by the United States to the county of Beaufort, S. C., of the Hunting Island Lighthouse Reservation; with amendment (Rept. No. 1078). Referred to the Committee of the Whole House on the state of the Union.

Mr. WARREN: Committee on Merchant Marine and Fisheries. H. R. 6045. A bill authorizing and directing the Secretary of Commerce to transfer to the Government of Puerto Rico a portion of land within the Catano Rear Range Light Reservation, P. R., and for other purposes; with amendment (Rept. No. 1079). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HAMILTON: Committee on Naval Affairs. S. 1474. An act to provide for the advancement on the retired list of the Navy of Clyde J. Nesser, a lieutenant (junior grade), United States Navy, retired; without amendment (Rept. No. 1073). Referred to the Committee of the Whole House.

Mr. PHILLIPS: Committee on Naval Affairs. H. R. 6402. A bill for the relief of Emory M. McCool, United States Navy, retired; with amendment (Rept. No. 1074). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND: A bill (H. R. 7611) to adjust the pay of certain Coast Guard officers on the retired list who were retired because of physical disability originating in line of duty in time of war; to the Committee on Merchant Marine and Fisheries.

By Mr. MARTIN of Colorado: A bill (H. R. 7612) to add certain lands to the San Isabel National Forest in the State of Colorado; to the Committee on the Public Lands.

By Mr. SMITH of Washington: A bill (H. R. 7613) to amend section 601 (c) (6) of the Revenue Act of 1932, as amended, with respect to the tax on imported lumber; to the Committee on Ways and Means.

By Mr. BLAND: A bill (H. R. 7614) to amend the act entitled, "An act for the establishment of marine schools, and for other purposes", approved March 4, 1911; to the Committee on Merchant Marine and Fisheries.

By Mr. DEMUTH: A bill (H. R. 7615) to authorize a preliminary examination and survey of Girtys Run, in Allegheny County, Pa., with a view to providing flood protection for the borough of Millvale; to the Committee on Flood Control.

By Mr. KELLER: A bill (H. R. 7616) to make available to each State enacting in 1937 an unemployment-compensation law a portion of the proceeds from the Federal employers' tax in such State for the years 1936 and 1937; to the Committee on Ways and Means.

By Mr. DEEN: A bill (H. R. 7617) to permit the filing of a suit by a claimant under a contract of Government insurance within 1 year from the date of denial of claim; to the Committee on World War Veterans' Legislation.

By Mr. DEROUEN: A bill (H. R. 7618) relating to the revested Oregon and California Railroad and reconveyed

Coos Bay Wagon Road grant lands situated in the State of Oregon; to the Committee on the Public Lands.

By Mr. WHITTINGTON: A bill (H. R. 7619) to authorize a preliminary examination and survey of Quiver River and the watershed thereof, in the State of Mississippi, for flood control, for run-off and waterflow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

Also, a bill (H. R. 7620) to authorize a preliminary examination and survey of Sunflower River and the watershed thereof, in the State of Mississippi, for flood control, for run-off and waterflow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

By Mr. HILL of Oklahoma: A bill (H. R. 7621) to amend title 45, chapter 2, sections 51–59, of the Code of Laws of the United States; to the Committee on the Judiciary.

By Mr. LUECKE of Michigan: A bill (H. R. 7622) to amend the National Firearms Act; to the Committee on Ways and Means.

By Mr. PIERCE: A bill (H. R. 7623) to amend the act entitled "An act to provide for rural electrification, and for other purposes", approved May 20, 1936; to the Committee on Interstate and Foreign Commerce.

By Mr. REES of Kansas: A bill (H. R. 7624) to amend section 18 of the Judicial Code, as amended (U. S. C., 1934 ed., title 28, sec. 22); to the Committee on the Judiciary.

By Mr. DUNN: A bill (H. R. 7625) to regulate the hours of work and the workweek in civilian branches of the Federal Government, and for other purposes; to the Committee on the Civil Service.

By Mr. ROGERS of Oklahoma (by departmental request): A bill (H. R. 7626) to regulate the leasing of certain Indian lands for mining purposes; to the Committee on Indian Affairs.

By Mr. BINDERUP: A bill (H. R. 7627) to restore to Congress the sole power to issue money and to regulate its value as provided in article I, section 8, of the Constition of the United States; to restore full employment and production; and to prevent inflation and depression; to provide a stable currency; to the Committee on Banking and Currency.

By Mr. HOFFMAN: Resolution (H. Res. 253) calling upon the President of the United States to issue a proclamation; to the Committee on Labor.

By Mr. MEAD: Resolution (H. Res. 254) to provide for an investigation of the operation and administration of the Postal Service in strike-bound areas; to the Committee on Rules.

By Mr. VINSON of Georgia: Resolution (H. Res. 255) making S. 2193, a bill to authorize the construction of certain auxiliary vessels for the Navy, a special order of business; to the Committee on Rules.

By Mr. SNYDER of Pennsylvania: Joint resolution (H. J. Res. 419) proposing an amendment to the Constitution of the United States relative to taxes on certain incomes; to the Committee on the Judiciary.

By Mr. CROSBY: Joint resolution (H. J. Res. 420) to authorize the coinage of 50-cent pieces in commemoration of the one hundred and fiftieth anniversary of the settlement of Meadville, Pa.; to the Committee on Coinage, Weights, and Measures.

By Mr. RYAN: Joint resolution (H. J. Res. 421) authorizing and directing the Comptroller General of the United States to certify for payment certain claims of grain elevators and grain firms to cover insurance and interest on wheat during the years 1919 and 1920 as per a certain contract authorized by the President; to the Committee on War Claims.

By Mr. BINDERUP: Joint resolution (H. J. Res. 422) proposing an amendment to the Constitution of the United States providing for direct proportional primaries to nominate candidates for President and Vice President, and for direct proportional election of such candidates; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. LAMNECK: Concurrent resolution (H. Con. Res. 19) requesting that Congress adjourn July 16; 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. CASE of South Dakota: A bill (H. R. 7628) granting a pension to Andrew Fox or Black War Bonnet; to the Committee on Pensions.

By Mr. CLAYPOOL: A bill (H. R. 7629) for the relief of Carl H. Enderlin, executor of the estate of Richard Enderlin, deceased; to the Committee on Claims.

Also, a bill (H. R. 7630) granting a pension to Hazel M. Beeman; to the Committee on Pensions.

By Mr. HAMILTON: A bill (H. R. 7631) for the relief of Charles L. Kee; to the Committee on Naval Affairs.

By Mr. HENNINGS: A bill (H. R. 7632) for the relief of Arthur Stein; to the Committee on Military Affairs.

Also, a bill (H. R. 7633) for the relief of James P. Spelman; to the Committee on Claims.

Also, a bill (H. R. 7634) for the relief of Gertrude Becherer; to the Committee on Claims.

By Mr. JOHNSON of West Virginia: A bill (H. R. 7635) for the relief of Sherman W. White; to the Committee on Claims.

By Mr. LANZETTA: A bill (H. R. 7636) for the relief of Olympio Medina; to the Committee on Claims .

By Mr. SIROVICH: A bill (H. R. 7637) for the relief of Marko Bralich, Anka Bralich, Ivan Bralich, Marija Bralich, and Marijan Bralich; to the Committee on Immigration and Naturalization.

By Mr. SMITH of Virginia: A bill (H. R. 7638) for the relief of John F. Bethune; to the Committee on Claims.

By Mr. SMITH of Washington: A bill (H. R. 7639) for the relief of Al D. Romine and Ann Romine; to the Committee on Claims.

PETITIONS, ETC.

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

2709. By Mr. COFFEE of Washington: Resolution of the Tacoma Central Labor Council, Tacoma, Wash., H. S. McIlvaigh, secretary, pointing out that employees of municipalities ought in all logic be given the benefits of the Social Security Act, and therefore requesting that Members of Congress support an amendment to the Social Security Act blanketing under such act such employees for the benefit and protection thereby accorded; to the Committee on Ways and Means.

2710. Also, resolution of the American Radio Telegraphists' Association, Local No. 6, Seattle, Wash., T. J. Van Ermen, secretary, stating that the pending Sheppard-Hill bill lays the basis for military dictatorship and industrial mobilization, and instead of removing the causes of war tends to increase the danger of war; insisting that such legislation will promote fascism under the excuse of war emergency, and therefore urging that Congress defeat the Sheppard-Hill bill, and thus protect our citizens and their civil liberties; to the Committee on Military Affairs.

2711. Also, resolution of the American Radio Telegraphists' Association, Local No. 6, Seattle, Wash., T. J. Van Ermen, secretary, opposing Senate bill 1710 and House bill 5193, known as the Guffey-Bland bill, on the ground that though the railway workers can enforce their demands because of the organized status of the Railway Labor Act, disputes affecting maritime workers can now be satisfactorily settled under the National Labor Relations Act, and that the Guffey-Bland bill would have the effect of regimenting the unions of maritime workers and would be detrimental to their best interests; to the Committee on Merchant Marine and Fisheries.

2712. Also, resolution of 1,000 citizens in mass meeting assembled in Tacoma, Wash., under the sponsorship of organized labor, pointing out that the uncontrovertible evidence has established the innocence of Tom Mooney and Warren K. Billings as to the alleged offenses for which they were incarcerated in California prisons, and pointing out further they were the victims of a disgraceful frame-up, and their continued imprisonment is a reproach to our Nation, and therefore demanding that the President and Congress request Governor Merriam forthwith to pardon Mooney and Billings and thus help to wipe out the blot upon our national reputation; to the Committee on the Judiciary.

2713. Also, resolution of American Radio Telegraphists' Association, Local No. 6, Seattle, Wash., T. J. Van Ermen, secretary, insisting that the United States Chamber of Commerce and the United States Association of Manufacturers are seeking to emasculate the National Labor Relations Act, pointing out that such act is labor's magna carta and guarantees for the first time in history the right of the worker to bargain collectively, free from interference by the employer, and therefore requesting that Congress resist any attempt to amend the National Labor Relations Act; to the Committee on Labor.

2714. Also, resolution of American Radio Telegraphists' Association, Local No. 6, Seattle, Wash., T. J. Van Ermen, secretary, urging the amendment of the Social Security Act to include maritime workers so that these latter will participate in the benefits of the act, and urging the support of a measure which is shortly to be introduced by Representative VOORHIS, of California; to the Committee on Ways and Means.

2715. By Mr. COLDEN: Assembly Joint Resolution No. 10, adopted by the Legislature of California, relative to memorializing the Congress of the United States to designate Armistice Day as a holiday; to the Committee on Military Affairs.

2716. Also, Assembly Joint Resolution No. 18, adopted by the Legislature of the State of California, relative to memorializing the President and the Congress of the United States to amend the Social Security Act so as to enable such States as may desire to do so to bring the employees of such States and the employees of its counties, cities, and other political subdivisions within the provisions of such act relating to old-age benefits; to the Committee on Ways and Means.

2717. Also, resolution adopted by the Pacific Coast Garment Manufacturers, of Los Angeles and San Francisco, Calif., approving certain portions of House bill 7200, known as the Fair Labor Standards Act of 1937, and disapproving certain other portions of said bill; to the Committee on Labor.

2718. Also, resolution adopted by the Sonoma County Real Estate Board on June 15, 1937, endorsing House bill 6873; also opposing the inclusion of hops in the reciprocal trade agreement now under negotiation with Czechoslovakia or other foreign hop-growing countries and the importation of hops by brewers, hop importers, or dealers so long as there is a surplus of hops available in this country; to the Committee on Agriculture.

2719. Also, resolution adopted by the Sixtieth Grand Parlor of the Native Sons of the Golden West, at Sonoma, Calif., May 17–20, 1937, urging that the Federal Government withhold action on the sale of the historic customhouse at Monterey, Calif., until representation can be made to the next session of the California State Legislature, following negotiations for the fixing of a reasonable price for the said property; to the Committee on Public Buildings and Grounds.

2720. By Mr. HILDEBRANDT: Resolution presented by National Farm Loan Association, of Hecla, S. Dak., favoring continuation of reduced rate of interest on farm-loan mortgages; to the Committee on Banking and Currency.

2721. Also, petition of Detroit Local, 295, National Federation of Post Office Clerks, in behalf of House bill 2691; to the Committee on the Post Office and Post Roads.

2722. Also, petition of Detroit Local of Post Office Clerks, in behalf of House bill 167; to the Committee on the Post Office and Post Roads.

2723. Also, petition of Detroit Local 295, National Federation of Post Office Clerks, in behalf of House bill 3415; to the Committee on the Post Office and Post Roads.

2724. By Mr. JARRETT: Petition of members of Protected Home Circle, Ridgway, Pa., favoring passage of House bill 6320; to the Committee on Ways and Means.

2725. Also, petition of Protected Home Circle, No. 20, of Franklin, Pa., opposing passage of House bill 6320; to the Committee on Ways and Means.

2726. By Mr. KENNEY: Petition of the Allied Democratic Club of Englewood, N. J., endorsing the Lindenthal railroad bridge across the Hudson River from New Jersey to New York; to the Committee on Interstate and Foreign Commerce.

2727. By Mr. WITHROW: Joint Resolution No. 117, A, passed by the Wisconsin Legislature, memorializing the Congress of the United States to pass House bill 5538, relating to blind pensions, now pending before the Congress; to the Committee on Pensions.

SENATE

WEDNESDAY, JUNE 23, 1937

(Legislative day of Tuesday, June 15, 1937)

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 Tuesday, June 22, 1937, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

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

CALL OF THE ROLL

Mr. LEWIS. Mr. President, as the Army appropriation bill is to come before the Senate this morning, in order to assure the presence of a quorum, I ask that the roll be called.

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

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

Adams	Clark	La Follette	Radcliffe
Andrews	Connally	Lee	Reynolds
Ashurst	Copeland	Lewis	Robinson
Austin	Davis	Lodge	Russell
Bailey	Dieterich	Logan	Schwartz
Bankhead	Duffy	Lonergan	Schwellenbach
Barkley	Ellender	Lundeen	Smathers
Bilbo	Frazier	McAdoo	Smith
Black	Gerry	McGill	Steiwer
Bone	Gillette	McKellar	Thomas, Okla.
Borah	Glass	McNary	Thomas, Utah
Bridges	Green	Minton	Townsend
Brown, Mich.	Guffey	Moore	Truman
Brown, N. H.	Harrison	Murray	Vandenberg
Bulkley	Hatch	Neely	Van Nuys
Bulow	Hayden	Nye	Wagner
Burke	Herring	O'Mahoney	Walsh
Byrnes	Hitchcock	Overton	Wheeler
Capper	Holt	Pepper	White
Caraway	Johnson, Calif.	Pittman	
Chavez	Johnson, Colo.	Pope	

Mr. SCHWELLENBACH. I am requested by the office of the senior Senator from Nebraska [Mr. NORRIS] to announce that he is absent on account of illness. I ask that this announcement stand for the day.

Mr. LEWIS. Mr. President, let me announce for the RECORD that the Senator from Utah [Mr. KING] and the Senator from Connecticut [Mr. MALONEY] are detained from the Senate because of illness.