SENATE

TUESDAY, FEBRUARY 15, 1938

(Legislative day of Wednesday, January 5, 1938)

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

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, February 14, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 7834. An act to amend the act entitled "An act to provide compensation for disability or death resulting from injuries to employees in certain employments in the District of Columbia, and for other purposes";

H. R. 9024. An act to exempt from taxation certain property of the Society of the Cincinnati, a corporation of the District of Columbia;

H. R. 9100. An act limiting the duties of the Chief Clerk and Chief Inspector of the Health Department of the District of Columbia; and

H. J. Res. 582. Joint resolution supplementing and amending the act for the incorporation of Washington College of Law, organized under and by virtue of a certificate of incorporation pursuant to class 1, chapter 18, of the Revised Statutes of the United States relating to the District of Columbia.

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Connally	Hughes	Overton
Andrews	Copeland	Johnson, Calif.	Pepper
Ashurst	Davis	Johnson, Colo.	Pope
Austin	Dieterich	King	Radcliffe
Bailey	Donahey	La Follette	Reames
Bankhead	Duffy	Lee	Reynolds
Barkley	Ellender	Lewis	Russell
Berry	Frazier	Lodge	Schwartz
Bilbo	George	Logan	Schwellenbach
Bone	Gerry	Lonergan	Sheppard
Borah	Gibson	Lundeen	Shipstead
Bridges	Gillette	McAdoo	Smith
Brown, Mich.	Glass	McGill	Thomas, Okla.
Brown, N. H.	Green	McKellar	Thomas, Utah
Bulkley	Guffey	McNary	Townsend
Bulow	Hale	Maloney	Truman
Burke	Harrison	Miller	Tydings
Byrd	Hatch	Minton	Vandenberg
Byrnes	Hayden	Murray	Van Nuys
Capper	Herring	Neely	Wagner
Caraway	Hill	Norris	Walsh
Chavez	Hitchcock	Nye	Wheeler
Clark	Holt	O'Mahoney	

Mr. LEWIS. I announce that the junior Senator from New Jersey [Mr. MILTON] is detained from the Senate on important public business; that the junior Senator from Nevada [Mr. MCCARRAN] and the senior Senator from Nevada [Mr. PITTMAN] are detained in their State on official business; and that the senior Senator from New Jersey [Mr. SMATHERS] is unavoidably detained.

The VICE PRESIDENT. Ninety-one Senators have answered to their names. A quorum is present.

PROPOSED STATEHOOD FOR HAWAII—REPORT OF JOINT COMMITTEE ON HAWAII (S. DOC. NO. 151)

The VICE PRESIDENT laid before the Senate a letter from the chairman of the Joint Committee on Hawaii [Mr. KING], submitting, pursuant to Senate Concurrent Resolution 18, Seventy-fifth Congress, the report of the joint committee on its investigation and study of the matter of proposed statehood and other subjects relating to the welfare of the Territory of Hawaii, which, with the accompanying report, was referred to the Committee on Territories and Insular Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a letter in the nature of a memorial from Beauticians Local No. 720 A, of Marysville, Calif., praying for the enactment of the bill (H. R. 7085) to regulate barbers in the District of Columbia, and for other purposes, which was referred to the Committee on the District of Columbia.

He also laid before the Senate a letter in the nature of a memorial from Local Union No. 117, Sawmill and Lumber Workers, International Woodworkers of America, of Coquille, Oreg., remonstrating against the enactment of the bill (S. 2108) to amend the National Labor Relations Act, which was referred to the Committee on Education and Labor.

He also laid before the Senate a resolution adopted by Springstead-Gerow Post, No. 32, Regular Veterans Association, Antigo, Wis., favoring the enactment of legislation granting increased benefits and compensation to enlisted men of the regular armed forces, which was referred to the Committee on Military Affairs.

He also laid before the Senate a resolution adopted by the Maryland Historical Society, Baltimore, Md., favoring the preservation of the United States frigate *Constellation* and the stationing of that ship at Fort McHenry, Md., which was referred to the Committee on Naval Affairs.

He also laid before the Senate a resolution adopted by Malvani-Petraccaro Post, No. 22, United American War Veterans, of Morristown, N. J., favoring the naming of a new battleship, *New Jersey*, which was referred to the Committee on Naval Affairs.

He also laid before the Senate a resolution adopted by Agriculture Local No. 2, United Federal Workers of America (affiliated with the C. I. O.), Washington, D. C., favoring the making of an adequate appropriation for the National Labor Relations Board, which was ordered to lie on the table.

He also laid before the Senate telegrams in the nature of petitions from the pastor and members of the congregation of the Berea Presbyterian Church, of St. Louis, Mo.; and meetings of citizens assembled under the auspices of the Youth Council, N. A. A. C. P., New York City, N. Y., and the N. A. A. C. P., Tulsa, Okla, praying for the enactment of 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, which were ordered to lie on the table.

PREVENTION OF AND PUNISHMENT FOR LYNCHING

The Senate resumed the consideration of 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.

The VICE PRESIDENT. When the Senate took a recess yesterday the Senator from Louisiana [Mr. ELLENDER] had the floor, with the understanding that he should have the floor this morning. The Senator from Louisiana asks unanimous consent that he may be permitted to yield to any Senator for any purpose without losing his right to the floor. Is there objection? The Chair hears none.

Mr. MCADOO. Mr. President, will the Senator yield to me for a moment?

Mr. ELLENDER. I yield, provided I do not lose the floor.

The VICE PRESIDENT. If the Senator from Louisiana will permit, the Chair will recognize other Senators as though the Senator from Louisiana had yielded.

Mr. ELLENDER. In addition to routine business, I agreed, if unanimous consent could be obtained that I would not thereby lose the floor, to permit other Senators to debate the pending bill.

The VICE PRESIDENT. The Chair has just gotten unanimous consent for the Senator from Louisiana to yield for any purpose for all time to come without losing his rights.

Mr. ELLENDER. I did not intend to extend the privilege or that the order be entered, in such a manner, Mr. President.

The VICE PRESIDENT. Then the Chair will vacate the order. The Senator from Louisiana objects. The Senator from Louisiana has the floor. Now the Senator from Louisiana can handle the matter.

Mr. ELLENDER. I will yield for regular morning business, provided I do not lose the floor.

The VICE PRESIDENT. The Senator can make any request he desires and the Chair will put it.

Mr. McADOO. Mr. President——

The VICE PRESIDENT. The Senator from Louisiana has the floor. Does he yield?

Mr. ELLENDER. I yield for a question. In fact, I yield for the purpose of transacting routine business provided I do not lose the floor.

The VICE PRESIDENT. If the Senator yields for any purpose but a question, he will lose the floor.

Mr. ELLENDER. Very well.

The VICE PRESIDENT. The Chair tried to help out. If that is not what is wanted, very well.

Mr. ELLENDER. Mr. President——

Mr. McADOO. Mr. President, will the Senator yield to me for a moment?

Mr. ELLENDER. I yield for a question only.

Mr. McADOO. I wanted, I will say to my colleague from Louisiana, merely to make a very brief statement about the birthday of Susan B. Anthony and to make a request.

Mr. ELLENDER. I do not yield for that purpose. The Vice President has ruled that by doing so I would lose the floor.

Mr. ASHURST. If the Senator from Louisiana will yield to me, why should he not accede to the suggestion of the Vice President who tried to protect him?

Mr. ELLENDER. It was agreeable to me to yield for regular routine business, provided I did not lose the floor, but the Presiding Officer made the order too broad.

Mr. BARKLEY. Mr. President, will the Senator yield for a parliamentary inquiry?

The VICE PRESIDENT. Let there be order; it is impossible to transact business in the Senate.

Mr. BARKLEY. May I propound a parliamentary inquiry?

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. BARKLEY. Under the rule, at 1 o'clock tomorrow the Senate will vote on the motion which has been entered providing for a limitation of debate.

The VICE PRESIDENT. The Senator from Kentucky states the situation correctly.

Mr. BARKLEY. Will not every Senator at that time lose the floor?

The VICE PRESIDENT. That is correct.

Mr. BARKLEY. And a new dispensation will begin after that vote is cast without regard to how it goes?

The VICE PRESIDENT. The Senator states the parliamentary situation correctly.

Mr. BARKLEY. So there is no particular advantage, it seems to me, in any Senator retaining the floor, because everybody loses it tomorrow at 1 o'clock.

The VICE PRESIDENT. The Senator can make an appeal to the Senator from Louisiana who has the floor.

Mr. CONNALLY. Mr. President, will the Senator from Louisiana yield to me for a question?

Mr. ELLENDER. Yes; I yield for a question.

Mr. CONNALLY. Will not the Senator from Louisiana be willing to yield if unanimous consent is obtained that he will not, by yielding, in any wise prejudice his right to the floor?

Mr. ELLENDER. Yes.

Mr. CONNALLY. I make that request.

Mr. BORAH. Just a moment. The Senator from Louisiana——

Mr. McADOO. Mr. President——

The VICE PRESIDENT. Just a moment. The Senator from Louisiana has not yielded the floor. The Chair will ask him again, does he want to yield; and if so, to whom?

Mr. ELLENDER. I yielded to the Senator from Texas and have answered his question. I do not know of any other Senator who desires to ask a question. If so, I will be glad to answer it.

Mr. BARKLEY. Mr. President, will the Senator yield if I propound what I am about to say in the form of a question?

Mr. ELLENDER. Yes.

Mr. BARKLEY. Inasmuch as when we vote tomorrow at 1 o'clock on the pending motion, which has been entered, all rights are lost, so far as the maintenance of the floor is concerned, what advantage is there in the Senator holding the floor all the afternoon and not yielding to others who may want to speak? In other words, what right does the Senator lose, for after the vote tomorrow we start over again.

Mr. BORAH. Mr. President——

Mr. ELLENDER. In answer to the question of the Senator from Kentucky, I will state that I have some very important facts and figures which I should like to give to the Senate this afternoon, and I would not like to be deprived of the right. My fear is that should I agree to permit Senators to speak without limitation, the whole afternoon would be consumed.

Mr. BARKLEY. The Senator indicated to me in private conversation that he was willing to yield to several Senators who desire to speak on the other side of the question.

Mr. ELLENDER. I did, and I intended to do so. I am now willing. But, as the Chair put the question, he asked if I would yield for any purpose and for all time to come to all Senators. I do not wish to have the order entered in such a manner. I might as well give up the floor.

Mr. BARKLEY. The Senator does not have to do that.

Mr. ELLENDER. I am aware of that. I am willing, provided unanimous consent is given that I shall not lose the floor, to yield the floor until, say 2:30, for the purpose of giving other Senators an opportunity to discuss the pending bill.

Mr. BARKLEY. Of course, I do not know how long any Senator wishes to speak; but that means that any Senator who obtained the floor could occupy the time, if he was sufficiently long-winded, until 2:30, and in that event only one Senator could speak. It seems to me the Senator from Louisiana will lose no rights in the long run by yielding to such Senators as may want to speak, for such time as they may want to occupy, with the understanding that he shall not lose the floor today or tomorrow until the vote is taken on the cloture motion.

Mr. ELLENDER. Mr. President, as the Senator from Kentucky indicates, some Senators who may be a little long-winded may take all the afternoon. I do not want to extend them the privilege. I should like to yield part of my time, say, until 2:30, if it can be arranged by unanimous consent, without in any manner losing my right to the floor.

Mr. McADOO. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from California will state it.

Mr. McADOO. I understood from the Chair that a unanimous-consent agreement had been made that the Senator from Louisiana, although having the floor, might yield it for certain purposes indicated by the question as it was put to the Senate; in other words, that bills might be introduced, or some question asked, or some brief statement made, and that the Senator from Louisiana would not lose the floor. If that is correct, I should like to ask the Senator to yield to me for a very brief moment in order that I may make a statement to the Senate.

The VICE PRESIDENT. The Senator from California is incorrect. The Chair put the unanimous-consent request, probably in the language of the Chair, that the Senator from Louisiana be permitted to yield to such Senators as he saw proper for any purpose that he saw proper, and the Chair thought he obtained unanimous-consent; but the Senator from Louisiana himself objected. So the Senator from Louisiana has the floor, and he may yield only for a question.

Mr. McADOO. Mr. President, may I ask unanimous consent——

The VICE PRESIDENT. The Senator may not, unless with the permission of the Senator from Louisiana. Does

the Senator from Louisiana yield to the Senator from California to ask unanimous consent?

Mr. ELLENDER. If I will not lose the floor, I will yield.

The VICE PRESIDENT. The Senator will lose the floor if he yields.

Mr. ELLENDER. Then I refuse to yield.

Mr. President, just before the conference report on the farm bill was up for consideration 2 or 3 days ago, I was discussing with the Senate mob rule in this country since 1906. I read from several editorials on the subject, with particular reference to certain race riots which took place in Atlanta, in Tulsa, in Springfield, and in Washington. I pointed out to the Senate that here in the city of Washington we had a riot in 1919 which lasted for 4 days, notwithstanding the fact that the Marines, the Army, and the Navy were called out to try to stop it. By the grace of God on the fourth day, so the newspapers recorded, a big rain came along, and, somehow or other, that helped to curb the rioters. [Laughter.]

Before I proceed to give other instances of race riots that took place in this country, I propose to insert in the RECORD some more facts and figures from certain cities throughout the Nation, showing the ratio of crime as between the whites and Negroes.

It will be recalled that during the course of my remarks I stated to the Senate that I would gather more data with respect to certain crimes in many of the southern and northern cities in this country. I now propose to cite to the Senate additional figures gathered by me, and having the same purpose as the other data on this subject that I have placed in the RECORD.

It will be recalled that I made a comparative analysis of the statistics with regard to prisoners received in State and Federal prisons and reformatories for the 2 years, 1934 and 1935. By that analysis I demonstrated that for the year 1934, according to available figures, for 10 of the Southern States the number of colored persons per 10,000 Negro population who were received in State and Federal prisons and reformatories amounted to 11, as compared to 5 whites in these same 10 Southern States. In the North, East, and West, with the 35 remaining States, where the Negro amounted to only 3 percent of the entire population, we find that the number of white prisoners received per 10,000 was 4, almost the same number as in the South. But the number of colored prisoners received was 27, or almost 3 to 1, as compared to the South. In 1935 the comparative figures were: In the South, whites, 5; colored, 13 per 10,000. In the North, with 35 States and only 3 percent of the population being colored, as compared to 27 percent in the South, the number of prisoners was 5 whites as against 28 colored.

I have here the figures for 1936 showing the prisoners received in State and Federal prisons and reformatories during that year. For the 10 Southern States the number of Negro prisoners was 6,886 out of a total Negro population of 5,779,958, or the rate was 12 per 10,000. In the remaining 35 States, where the Negro population was only 3 percent of the entire population, the number of Negro prisoners received was 8,592. There the Negro population was 3,085,508, or 28 colored persons per 10,000 as compared to 12 per 10,000 in the South. To put it another way, the 10 Southern States had almost twice as many Negroes as the 35 Northern, Eastern, and Western States, and the number of prisoners was almost 2,000 less.

Now let us see how the figures as to the whites compare. For the same year and in the same States in the South, with a white population of 19,611,562, 9,339 white prisoners were received in State and Federal prisons, and for the 35 remaining States, with a white population of 84,718,040, there were 35,369 white prisoners received in State and Federal prisons.

Per 10,000, the rate in the South was 4.8 percent, and in the North 4.2 percent, showing that the rate was almost the same with respect to the whites of the North and the whites of the South; but so far as the colored people were concerned, there was a great difference—12 for the South as against 28 for the North.

Mr. President, as the majority leader, the Senator from Kentucky [Mr. BARKLEY] said this morning, I agreed to yield the floor to several Senators provided unanimous consent could be obtained that I would not lose the floor. I am willing to have the Chair submit that request, and I shall agree, provided my rights to the floor are maintained.

The VICE PRESIDENT. The Senator from Louisiana asks unanimous consent of the Senate that the Chair may recognize various and sundry Senators for the purpose of discussing various and sundry subjects under the rules of the Senate, provided, that when they conclude their remarks he may again assume the floor without losing any rights. Is there objection?

Mr. JOHNSON of California. I object.

The VICE PRESIDENT. The Senator from California objects. The Senator from Louisiana has the floor.

Mr. ELLENDER. I am sorry that the Senator from California [Mr. JOHNSON] has objected, Mr. President. I was very anxious to carry out my agreement with various Senators. I am particularly anxious to accommodate the Senator from Illinois [Mr. LEWIS], the Senator from California [Mr. MCADOO], the Senator from Indiana [Mr. MINTON], and the Senator from Ohio [Mr. BULKLEY].

Mr. BARKLEY. Mr. President, will the Senator yield to me to propound a unanimous-consent request on another phase of the matter?

Mr. ELLENDER. I yield for a question.

Mr. BARKLEY. Without the Senator losing any of his rights.

Mr. ELLENDER. There seems to be objection, and I would not like to lose the floor. I will yield only for a question.

Mr. BARKLEY. The question I wish to ask is, will the Senator yield so that I may propound a unanimous-consent request about the proceedings tomorrow?

Mr. ELLENDER. Provided I do not lose the floor, I yield.

Mr. BARKLEY. I ask that the Senator do not lose the floor. I ask that I may ask the Senator from Louisiana a question, and that I may propound a unanimous-consent request without his losing any rights at all.

The VICE PRESIDENT. Is there objection?

Mr. JOHNSON of California. Mr. President——

Mr. BARKLEY. I hope the Senator will not object.

The VICE PRESIDENT. Just a moment. The Senator from Kentucky has to get unanimous consent. The Senator from California is on his feet.

Mr. JOHNSON of California. I do not know what is sought by the Senator from Kentucky.

Mr. BARKLEY. I was about to submit——

Mr. JOHNSON of California. Just a moment. I want to explain why I objected a moment ago. First we started with a mode of procedure. Then the Senator from Louisiana concluded. Then there was a new mode of procedure, and it was because of that fact that I made the objection.

Mr. BARKLEY and Mr. ELLENDER addressed the Chair.

The VICE PRESIDENT. Just a moment. The Senator from Kentucky has asked unanimous consent that he may propound a unanimous-consent request without interfering in any way with the present rights of the Senator from Louisiana, he having the floor. Is there objection? The Chair hears none, and the Senator from Kentucky may propound his unanimous-consent request.

Mr. BARKLEY. I ask unanimous consent that tomorrow, from the time the Senate meets until the vote is taken, at 1 o'clock, the time may be equally divided, under the control of the Senator from New York [Mr. WAGNER] and the Senator from Texas [Mr. CONNALLY].

Mr. JOHNSON of California. I object to that, Mr. President.

The VICE PRESIDENT. Objection is made.

Mr. ELLENDER. Mr. President, I mark the table to which I have just referred Exhibit 1, and in due time I shall ask that it be incorporated with my remarks.

I desire to read into the RECORD certain crime data I have obtained with reference to the city of Jacksonville, Fla., for the

year 1937. I made an attempt to obtain similar data from many other cities of the country, particularly in the North, so as to compare such figures with the figures relating to the South, but unfortunately police records in many cities of the North, as well as in many cities of the South, fail to differentiate between white prisoners and colored prisoners, and treat them all as a whole. Quite a few cities have separated them, and during the course of my remarks last week I cited the figures as to New Orleans, Washington, Cincinnati, Baltimore, and various other cities. I now propose to cite the figures for Jacksonville, Fla.

These figures show the number of arrests for murder, manslaughter, rape, robbery, aggravated assault, housebreaking, larceny, and auto theft; in other words, the same heinous crimes with which I dealt in giving statistics for other cities. I give the figures only as to those crimes because they are the only crimes included in the statistics I furnished the Senate last week for the other cities.

The white population of the city of Jacksonville, Fla., is 81,320, or 63 percent of the whole. The Negro population is 48,196, or 37 percent of the whole. These population figures are taken from the 1930 census. Here are the figures as to arrests in Jacksonville in 1937 for the various crimes:

Crime	Whites	Negroes	Total
Murder	6	32	38
Manslaughter	10	10	20
Rape	3	2	5
Robbery	29	27	56
Aggravated assault	31	128	159
Housebreaking	80	167	247
Larceny	155	380	535
Auto theft	19	26	45

The total number of whites arrested was 333, as compared with 772 Negroes, or a grand total of 1,105.

The rate per 10,000 of like population was 41 for the whites and 161 for the colored people. The ratio between the whites and the colored was 1 to 4. In other words, based on comparative population, for every white person arrested for any of the crimes mentioned four colored people were taken into custody. Bear in mind that the Negro population in Jacksonville is 37 percent of the whole and the white population 63 percent.

I shall mark this table Exhibit 2, and in due time I shall ask that it be incorporated with my remarks.

I have figures with reference to the city of Charleston for 3 years, 1935, 1936, and 1937. The total population of Charleston, according to the last available figures, those for 1930, is 62,239, of which 55 percent are whites, and 45 percent colored. The whites and colored are almost equally divided.

During the year 1935 the following arrests were made in the city of Charleston—eight major crimes with which I am dealing:

	Whites	Negroes	Total
Murder	1	7	8
Manslaughter	None	None	None
Rape	None	None	None
Robbery	51	272	323
Aggravated assault	17	41	58
Burglary and housebreaking	1	14	15
Grand larceny	6	37	43
Highway robbery		13	13
Total	76	384	460

For the 8 heinous crimes above-mentioned there was a total of 76 whites arrested and 384 colored, or a grand total of 460. The rate per 10,000 of like population for the whites was 22, and for the colored 137. The ratio between the whites and the colored was 1 to 6. Bear in mind that the population of Charleston is almost equally divided between the colored and the whites.

Compare those figures for Charleston, where the population of the colored as compared with the population of the whites is almost equal, that is, 45 percent colored and 55 percent white, with the figures for the city of Cincinnati, for instance, where the Negro population is only 11 percent of the whole population, as against 89 percent for the whites, and you will find that in the city of Cincinnati, with the percentage of colored and whites as I have just indicated, there were more colored people than whites arrested for the crimes I have mentioned.

I now ask the question: What would happen in the city of Cincinnati if it had the same ratio of whites and colored as does the city of Charleston? As I illustrated the other day, the ratio in the city of Cincinnati for these various crimes as between the whites and the Negroes is 1 to 11.

I desire to state that I shall now mark the document from which I have just read Exhibit 2–A. Later on I will ask unanimous consent that it be printed immediately following my remarks.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. ELLENDER. Yes; I yield for a question.

Mr. CONNALLY. I ask the Senator from Louisiana if he would be willing to yield to various Senators who desire to place matters in the RECORD? Would the Senator be willing to ask unanimous consent that he be permitted to yield to Senators who desire to introduce matters in the RECORD, introduce bills and so forth, with the understanding that he does not lose his right to the floor.

Mr. ELLENDER. I ask unanimous consent to permit Senators to put into the RECORD such matters as they desire, and to speak on the pending bill, provided that after that shall have been done I may continue my remarks without losing any of my present rights on the floor.

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Is there objection? The Chair hears none, and it is so ordered.

ADDITIONAL PETITIONS

Mr. WALSH presented a telegram embodying a resolution adopted by Lodge No. 847 of the Order of Sons of Italy in America, Southbridge, Mass., protesting against the proposed reciprocal trade agreement with Great Britain if it should lower the tariffs on optical goods, cutlery, woolens, or textiles, which was referred to the Committee on Finance.

Mr. LODGE presented petitions of sundry citizens of the State of Massachusetts, praying for the enactment of legislation to abolish the Federal Reserve System as at present constituted and to restore the congressional function of coining and issuing money, and regulating the value thereof, which were referred to the Committee on Banking and Currency.

Mr. GEORGE presented the following resolution of the House of Representatives of the State of Georgia, which was referred to the Committee on Agriculture and Forestry:

Whereas the food value of cottonseed oils and peanut oils are of immense importance to the people of the United States, and besides otherwise forms a large part of the shortenings and margarines consumed by the people; and

Whereas there are certain Federal statutes that demand special taxes and special licenses and other severe restrictions against the sale and use of articles of food aforesaid: Now, therefore, be it

Resolved, That the Congress of the United States be urged to repeal the Federal statutes which now fixes special taxes and licenses and other severe restrictions against the sale and use of food products made of cottonseed oil and peanut oil; be it further

Resolved, That the clerk of the house is instructed to forward a copy of this resolution to each Member of Congress and Senate from the State of Georgia, and a copy to the United States House of Representatives and a copy to the United States Senate.

Mr. GEORGE also presented the following resolution of the Senate of the State of Georgia, which was referred to the Committee on Agriculture and Forestry:

Whereas cottonseed and peanuts are valuable money crops to the farmers of this State; and

Whereas the farmers of Georgia are vitally interested in obtaining a large and profitable market for cottonseed and peanuts; and

Whereas the food value of cottonseed oils and peanut oils are of immense importance and value to the people of the United States; and

Whereas the oils obtained from cottonseed and peanuts can successfully be used as shortening and margarine and by such use will create a market for these Georgia farm products; and

Whereas there are now in effect certain Federal statutes that require special taxes and special licenses which tend to restrict the use of cottonseed and peanut oils, margarines, and shortenings, and hence inure to the detriment of Georgia farmers: Therefore be it

Resolved, That the Congress of the United States be memorialized and petitioned to repeal the Federal statutes which now levy special taxes and licenses and other restrictions against the sale and use of food products made of cottonseed oil and peanut oil; be it further

Resolved, That the Georgia delegation in Congress be urged to actively assist in bringing about the repeal of the said statutes and restrictions; be it further

Resolved, That a copy of these preambles and resolutions be dispatched to the House of Representatives of the United States and to the Senate of the United States, as well as to each member of the Georgia congressional delegation.

REPORTS OF COMMITTEES

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

S. 3035. A bill to authorize the city of Vancouver, Wash., to construct and maintain a historical memorial on the Vancouver Barracks Military Reservation, Wash. (Rept. No. 1372); and

S. 3095. A bill authorizing the Secretary of War to grant to the Coos County Court of Coquille, Oreg., and the State of Oregon an easement with respect to certain lands for highway purposes (Rept. No. 1373).

Mr. SHEPPARD also, from the Committee on Military Affairs, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 2829. A bill authorizing more complete development of that portion of Santa Rosa Island conveyed to the county of Escamba, State of Florida, by the Secretary of War (Rept. No. 1374); and

S. 3126. A bill authorizing the Secretary of War to convey a certain parcel of land in Tillamook County, Oreg., to the State of Oregon to be used for highway purposes (Rept. No. 1375).

Mr. McADOO, from the Committee on Banking and Currency, to which was referred the bill (S. 3452) to extend the lending authority of the Disaster Loan Corporation to apply to disasters in the year 1938, reported it without amendment and submitted a report (No. 1376) thereon.

Mr. BYRNES, from the Select Committee on Government Organization, to which was referred the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes, reported it with amendments.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. McNARY:

A bill (S. 3454) to amend the provisions of the Agricultural Marketing Agreement Act of 1937; to the Committee on Agriculture and Forestry.

A bill (S. 3455) authorizing the Secretary of War to convey to the Port of Cascade Locks, Oreg., certain lands for municipal purposes; to the Committee on Military Affairs.

By Mr. SHEPPARD:

A bill (S. 3456) to amend the Rural Electrification Act approved May 20, 1936; to the Committee on Agriculture and Forestry.

A bill (S. 3457) to amend the Reconstruction Finance Corporation Act approved January 22, 1932; to the Committee on Banking and Currency.

By Mr. BARKLEY:

A bill (S. 3458) to provide for the establishment of a commissary or vending stand in the Washington Asylum and Jail; to the Committee on the District of Columbia.

By Mr. SHEPPARD:

A bill (S. 3459) to authorize the Secretary of War to acquire by donation land at or near Fort Missoula, Mont., for target range, military, or other public purposes (with accompanying papers); to the Committee on Military Affairs.

By Mr. WALSH:

A joint resolution (S. J. Res. 262) to set apart public ground for the Smithsonian Gallery of Art, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. BAILEY:

A joint resolution (S. J. Res. 263) providing for nonpartisan administration of relief expenditures, and for other purposes; to the Committee on Finance.

HOUSE BILLS AND JOINT RESOLUTION

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

H. R. 9024. An act to exempt from taxation certain property of the Society of the Cincinnati, a corporation of the District of Columbia; to the calendar.

H. R. 7834. An act to amend the act entitled "An act to provide compensation for disability or death resulting from injuries to employees in certain employments in the District of Columbia, and for other purposes";

H. R. 9100. An act limiting the duties of the Chief Clerk and Chief Inspector of the Health Department of the District of Columbia; and

H. J. Res. 582. Joint resolution supplementing and amending the act for the incorporation of Washington College of Law, organized under and by virtue of a certificate of incorporation pursuant to class 1, chapter 18, of the Revised Statutes of the United States relating to the District of Columbia; to the Committee on the District of Columbia.

AMENDMENT TO NAVAL APPROPRIATION BILL

Mr. TYDINGS submitted an amendment intended to be proposed by him to House bill 8993, the naval appropriation bill, 1939, which was ordered to lie on the table and to be printed, as follows:

On page 44, line 19, after the figures "$1,706,000", to insert the following proviso: "*Provided,* That from January 1, 1938, majors in the Marine Corps who held permanent commissions as second lieutenants prior to the act of June 4, 1920, shall not be involuntarily retired until they have completed 24 years of service."

AMENDMENT TO FIRST DEFICIENCY APPROPRIATION BILL

Mr. SHEPPARD submitted an amendment intended to be proposed by him to House bill 9306, the first deficiency appropriation bill, 1938, which was ordered to lie on the table and to be printed, as follows:

On page 15, after line 13, to insert the following:

"RIO GRANDE RECTIFICATION PROJECT, DEPARTMENT OF STATE

"The unexpended balance of the appropriation made for the fiscal years 1936–37 for the construction of the Rio Grande rectification project under the jurisdiction of the Department of State and the International Boundary Commission, United States and Mexico, is hereby continued available for the same purposes until June 30, 1938."

INVESTIGATION OF COSTS, PRICES, AND PROFITS OF PRINCIPAL COMMODITIES IN COMMERCE—REFERENCE OF RESOLUTION

On motion by Mr. BAILEY, the resolution (S. Res. 237) providing for an investigation of costs, prices, and profits of the principal commodities of commerce of the United States (submitted by Mr. BAILEY on the 14th instant), was taken from the table and referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 32), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That, in accordance with paragraph 3 of section 2 of the Printing Act approved March 1, 1907, the Committee on Ways and Means of the House of Representatives be, and is hereby, authorized and empowered to have printed for its use 2,000 additional copies of the hearings held before said committee during the current session on the bill for the "Revision of the revenue laws, 1938."

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H. R. 8505) to provide for

the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce, and for other purposes, and it was signed by the Vice President.

CIVIL LIBERTIES—ADDRESS BY SENATOR LA FOLLETTE

[Mr. MINTON asked and obtained leave to have printed in the RECORD a radio address on the subject of civil liberties delivered by Senator LA FOLLETTE on Monday, February 14, 1938, which appears in the Appendix.]

LINCOLN DAY ADDRESS BY SENATOR DAVIS AT INDIANAPOLIS, IND.

[Mr. DAVIS asked and obtained leave to have printed in the RECORD a radio address delivered by him at Indianapolis, Ind., on February 12, 1938, and an editorial from the Indianapolis Times of February 12 headed "Let Lincoln Speak," which appear in the Appendix.]

TRADE AGREEMENTS AND AGRICULTURE—ADDRESS BY LYNN R. EDMINSTER

[Mr. BARKLEY asked and obtained leave to have printed in the RECORD an address on the subject Trade Agreements and Agriculture, delivered by Lynn R. Edminster before the American Farm Economic Association, Atlantic City, N. J., December 29, 1937, which appears in the Appendix.]

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts:

On February 8, 1938:

S. 1255. An act for the relief of Harold Garr, Chester H. Peters, Harry B. Swift, Dr. Abraham A. Mills, Charles L. Harris, O. W. Morgan, F. G. E. Carlson, Harold S. Fraine, Owen E. Steele, W. C. Mudge, Jr., George F. Poutasse, Paul P. Pickle, W. D. Hiltbrand, Arthur P. LeBel, K. E. Hill, Annie McGowan, Ralph Thompson, and Rosamond M. MacDonald; and

S. 2602. An act for the relief of George Yuhas.

On February 9, 1938:

S. 2768. An act authorizing the Comptroller General to adjust and settle the claim of Leo L. Harrison;

S. 2769. An act authorizing the Comptroller General to adjust and settle the claim of Irvin H. Johnson;

S. 2832. An act authorizing the adjustment of the claims of Frank Pashley and Brown Garrett; and

S. 2773. An act to authorize the issuance of an unrestricted patent to Judson M. Grimmet.

On February 10, 1938:

S. 2418. An act for the relief of John Prosser; and

S. 2606. An act for the relief of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

On February 11, 1938:

S. 1691. An act to provide that residence requirements for judges shall not be held to apply to judges who have retired; and

S. 2387. An act to authorize certain officers and employees of Federal penal and correctional institutions to administer oaths.

On February 12, 1938:

S. 676. An act for the relief of Heinrich Schmidt, G. m. b. H., of Flensburg, Germany; and

S. 2583. An act to provide for the acquisition of certain lands for and the addition thereof to the Tahoe National Forest, in the State of Nevada, and the acquisition of certain other lands for the completion of the acquisition of the remaining lands within the limits of the Great Smoky Mountains National Park, in east Tennessee.

On February 14, 1938:

S. 2759. An act authorizing the sale of certain lands to the regents of the Agricultural College of New Mexico.

ANNIVERSARY OF BIRTH OF SUSAN B. ANTHONY

Mr. McADOO. Mr. President, I ask the Senator from Louisiana if he will object to my making a very brief statement to the Senate?

Mr. CONNALLY. Mr. President, I ask the Senator from Louisiana if he will propound to the Senate a request for unanimous consent to that effect.

The PRESIDING OFFICER. The present occupant of the chair will interpret the unanimous consent just given to include a brief statement by the Senator from California [Mr. McADOO], and the Chair will protect the rights of the Senator from Louisiana.

Mr. ELLENDER. I am willing to yield for that purpose, provided I do not lose the floor.

The PRESIDING OFFICER. The Chair will assure the Senator from Louisiana that his rights will not in any way be infringed upon.

Mr. McADOO. I thank my colleague the Senator from Louisiana for the opportunity he has given me to make a very brief statement to the Senate.

Mr. President, today is the one hundred and eighteenth anniversary of the birth of one of the great figures of history, Susan B. Anthony, who was born in South Adams, Mass., more than a century ago. She was one of those great women who devoted their lives exclusively to the service of humanity, and as a result of her efforts—I may say as a direct result of her efforts—we have today in the Constitution of the United States equal suffrage for both sexes.

At 5 o'clock this afternoon in the crypt of the Capitol, at the monument which has been erected there in her honor, commemorative ceremonies will be held. I have been requested to make a brief speech on that occasion and have consented to do so.

I ask unanimous consent of the Senate that upon the conclusion of the ceremonies there I may be permitted to insert in the Appendix of the RECORD the brief speech I shall make upon that occasion.

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

NATIONAL INVENTORS DAY

Mr. BULKLEY. Mr. President, with the permission of the Senator from Louisiana, I should like to make a very brief statement concerning a Senate joint resolution introduced by me concerning National Inventors Day.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BULKLEY. Mr. President, 91 years ago last Friday, February 11, Thomas A. Edison, our greatest inventor, was born in the village of Milan, Ohio. That date has been suggested as National Inventors Day by the National Inventors Day Committee, headed by Dr. Frederick J. Root, of Cleveland.

The committee has instituted a movement to have this date set, not as a legal holiday but as a day of observance of the achievements of inventors of the past and present and for encouragement of the inventors of the future. Realizing as we do the great results accomplished for our civilization by inventions and the disclosure of new processes, we must in all humility express again our gratitude to Thomas A. Edison and the other great inventors, to whom we owe the benefits derived from their genius.

Last year the Ohio Legislature adopted a resolution requesting the Governor to issue an annual proclamation for the regular observance of National Inventors Day, and at that time I placed the resolution in the CONGRESSIONAL RECORD.

This resolution provided that the day should be set aside in observance not only of the birthday of one of Ohio's most illustrious sons, Thomas A. Edison, but also in recognition of the accomplishments of the many outstanding inventors of the State and Nation, and, to quote the resolution—

> Thereby also give active encouragement to the inventors of the present and the future who, by their creations, will continue to enrich living in the present and the future.

Last week I introduced Senate Joint Resolution 257, requesting that February 11 be observed hereafter as National Inventors Day and that the calendar week in which National Inventors Day occurs be designated as National Advancement Week for the purpose of providing a time during

which the new and improved products developed by scientific research and invention, engineering and industry may be presented to the public and during which efforts may be renewed to increase employment and advance business for the ensuing year.

The resolution also suggests that during National Advancement Week the teachers and instructors in the schools and colleges be requested to place special study and emphasis upon the lives of outstanding inventors and upon their inventions. The resolution asks that at regular meeting times during National Advancement Week civic, business, scientific, professional, religious, and fraternal organizations observe, appraise, and express appreciation for the many inventions which aid national advancement and individual convenience, security, comfort, and well-being.

In the resolution, which was concurrently filed in the House of Representatives by the Representative of the Thirteenth District of Ohio, in which Thomas A. Edison was born, it is asked of the President that he issue a proclamation each year before National Advancement Week calling upon the people appropriately to observe National Inventors Day and National Advancement Week. The resolution does not provide that National Inventors Day be a legal holiday.

Recently I took up with the Post Office Department authorities the matter of issuing a National Inventors Day stamp for 1938. Although I was informed this was not practicable this year because of a previously defined program, I was told it is quite possible that a group of stamps in 1939 will be devoted to inventors. In the resolution it is requested that the Postmaster General be directed to issue, beginning with 1939, a special National Inventors Day-National Advancement Week postage stamp to be placed on sale during National Advancement Week of each year, featuring the outstanding phases of inventions.

Mankind's advancement through the ages is largely due to the achievements of inventors, who, in many cases, exhibited unusual courage as they braved the taunts of their skeptical fellow men while they went about the task of creating things that had been considered impossible.

The birthday of Thomas A. Edison is appropriately chosen for National Inventors Day. When we take stock of his accomplishments we realize the amazing inventive ability of the man. We can recall the electric light, the talking machine, the typewriter, the mimeograph, the railway signal system, the camera, the electric dynamo, the plate-glass making process, the electric locomotive—and he made possible the X-ray, radio, sound pictures, and television.

Inventions are the basis of industrial accomplishment, national progress, and individual well-being. Inventions in the past have provided work for millions in our growing country. Who will deny the possibility of inventions of the future taking up the slack in employment which periodically affects this Nation? Inventors of the past should be honored. Inventors of the present and future should be encouraged. We have this opportunity by the proper observance of a National Inventors Day and National Advancement Week.

WITHHOLDING OF SPEECHES FROM CONGRESSIONAL RECORD

Mr. LODGE. Mr. President, I make the point of order that the CONGRESSIONAL RECORD for January 31, 1938, is incomplete in that it does not contain the whole of the remarks of the Senator from Kentucky [Mr. BARKLEY], with interpolations. I ask unanimous consent that the official transcript be printed in the RECORD.

Mr. BARKLEY. I object.

The PRESIDING OFFICER. Objection is heard; and the present occupant of the chair is of the opinion that no point of order can lie against the withholding of remarks from the RECORD.

The Chair would like to call attention to the rule which is printed in the RECORD. The copy the Chair has is that of January 4, 1938. The Chair calls attention to page 44, on which the laws and rules for the publication of the RECORD are printed.

The Chair would like to suggest that the only provision of the rules issued by the Joint Committee on Printing pursuant to the authority of title 44, section 181, which seems to relate to this general matter, is rule VIII, which reads as follows:

> 8. The Public Printer shall not publish in the CONGRESSIONAL RECORD any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days (exclusive of Sundays and holidays) from the date when its printing was authorized: *Provided*, That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

So the Chair holds that no point of order may be made, and, objection having been raised to the unanimous-consent request of the Senator from Massachusetts for the insertion in the RECORD of the original transcript of the speech of the Senator from Kentucky, it cannot be printed in the RECORD by unanimous consent.

Mr. BARKLEY. Mr. President, I wish to state in this connection that I am very appreciative of the high compliment paid me by the Senator from Massachusetts in his desire that this speech of mine should be embalmed in the CONGRESSIONAL RECORD, and his impatience at its being withheld. It is a speech, I suppose, which I made with reference to the conference report on the housing bill. Before the day's proceedings were over on that day I asked the reporters to allow me to have the copy in order that I might go over it, because my experience has been—and all of us, I suppose, have had the same experience—that frequently errors are made in the rapid run of debate. The speech was not delivered to me on the evening of the day it was made. I saw it not at all, and have not seen it since. It was not of sufficient importance to me, as it seemed, to make any great amount of difference whether it was printed later in the Appendix of the RECORD or not; and, the matter having been disposed of, I did not suppose anybody was sufficiently interested in my remarks on the conference report on the housing bill to insist that the speech which I had made should go in the Appendix of the RECORD, whether I wanted it to go in the RECORD or not.

I have no objection to the speech going in the RECORD. I have no objection to anything I ever say on the floor of the Senate going into the RECORD, but the delay in having it printed is my own fault. I accept full responsibility and I do not suppose I am to be censored for having withheld this speech until now, or for withholding it altogether if I do not see fit to have it published in the RECORD.

Mr. LODGE. It is my understanding that the copy of the remarks which had been sent to the office of the Senator from Kentucky had been mislaid by him or that he had not received it.

Mr. BARKLEY. How did the Senator get his information as to the intimacies of my office, and what was his object in prying around to find out?

Mr. LODGE. I spoke to the Senator about this matter the other day, and that is what I understood the Senator to say.

Mr. BARKLEY. The Senator certainly misunderstood me. I did not say it had been mislaid. I do not know whether it has been mislaid or not. It was not delivered to me in accordance with the request I made, so that I might look it over for any corrections necessary, my object at the time being that it should go in the RECORD on the day it was delivered. Inasmuch as I did not get it in the RECORD, it did not seem to me to be consequential whether it ever went into the RECORD or not, and I do not think now it is consequential whether it ever goes in the RECORD or not.

Mr. LODGE. The point I am trying to convey to the Senator from Kentucky is that I am not in the least trying to criticize him. It was my understanding that somehow or other the original transcript of the remarks was not approved and returned; and inasmuch as these remarks not only involve his own words but the words of the Senator from Idaho and the Senator from Illinois—which to me were a very pertinent part of the debate—it seemed to me that it was my duty, inasmuch as I took part in this matter as a Member of the Senate, to try to keep the RECORD clear. If we are going to have a CONGRESSIONAL RECORD, it certainly

ought to be complete, and it certainly cannot be complete if it does not contain the remarks of every Senator, including the majority leader. That is my sole object, just as a matter of convenience to the Senate.

Mr. BARKLEY. The Senator, of course, got his name into the RECORD in that manner simply because I yielded to him on one or two occasions during my short address for questions or in reply to some statement of my own.

There is nothing new about the fact that in both branches of Congress speeches are sometimes made which are not subsequently printed in the RECORD. It used to be almost the unbroken rule of the Vice President of the United States, when he was a Member of the House, not to make speeches on the floor, and not to print them when he did make them. That is a matter which is largely in the control of the Members of the two bodies.

I had no intention of withholding the speech, and for that reason I asked that it be sent to me before the day was over so that it might go into the RECORD of the regular proceedings. Inasmuch as it did not reach me and I did not see it, and have not yet had an opportunity to go over it, I did not regard it as of such importance that anybody would take it upon himself to insist that my remarks be printed in the RECORD. The fact that the Senator and other Senators participated in the colloquy was largely due to the fact that I yielded to them. I do not think the colloquy was any more important than the speech itself.

Mr. McNARY. Mr. President——

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

Mr. LODGE. I yield.

Mr. McNARY. In many years' experience in this body I do not recall that there was ever a speech held out of the RECORD. The Senator from Kentucky says that is optional with the Senator who makes a speech or engages in debate. I think the RECORD has been complete in all the twenty and a half years I have served in the Senate, and I do not recall that any speech has ever been held out of the RECORD. That is what we have a RECORD for. In this particular instance, as I recall—I was on the floor at the time—the Senator from Kentucky, the Senator from Idaho, and the Senator from Illinois engaged in a little controversy over some remarks made by the able Senator from Massachusetts. The colloquy is an integral part of the whole proceeding. I am really surprised that the Senator from Kentucky would dismiss it so lightly as to say that he would choose, now or hereafter, whether or not to insert in the RECORD any statement he makes. If that is to be the case, then there will be no continuity in the RECORD of the debates, in the Senate. We might as well dispose of the whole proposition. I am really surprised that the Senator from Kentucky should want purposely to withhold any speech he has made on the floor of the Senate, particularly when objection is made by a fellow Senator.

Mr. BARKLEY. I had no purpose to withhold this speech, and for that very reason I asked that it be sent to my office on the very day of delivery that it might go into the proceedings. But there is nothing that usually appears in the CONGRESSIONAL RECORD so cold and uninteresting as a speech which has been delivered days before, and which is put in the Appendix of the RECORD. I regard it as of no importance whatever. I have no objection to the speech going into the RECORD. I cannot quite understand the anxiety of the Senator from Massachusetts that it go in, unless it is because he wants his name to appear in the body of the speech which I made. When I get an opportunity to go over the speech, unimportant as it was, to see whether it is correctly reported, and whether any mistakes have been made in the transcript, if the Senator from Massachusetts or the Senator from Oregon thinks that it is now worth the expense which would be involved in printing it in the RECORD, and that it ought to go into the permanent RECORD, I certainly have no objection, but I am not going to do it at the behest or coercion of any other Senator.

Mr. LODGE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LODGE. Is it in order to make a motion that this matter be inserted in the RECORD?

The PRESIDING OFFICER. The Chair would hold that such a motion would displace the unfinished business.

Mr. LODGE. I move that this matter be inserted in the RECORD.

Mr. BARKLEY. I make the point of order that the Senator from Louisiana yielded, not for any such purpose as that but for Members of the Senate to make addresses on the pending question, and therefore it is not in order now to make a motion of that sort.

The PRESIDING OFFICER. If the Chair recalls correctly the unanimous-consent agreement, it was to the effect that the Senator from Louisiana [Mr. ELLENDER] might yield to other Senators without losing his right to the floor. The Chair does not think it was confined to addresses on the pending subject.

Mr. LODGE. I withhold my motion.

PREVENTION OF AND PUNISHMENT FOR LYNCHING

The Senate resumed the consideration of 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.

Mr. LEWIS. May I ask the Senator from Louisiana if it was his intention to yield so that those who might wish to make short addresses in behalf of the bill might deliver such addresses, the Senator from Louisiana still continuing his right to the floor, having yielded merely for the purpose of an address on the same subject matter?

Mr. ELLENDER. I will yield for that purpose, Mr. President, provided I do not lose the floor by so doing. I will ask the Chair to put the question.

The PRESIDING OFFICER. Is there objection to the Senator from Louisiana yielding the floor, without losing his rights, to permit other Senators to discuss the pending question?

Mr. CONNALLY. Without prejudice to the right of the Senator from Louisiana to resume the floor.

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

Mr. LEWIS. Mr. President, I desire to address myself to the bill, with particular regard to the assertion on the part of most able and respected Senators that the bill is unconstitutional. I particularly should like the attention of the Senator from Idaho [Mr. BORAH] and that of the distinguished Senator from Georgia [Mr. GEORGE] and, of course, of the eminent leader of the opposition, the Senator from Texas [Mr. CONNALLY]—all of whom, I see, honor me with their presence.

I wish to take the position that the courts have held directly to the contrary of the position our honorable friends have taken, because our friends, as I see it, have assumed a basis which is not the real basis of the bill, nor of the controversy upon the constitutional clause applicable.

My position is that if the power involved were a power which had been separately given to the States under the tenth amendment solely as a privilege of action under the old theory that they were sovereignties separate from the National Government, and wholly distinct from the powers given to the National Government, I should then concede that we could not intrude upon the power vested wholly within the States. But I respectfully insist that two powers, or two rights, are granted under the tenth amendment. The State has granted power in two forms. One is to the Federal Government as a government. The second is directly vested and reserved in the people as distinguished from the forms of government either of State or of Nation. The third is that the only way the people as distinguished from the State can speak in legislative bodies is through their representatives, and their representatives are those we call the Congress of the United States.

I invite attention at the outset to the proposition that there is fundamentally the inherent right of the Government

as a government to protect its citizens. To my able friends who have made splendid arguments to the point on a basis they thought unanswerable I respectfully state that they overlook the fact that a citizen is a citizen of the United States as well as a citizen of a State, and that, in respect to his being a citizen of the State, it is only a State matter and cannot be intruded upon by the Federal Government; but in that he is a citizen of the United States it is the United States Government he has the right to look to for protection, and that cannot be prohibited by the States.

Now, Mr. President, I call attention to a very recent opinion which my able friend from Idaho cited in 222 United States, the case of the *City of Chicago* v. *Sturges*, which comes from my State, where the court lays down the doctrine, omitted from consideration by the Senator because of his attention being attracted to other parts of the opinion, that—

> Primarily, governments exist for the maintenance of social order. Hence it is that the obligation of the Government to protect life, liberty, and property against the conduct of the indifferent, the careless, and the evil-minded may be regarded as lying at the very foundation of the social compact. A recognition of this supreme obligation is found in those exertions of the legislative power which have as an end the preservation of social order and the protection of the welfare of the public and of the individual. If such legislation be reasonably adapted to the end in view, affords a hearing before judgment, and is not forbidden by some other affirmative provision of constitutional law, it is not to be regarded as denying due process of law under the provisions of the fourteenth amendment.

Since that is a fundamental doctrine, which I assume need not be discussed further but must be admitted, I lay down the other doctrine that the Supreme Court early, intermediately, and lately have decided that a law cannot be held invalid merely because there is doubt about it. Even though doubts as to constitutionality are founded in the honest judgment of those advocating that viewpoint, they are not sufficient to reject it.

I recall, of course, that the President of the United States was very much condemned because, writing a letter to a Member of the House of Representatives concerning a bill that was pending, he said, "The mere fact that there exists a doubt is not sufficient for you to reject action." The country rose up, in certain select quarters, to condemn the President of the United States in that he had said, "Despite the fact that you have a doubt, you should still vote for a measure." That was held up as being something so extraordinary as to be unprecedented in law and wholly in violation of the spirit of the Constitution; and yet the Supreme Court says:

> It is incumbent, therefore, upon those who affirm the unconstitutionality of an act of Congress to show clearly that it is in violation of the provisions of the Constitution. It is not sufficient for them that they succeed in raising a doubt.

But when the President of the United States used that exact language he became, in the minds of some, a criminal against the theory of political virtue in political government.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Nebraska?

Mr. LEWIS. I yield to the Senator from Nebraska, with pleasure.

Mr. NORRIS. If the rule were followed that the critics of the President would have us follow, does the Senator know of any piece of controverted legislation enacted by the Congress since the Senator has been a Member of the Congress that would have passed? In other words, can the Senator recall any controverted piece of legislation as to which someone of great ability, and in whose judgment there was great confidence, had not declared on the floor of either one House or both that it was unconstitutional?

Mr. LEWIS. I say to the able Senator from Nebraska that the very question answers itself. But, in addition to that, may I be emboldened for the moment I shall occupy to invite attention to the case of Metropolitan Casualty Insurance Co. against Brownell, Receiver, in Two hundred and Ninety-fourth United States Reports, page 584:

> It is a salutary principle of judicial decision, long emphasized and followed by this Court, that the burden of establishing the unconstitutionality of a statute rests on him who assails it, and that courts may not declare a legislative discrimination invalid unless, viewed in the light of the facts made known or generally assumed, it is of such a character as to preclude the assumption that the classification rests upon some rational basis within the knowledge and experience of the legislators.

The Senator from Idaho [Mr. BORAH] honors me with his attention. May I be pardoned for a personal reference when I say that he and I have participated in arguments before the Supreme Court of the United States in matters involving controversies between States and particularly when States have had before them the question as to how far it is in the power of the Federal Government to legislate upon a matter which touches the State and how far it is within the power of the States to interfere with the rights of the Federal Government to legislate upon matters affecting Federal citizens in the Federal relationship. I invite attention to the position I am taking, that this bill must be placed upon the basis of the United States entering on a proceeding in behalf of the people, and that that provision of the Constitution in the tenth amendment makes two references, one to the rights reserved to the States, and the other to those reserved to the people. I maintain that it is the people who speak upon this bill, as distinguished from the powers reserved to the States, which are intended purely for local self-government, and that therefore the people, when they speak on national rights through their legislature, must speak in this body, the Congress, and ever so when it is sought to act for the protection of the life of national citizens, that as to this a State cannot interdict such procedure by holding it to be an invasion of the States on the theory that such action will wholly cripple, if not destroy, them in local State government.

My able friend, the Senator from Georgia [Mr. GEORGE], presented a most elaborate and almost conclusive argument on that distinction in behalf of his own State of Georgia. He pointed out that when a matter is reserved to the States an intrusion by the Federal Government would make such an act unconstitutional and be an invasion of State rights. On this State rights doctrine the address of the Senator from Georgia will not be excelled by any speech to be delivered on this floor.

The Senator from Idaho, in a very able speech, filled with the power of the lawyer as well as the eloquence of the orator, insisted that the pending bill is a violation of the whole theory of government, and that, therefore, as such must be looked upon as a movement looking to the impeding of the very theory upon which the Government was founded. It is upon that I take grave issue with my learned friend. At this point I wish to say I am the Senator to whom the able Senator from Idaho referred when he said in his speech that there were Senators on this floor who have said, though they regretted their conclusion, that there now had come a time when the Federal Government would rapidly invade the whole theory of our Government's local organization, and the States would on general legislative subjects become merely as provinces or subdivisions of the Federal Government, particularly as to the legislation governing the citizens of the United States. As to this, the States would no longer be sovereign bodies as against the Federal Government.

I might call the attention of my able friend to the observation in a case with which he cannot be unfamiliar in view of the extent of his very large practice at the bar in the West, to say nothing of his reading as a legislator. I ask the attention of my able friend to the reasoning in the case of Kansas against Colorado. I refer first to the position taken by counsel—

> Whatever the particular matter of internal policy may be, the respective "rights" or jurisdiction involved, whether Federal or State, should be measured by the test whether they concern only

the rights of a State or its citizens within a State, or affect other States and their citizens and the citizens of the United States in general. * * *

The powers reserved to the people relate to possible encroachments on their personal and individual rights, of life, liberty, and the pursuit of happiness.

I invite the Senator to observe the distinction.

The powers reserved to the States are powers confined wholly to their respective borders. The powers reserved to the people relate to possible encroachments on their personal and individual rights of life, liberty, and the pursuit of happiness.

The Supreme Court of the United States, through Mr. Justice Brewer, has affirmed this particular contention. I invite attention to it. Says the learned Justice, speaking for the Court:

Under the tenth amendment, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." The argument of counsel ignores the principal factor in this article, to wit, "the people." Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it, "We, the people of the United States," not the people of one State, but the people of all the States, and article X reserves to the people of all the States the powers not delegated to the United States. The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States.

Then the Court, concluding and quoting from *Fairbank* v. *United States* (181 U. S. 283), says:

We are not here confronted with the question of the extent of the powers of Congress but one of the limitations imposed by the Constitution on its action, and it seems to us clear that the same rule and spirit of construction must also be recognized. If powers granted are to be taken as broadly granted and as carrying with them authority to pass those acts which may be reasonably necessary to carry them into full execution—in other words, if the Constitution in its grant of powers is to be so construed that Congress shall be able to carry into full effect the powers granted—it is equally imperative that where prohibition or limitation is placed upon the power of Congress that prohibition or limitation should be enforced in its spirit and to its entirety. It would be a strange rule of construction that language granting powers is to be liberally construed and that language of restriction is to be narrowly and technically construed. Especially is this true when in respect to grants of powers there is as heretofore noticed the help found in the last clause of the eighth section, and no such helping clause in respect to prohibitions and limitations. The true spirit of constitutional interpretation in both directions is to give full, liberal construction to the language, aiming ever to show fidelity to the spirit and purpose.

Mr. President, I respectfully insist that these distinctions make it very clear that this particular legislation is addressed, through the people of the United States, to its people, and by its people to the protection of its national citizens; that therefore it is not at all within the provision which reserves to the States certain powers only to the States granted. It is specifically that power which is reserved to the Federal Government, to be exercised in its own behalf, in behalf of its citizens, white or black, yellow or colored. Therefore, sir, I insist that it is not at this time open to the position taken by the able Senators that it violates the provision of the Constitution in reference to the powers wholly granted to the States. Therefore, sir, I respectfully insist that the better rule is that laid down by the Supreme Court of the United States in a case reported in Two Hundred and Twenty-seventh United States Reports at page 308, a case which came from the part of the country in which I live, a case which probably has not been observed by able Senators having their attention addressed to the mere provision of the Constitution applying to the State. Here the Supreme Court says that the control of the morals of the citizens of a State by the enactment of laws against crime can be exercised by the State only within its jurisdiction, "but there is a domain," and I invite the attention of my able friends, knowing how eminent they are as lawyers, to the distinction which may be observed as that for which I am contending—"but there is a domain which the States cannot reach, and over which Congress alone has power, and if such power is exerted," says the Supreme Court, "to control what the States cannot, it is an argument for—not against—its legality. Its exertion does not encroach upon the jurisdiction of the States."

This, sir, was a criminal case, arising under laws of the United States making criminal certain conduct which our eminent friends on the other side have said wholly violates that provision of the tenth amendment, that the power to punish for crime is vested wholly in the States. It was contended in that case that the particular punishment of the particular crime alluded to was as an act on the part of Congress, and, therefore, that it violated the portion of the law that vested in the State the protection of its citizens as well as the punishment of offenses committed by its citizens. But I insist that when the subject matter is one in which the Federal Government has jurisdiction, it has the right both to pass laws and to enforce them without regard to what the States may do in the way of taking any similar action. I must insist now, under the law, that not only is the bill constitutional within the meaning of the people and the clause referring to the people and the rights reserved to the people in the tenth amendment, but that, sir, it conjoins to any action by any State and adds to the separate action which the State shall take, seeking to prevent lynching, the power of the Federal Government to protect the citizen of the United States in his rights as a citizen under the power that is granted to the people, who speak through their Congress for the people.

For that reason, may it please you, sir, I take the liberty of differing from my able friends and of calling attention to specific distinctions which I fear, in the zeal they felt on the assumption of the fourteenth and tenth amendments they have overlooked. I summon my able friend from Idaho [Mr. BORAH] particularly to state whether he does not concur with me that the Supreme Court of the United States, in a case in Two Hundred and Sixth United States Reports, with which he is not unfamiliar in its general doctrine, specifically makes the distinction and leaves it where I now lay it.

Mr. ANDREWS. Mr. President——

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Does the Senator from Illinois yield to the Senator from Florida?

Mr. LEWIS. Certainly.

Mr. ANDREWS. Inasmuch as the Constitution speaks of life, liberty, and property, and all offenses must come under some one of those three divisions, I ask the able Senator if it would not be possible, under his interpretation of the Constitution, for the Federal Congress to take charge of, define, and punish all crimes, and take that jurisdiction totally away from the States, if it so desired, if the theory he has announced is the law.

Mr. LEWIS. Mr. President, I answer my able friend that if the Federal Congress themselves created the crime by definition, they could enforce the law against it in pursuance of their right to protect the people. But if it were an offense which was distinctively and wholly State, and the State had proceeded to pass laws to punish it, in that case the power of enforcement under the tenth amendment is granted to the States. That is my answer to my able friend.

Now, sir, I must conclude, as I am taking more time from my friend the Senator from Louisiana than was my intention. I merely wanted to lay forth the ground I wish to take upon the law as to constitutionality.

Mr. President, I assume that to this bill there will be amendments offered looking to the construction or the elimination of certain of its provisions, as to the form of its application, and how far or otherwise it may apply in its execution. As to that, sir, I shall not now speak, as I have a pending amendment on the table and necessarily the consideration of amendments will ensue at a later time.

Therefore I shall not now enter upon a discussion of the general question. I conclude this argument, which is purely on the law under the Constitution, with a view of demonstrating where the power to pass this bill really lies, as distinguished from that which my able opposing friends seemed to think we contended. The argument would have been in their favor if we had so contended as to the power upon which they assumed we based this bill.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Georgia?

Mr. LEWIS. Yes; with great pleasure.

Mr. GEORGE. I wish to direct the Senator's attention specifically to the tenth amendment and ask him if the powers reserved to the States and to the people are not above both the State and the Federal Governments until the people delegate the powers, say, by their Constitution.

If the Senator will permit me, I will read the tenth amendment:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

With my able friend's consent, I desire to observe that my interpretation of the tenth amendment always has been, and I thought it was the universal interpretation, that the powers reserved to the people could not be exercised and were not exercisable by the States or by the Federal Government unless and until the people saw fit to delegate those powers by their Constitution. In other words, Mr. President, I know the doctrine is a little strange, because I have often heard it controverted on this floor, but nevertheless it is essentially sound, that there are immemorial rights of free men which are above the reaches of government, local or general; and the fact that we do not find in the local government the power to deal with a specific situation is no reason at all, nor can it ever become the premise upon which we may reason to the false conclusion that that power must exist in the general government.

The able Senator from Illinois has placed his hand specifically upon the whole philosophy of the American system of government when he refers to the tenth amendment, because there are certain immemorial rights of the individual citizen which are above the reach and beyond the power of the general government and the State government, because those powers and rights have been reserved to the people.

The people may delegate them; but, recurring to the very language of the tenth amendment, the power is not delegated to the United States by the Constitution—and that is the only way the people can delegate the power, by the Constitution or organic law.

Mr. President, I think that the distinguished Senator from Illinois has made a valuable contribution to the constitutional aspects of the bill, because he has put his hands upon what I believe to be the strongest position upon which the bill could be defended. While I do not agree with my distinguished friend's interpretation of the tenth amendment, with all deference to his learning, his wide experience, and great ability, it is true that the fourteenth amendment for the first time clearly differentiated between the citizens of the United States and the citizens of the several States. It is quite true that there is a citizenship of the General Government as well as a citizenship of the local governments. That always was, perhaps, the proper interpretation to be placed upon our whole system, but it was not definitely clear, it was not pushed into bold outline, until the fourteenth amendment was ratified and became a part of the Constitution. With the deference which is due my distinguished friend from Illinois on account of his wide experience, great ability, and learning, I cannot agree with the interpretation which he has placed upon the tenth amendment, to wit, that the Congress may exercise a power that was reserved to the people unless and until the people delegate to the Congress the right to exercise that power.

Mr. LEWIS. Mr. President, I am not unconscious of the fact that we are rapidly approaching the time when the confusion referred to by the Senator from Georgia will have to be cleared, and when we will have to meet the confusion by some form of greater clarification, by legislation or judicial decision.

This is the distinction. The able Senator from Georgia whose argument, as I have previously stated, was quite complete, and will not be excelled by any to be delivered on the floor at any time, reserves to himself the conclusion that the tenth amendment, taking from the States certain power, gives to the Federal Government a limited power. Let us concede that. The able Senator from Idaho contended that limited power was very clearly expressed and, once violated, would tend to upset if not wholly destroy the very fundamentals of government by allowing a trespass to be ratified by Congress.

I respectfully insist that, in addition to the doctrine asserted as to the powers under the Constitution which are reserved to the States, there are also the powers reserved to Congress, and this is founded on the specific provision that the other power is reserved to the people.

I now ask my able friend from Georgia, how can the people act? He would intimate they must first in some form communicate to the Congress before they can act. Then at every election we would be compelled, before acting on any governmental proposition, as I see it, to hold a referendum, the particular question to be voted upon at the time of elections of Members of Congress, rather than to assume that the question had been respectfully left to the people's representatives.

My contention, as the able Senator from Idaho said the other day, is that the States in matters of national concern are portions or sections of the Government, and my answer to the able Senator is that the words "the people" must be construed to mean what they say as defined by the Supreme Court of the United States through Mr. Justice Brewer. It is the people themselves who speak in acts of Congress. That power is inherently always within them. When the able Senator from Georgia intimates that there are certain personal rights, natural rights of the human being, that have ever been since his existence, I answer yes. Among the declarations that have come down to us in history that have no foundation in truth, is that credited to Mr. Gladstone, that "the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man," when as a matter of fact all students know it was a mere compilation; after all, of the ancient doctrines that came down from the Witenagemot of Germany, the utterances of those defined by the great philosophers under the Albigenses and from them passed on down, from that great source to which Tacitus refers, who gives the Germans credit in his work as being those who laid the foundation of provisions which subsequently were contained in our Constitution, particularly the Witenagemot, then followed by the Anglo-Saxon and English legislative bodies.

Mr. BAILEY rose.

Mr. LEWIS. I am sure my able friend from North Carolina has risen to call my attention to the fact that in the very charter we speak of as from John, there emerged, as the able Senator from Georgia has said, ratification of the innate and natural rights of the human being. But I respectfully insist that when we met we sought to put some limitations upon the exercise and some definition of the enjoyment of these particular natural rights.

I yield to the Senator from North Carolina.

Mr. BAILEY. Mr. President, the distinguished and learned Senator takes the view that powers reserved to the people in the tenth amendment are delegated to the Congress.

Mr. LEWIS. I have taken the position that the only way the people act is through their representatives, under our form of government. Therefore, when the people send the Congress here without limitation upon it, the powers inherent within that Congress fully extend to everything that is not forbidden. I may say to the Senator, before he further interrupts, that my position may shock my able friends who

are very excellent lawyers. I know it is contended by some schools that that which is not provided in the Constitution is prohibited. I contend the opposite doctrine, that it is only that which is absolutely prohibited that is in any wise interdicted as against the action of the people. I yield to the Senator.

Mr. BAILEY. Mr. President, the Senator is driven to take the position that the powers reserved to the people are not reserved at all, that the language means nothing, but that they are delegated to the Congress. He cannot get out of that dilemma.

Mr. LEWIS. I accept it, that the powers of the people under the tenth amendment merely call attention to them. There are no powers granted to the people. It is a mere expression that those powers are all within the people. "Reserved" means reserved for action. It merely means to say, "That which we take from you is what you give to the States." That which they exercise is fully given, but that which is the people's is not impinged upon or intended to be prohibited, but authorized for enjoyment by action by the people in legislation.

Mr. BAILEY. Mr. President, the powers were not granted to the people. The powers were inherent in the people before the creation of the Federal Government. The Senator has taken the view that the language of the Constitution, to wit, "The powers are reserved to the people," does not mean that at all, but means that the powers herein which we thought were reserved to the people are really given to the Congress.

Mr. LEWIS. My position is that that which is ever in the people, in their government, remains in the people; that is the idea the provision intends to convey—that that which is granted or recognized within the States is a privilege of local self-government granted to what we called in that day a sovereignty—because it was the people themselves, but the people in divisions. But after that had been reserved, the tenth amendment specifically states that—

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Mr. BAILEY. Mr. President, to interpret the language according to the interpretation the Senator has given us would mean that the powers not delegated to the Congress are delegated to the Congress.

Mr. LEWIS. I must say that the Supreme Court of the United States differs with my able friend, and I shall read him the exact words. Says Mr. Justice Brewer, speaking for the Court:

> The argument of counsel ignores—

Referring to the argument or position such as my able friend assumes here:

> The argument of counsel ignores the principal factor in this article, to, wit, "the people."

Says Mr. Justice Brewer:

> Its principal purpose was not—

My able friend must see that it says "not" to the very thing he asserts in his great capacity:

> Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all power.

Surely if I am right—as right I think I am, sustained by the Court—if it be true that the pending bill does create offenses which would be offenses against the United States, it provides a method by which the United States shall protect the citizens of the United States. That, I contend, is the exercise of the power of the people through their Congress speaking for the people, in the protection of all the people, by protecting one at a time or at all times against the crime defined in the bill.

I conclude by calling attention to the fact that in the language of the Supreme Court of the United States, when an act has been made a crime by the Federal Congress, the mere fact that the act may be made a crime by State law does not prohibit the Federal Congress from treating it within its domain as completely as the State might treat it within its domain.

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

Mr. LEWIS. I yield.

Mr. DAVIS. I should like to ask my able and eminent friend the Senator from Illinois whether he has reached the conclusion that the bill itself is constitutional?

Mr. LEWIS. I not only regard it as constitutional but as a very salutary bill, and a good one to carry out the theory which the States say they desire to carry out, to prohibit and prevent lynching, a blight on civilization.

The junior Senator from Georgia [Mr. RUSSELL] and the Senator from Tennessee [Mr. MCKELLAR] alluded the other day to the fact that in the South there had been eight lynchings. I did not desire to interrupt them, because such interruptions break the continuity of one's argument, but eight lynchings was the exact number in the Western States. So that this bill is not a bill addressed to the Negro, the bill is not one addressed to sections, it is not addressed to a race. I am compelled to inform my able friends that from California to my State of Illinois eight lynchings did occur. I hope and pray the number may grow less and less, that lynching may soon cease altogether.

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

Mr. LEWIS. I yield to the Senator from Florida.

Mr. ANDREWS. As I understand, the Senator's contention is that the powers reserved to the people may be exercised by the Congress?

Mr. LEWIS. I know of no other way they could be exercised but by Congress, unless the States have acted.

Mr. ANDREWS. Is it not true that if a power is reserved to the people we cannot exercise it on this floor, because it is their power until they delegate it to us?

Mr. LEWIS. I cannot accept the theory that they must delegate us the power by specific action, because if that were true we could never assemble Congress without some previous action having been taken, through referendum or some other form. I reserve the other point, that when we assemble, where there is no prohibition against our action, we represent the people, and the full power of the people is in us for appropriate legislation within the Constitution.

Mr. President, I thank the Senate for its kindness. I have really taken longer on this abstract question, as it appeared to be at first, than I had intended. I wanted to make very clear the distinctions I stand on as the reason for supporting the bill, and why I insist it is constitutional, and oppose the basis which my able friends assert and upon which they make the contention that it is unconstitutional. I feel that the bill cannot be considered to have the question of its constitutionality depend upon the contention made against it by those who oppose the bill.

I conclude with the statement that the measure, as I understand it, looks to the prohibition of the serious offense of taking the life of a human being without due process of law. That seemingly is in some quarters looked upon as justified because of certain conditions and, we may say, the victim's violations of law. But sir, I shall conclude in a single phrase. It is from the great law. I call my honorable friends' attention to the fact that these distinctions and discriminations we hear made with respect to race and color were made some thousands of years ago, before our immediate legislative ancestors came to life. The ancient governments of the world practiced wrongs of the nature this bill would avoid. Then the governments, by means of religious precepts sought to meet such conditions as we are now discussing by what may be found in a single expression in Deuteronomy, the sixteenth chapter, beginning with the nineteenth verse, as follows:

> Thou shalt not wrest judgment; thou shalt not respect persons, * * *
>
> That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the Lord thy God giveth thee.

Upon that, sir, I submit the merits of the bill, and again thank the Senate.

Mr. MINTON. Mr. President, will the Senator from Louisiana yield to me?

Mr. ELLENDER. I yield upon the same conditions as heretofore.

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). The Senator from Louisiana yields to the Senator from Indiana on the understanding had in the unanimous-consent agreement that he will not thereby lose any rights.

Mr. MINTON. Mr. President, I shall discuss for a few minutes this very controverted measure, and I hope to do so without offense and without rancor. Everyone on the floor of the Senate—and I dare say in the country—is opposed to lynching. I received a letter the other day from a friend of mine in one of the Southern States in which he took the position that, in order to terrorize the Negro and keep him in his place in the South, it was absolutely necessary to lynch a Negro ever so often. No Senator on this floor has ever taken any such position, and none of them would take such a position, because they do not believe in lynching. They deplore lynching, each and every one of them, just as much as I do. They want to see lynching extirpated just as much as I do. They are against lynching, because lynch law is no law; lynch law is anarchy, and we are all against anarchy. We are simply trying to do by different methods what we all believe must be done. So when we approach the solution of any problem in the Congress of the United States two questions should be asked: First, is that which we are seeking to do a thing which ought to be done? Then, have we the power to do the thing we seek to do?

I take it that the thing we seek to do is to eliminate lynching. Perhaps I am wrong about the method which is sought to be pursued under this bill, but I should say that no one on the floor of the Senate will challenge the first proposition, that all of us want to do what we can to stamp out the horrible crime of lynching.

This bill, as I see it and as I read it, is not directed at any one section of the country, for to admit that it is, is to admit that that section of the country is guilty of this one particularly heinous crime. I do not admit it. The facts do not support it. In my own State of Indiana the horrible crime of lynching has been committed, be it said to the everlasting shame of my great State. We are not proud of that, and we want to do what we can, acting through our own State and through the power of the Federal Government, to stamp out the horrible crime of lynching.

I do not see anything in this bill which is directed any more to one section of the country than to another. I cannot see that it "picks" on one section of the country, as asserted by an able Senator here on the floor of the Senate. It applies as much to Indiana as it does to any other State of the Union. So I take it that we all want to stamp out lynching, and we want to do what we can to eliminate this atrocious crime.

The opponents of the bill have pointed out—and it was alluded to a moment ago—that the crime of lynching is being stamped out in this country because it is decreasing year by year, and that last year there were only eight lynchings in the whole United States. That is something in the way of progress. But the short and complete answer to that is that, while there were eight lynchings in the United States last year, there was not a single prosecution. In other words, there was 100 percent failure to prosecute for the most heinous crime known to the category of crime.

Senators have pointed out the fact that there have been thousands of other crimes committed in this country and only eight crimes of lynching. That is true, but it is also true that there have been thousands of prosecutions for other crimes, but there were no prosecutions in the year 1937 for the eight lynchings which occurred in that year. History discloses that throughout the United States in less than 1 percent of the cases of lynching during all of the years have there been prosecutions. So, with that kind of a record staring us in the face, may we not well ask the question whether or not we are using all the agencies that are at our command to stamp out the thing which we all condemn and damn?

So we find that lynching, as I said a while ago, is not law; it is mob rule; it is the rising up of the community in defiance of all law; and when the community reaches the point that it goes out as a mob and takes the law into its own hands, that community is going to defend itself in its own jurisdiction whenever it is challenged. So it seems to me it is utterly futile to attempt to pursue a mob in the community where the mob acts, if the mob acts, as it usually does, by the acquiescence or consent or connivance or the neglect of the legal officers.

We come now to the question of method. The opponents of the bill say, "We are making progress. Leave us alone. Leave the States alone to do this job"—although the States last year prosecuted no one for the crime of lynching.

On the other hand, we look about to see if there is any other power which may be invoked to aid the States to cooperate in this matter of stamping out lynching. We turn to the Federal Constitution and come to the fourteenth amendment, upon which the bill is based.

The very able Senator from Idaho [Mr. BORAH] on February 4 addressed the Senate on the constitutionality of this bill. At the outset of his remarks he made this statement:

> But aside from the language of the section itself, the Supreme Court of the United States many times has decided that a county is part of the State, and that a suit against the county is a suit against the State.

If we read that statement of the Senator from Idaho without applying it to his argument, as I understand it, we might get a misunderstanding of the law, which I am sure the Senator from Idaho did not want to create, although the question has been mooted in a very able speech by the distinguished Senator from Georgia [Mr. GEORGE], whether or not one could sue the State or a subdivision of the State without its consent. But I think the authorities are so clear upon that proposition that there is no deviation whatsoever with respect to it.

It is true, as we all know, that the States, under the doctrine of Chisholm against Georgia, were subject to being sued without their consent in the courts of the United States. That led to the enactment of the eleventh amendment, which says, of course, that a State may not be sued without its consent. But it does not say that a county or a city, or any other subdivision of a State, may not be sued without its consent. In fact, it has been expressly held by the Supreme Court of the United States, in an unbroken line of decisions, that the eleventh amendment does not relieve the subdivisions of the States—the municipalities, counties, and such—from suit without the consent of the State.

That question was expressly decided in *Lincoln County* v. *Luning* (133 U. S. 529). At page 530 the Court said:

> First, it is claimed that because the county is an integral part of the State it could not, under the eleventh amendment of the Federal Constitution be sued in the circuit court * * *.
>
> With regard to the first objection, it may be observed that the records of this Court for the last 30 years are full of suits against counties, and it would seem as though by general consent the jurisdiction of the Federal courts in such suits had become established. But irrespective of this general acquiescence, the jurisdiction of the circuit courts is beyond question. The eleventh amendment limits the jurisdiction only as to suits against a State.

In *Hopkins* v. *Clemson Agricultural College of South Carolina* (221 U. S. 636), at page 645, the Court said:

> But neither public corporations nor political subdivisions are clothed with that immunity from suit which belongs to the State alone by virtue of its sovereignty. * * * Undoubtedly counties, cities, townships, and similar bodies politic often have a defense which relieves them from responsibility where a private corporation would be liable. But they must at least make that defense. They cannot rely on freedom from accountability as could a State.

In *Ashton et al.* v. *Cameron County Water Improvement District No. 1* (298 U. S. 513, p. 542)—and that is one of the

cases cited by the Senator from Idaho—the dissenting opinion of Mr. Justice Cardozo said:

> In the public law of the United States a State is a sovereign or at least a quasi sovereign. Not so, a local governmental unit, though the State may have invested it with governmental power. Such a governmental unit may be brought into court against its will without violating the eleventh amendment.

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

Mr. MINTON. I yield.

Mr. DUFFY. In the cases cited by the Senator, were all the prosecutions or suits brought in State courts or were some of them brought in the Federal courts?

Mr. MINTON. Some of them were brought in the Federal courts.

The Senator from Idaho, in the course of his great speech on February 4, in which he held that this bill was unconstitutional, attacked the bill and our proceeding on the basis, as I understood him, that under our system of government there is a dual sovereignty—a Federal sovereignty and a State sovereignty. He proceeded to cite cases along that line.

He argued that the Federal sovereignty could not invade the State sovereignty; and, vice versa, the State sovereignty, under its limitation of powers, could not invade the Federal sovereignty, because to admit that either could invade the sovereignty of the other would be to permit the one, perhaps, to destroy the other. But it must be remarked that the cases which the able Senator cited, and all the cases which deal with the doctrine of dual sovereignty, deal with the definite, separate powers of the two sovereignties, the State and the Federal Government. They deal with powers which are confined to separate spheres or separate domains, and which operate in those separate spheres or separate domains. In fact, they operate in separate planes, and those planes never come in contact. The powers under the cases cited by the Senator from Idaho, never coalesce; and whenever there has been an attempt to bring about a conflict between the sovereign power of the Federal Government and the sovereign power of the States, the Supreme Court has stepped in and has constructed—and it alone has constructed—the doctrine of dual sovereignty.

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

Mr. MINTON. I yield.

Mr. GEORGE. What does the able Senator do with the case, let us say, of Collector against Day, where the simple question was whether the Federal Government might tax a State officer's salary? There is no question about the Federal Government having the right to tax. There is no question about the State having the right to have officers. Was it not flatly held that the Federal Government could not tax the salary of a State officer, solely because to permit the Federal Government to tax the salary of a State officer would put it within the power of the Federal Government to destroy the State office, if the Federal Government wished to go that far?

Mr. MINTON. The Senator is correct.

Mr. GEORGE. Is not that the doctrine of the early case of McCulloch against Maryland? It is not a question of conflict.

Mr. MINTON. I am coming to that.

Mr. GEORGE. Let me call the Senator's attention to the fact that under the sixteenth amendment to the Constitution, the income-tax amendment, the Federal Government has the power to tax income "from whatever source derived"; but it has been uniformly held that, notwithstanding that broad power, the Federal Government cannot tax the income derived by a State official exercising an essential function of State government. The latest case to this effect is a case which, as I recall, was cited by the distinguished Senator from Idaho [Mr. BORAH] in his very able address a few days ago in this body, in which case the Supreme Court said that a drainage district, by virtue of the fact that it is clothed with the power of eminent domain, is clothed with a function of the sovereign power of the State, and may not be a subject of bankruptcy under a Federal act, though the Constitution of the United States gives to the Federal Congress the power to enact uniform bankruptcy laws without any exception in terms. I do not think the Senator would want to allow his statement to rest in the broad way in which he has put it—although I can appreciate the position taken by the Senator—that the only time the Supreme Court has said that one of the dual sovereigns could not be interfered with or molested or impeded or obstructed in the exercise of its function was when there was a conflict between the two sovereigns over the power.

Mr. MINTON. Up to this point the Senator and I do not disagree at all. Perhaps we do not completely understand each other. I say that in the argument which was made by the distinguished Senator from Idaho the other day to the effect that this bill violated the doctrine of dual sovereignty, the authorities which he cited, which uphold the doctrine of dual sovereignty, were authorities which deal with the separate powers and the definitive powers of the separate sovereigns.

For example, in the case of Collector against Day, referred to by the Senator from Georgia, the Supreme Court held that in the exercise of its sovereign power of taxation, the Federal Government could not invade the sovereignty of the State so as to tax the salary of an official of the State, who in that case was Mr. Day. The Supreme Court said that it is true that the Federal Government has this broad sovereign power of taxation, which lies all over the land, and that there is reserved to the State a broad power of taxation, which lies within its borders; but they never operate in the same sphere. When the Federal Government attempts, under the taxing power, to tax the agencies of a State sovereignty, it is invading the separate sovereign power of the State. The Federal Government, therefore, placed a barrier to any attempted conflict between the Federal power and the State power.

The doctrine of dual sovereignty is not written into the Constitution. The doctrine of dual sovereignty has been constructed by the Supreme Court itself, to avoid conflict between the separate powers of the Federal Government and of the State governments under the Constitution. Those separate powers never coalesce. That is the doctrine of Collector against Day. When you turn it around it is the doctrine of McCulloch against Maryland, namely, that the State, under its reserved power to tax, may exercise the taxing power within the limits of its sovereign State; but when it tries to tax the agencies of the Federal Government it breaks down under the doctrine of dual sovereignty. In that instance the Supreme Court again steps in and maintains the balance between the separate and distinct powers of the State and those of the Federal Government. The doctrine of dual sovereignty deals only with the separate and distinct power.

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

Mr. MINTON. I yield.

Mr. GEORGE. I am unable to follow the very able Senator. The doctrine of Collector against Day and of the drainage district cases involves the validity of the Federal Bankruptcy Act. McCulloch against Maryland, and all similar cases—and the books are full of them—deal with the doctrine that the broad power exists in the Federal Government to do the thing which is sought to be done, but that that power is stayed when its exercise cripples, impedes, interferes with, or destroys the opposite sovereign within the dual system.

Merely for the sake of making myself clear, I wish to say to the Senator that I could never agree to his proposition that the Federal Constitution does not create two sovereignties. The Federal Constitution and the entire American system of government are based upon and grow directly out of the existence of two sovereigns. Otherwise there would be no State to send a Senator here; and the Congress would have no power to gather up a Senator out of the thin air and bring him here, except as a representative of the State, or, in the case of the Member of the House, a representative of the people.

Otherwise the Government could not be organized. To say that the Constitution does not recognize it when the Constitution is built upon the theory of the dual system, is beyond my power of discernment, to say the least.

I wish again to say to the Senator that I think the whole doctrine of cases such as McCulloch against Maryland, Collector against Day, and others turns squarely upon the proposition, not that the Federal Government is undertaking to exercise a power that it does not have, but that it simply cannot exercise such power against the State, for the reason that the State is sovereign, and, therefore, the power cannot be used in that way. The Federal Government and the States do exercise identically the same powers, Mr. President, even under the income-tax amendment when they tax identically the same source of income within the State; but neither sovereign can tax the income derived wholly by a necessary agency of the other because of the doctrine of the dual sovereignty which necessarily prevents such action.

Mr. MINTON. Mr. President, what I am saying——

Mr. CONNALLY. Mr. President——

Mr. MINTON. Let me speak a moment in my own time.

Mr. CONNALLY. I beg the Senator's pardon.

Mr. MINTON. I will yield to the Senator after I have had a chance to reply briefly to what the Senator from Georgia has said.

Mr. CONNALLY. When I asked the Senator to yield, it was perfectly right for him to say "no," but I do not quite appreciate the Senator's attitude, "Let me use a part of my own time." I have not heretofore interrupted the Senator.

Mr. MINTON. The Senator from Georgia had just spoken at considerable length, and I want to get his point and reply to it while it is fresh in my mind, if I may.

With what the Senator from Georgia has had to say I do not disagree. I do not contend that there are not two sovereigns in this country. What I am leading up to is to develop the fact that the doctrine of dual sovereignty is not applicable to the fourteenth amendment. I am not attacking the doctrine of dual sovereignty as it is applied in the cases cited by the Senator from Idaho; I am trying to confine the authority cited by the Senator from Idaho to the cases to which they belong. I am going to point out that when we are talking about the doctrine of dual sovereignty we are talking about separate and distinct powers of two sovereignties that never coalesce. Attempts may be made to bring them in conflict, but the Supreme Court has raised up this doctrine of dual sovereignty that does not permit such conflict, and, therefore, the two sovereignties of which the Senator from Georgia speaks, and which I recognize, operate in their separate spheres, indeed, in their separate planes; they never come in conflict, by reason of the doctrine of dual sovereignty, and they never coalesce. But that is not the doctrine of the fourteenth amendment.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Idaho?

Mr. MINTON. I yield.

Mr. BORAH. Would the Senator give us an illustration of what he means by "coalesce"?

Mr. MINTON. I mean come together like this [indicating].

Mr. BORAH. Yes; but will the Senator cite an instance in which it occurs?

Mr. MINTON. I am coming to that, and I will give an instance. Going to the other side of it, as I see it, the doctrine of dual sovereignty, about which the Senator from Idaho has been talking, is borne out by the cases which he has cited. The doctrine of dual sovereignty is recognized in our constitutional law, though it has been built up by the Supreme Court. That I admit; but what I am trying to say is that the doctrine of dual sovereignty does not apply to the fourteenth amendment. Why? Because the fourteenth amendment, in the first place, commits the care of the rights of certain persons to the States; that is to say, the States shall not deny due process of law or equal protection of the laws to any person—not merely to a citizen but to any person; he may be a foreigner—within its jurisdiction. It is true that the fourteenth amendment does recognize, for the first time, a difference between State citizenship and Federal citizenship; but the rights protected under the fourteenth amendment as to citizenship are those which stem from United States citizenship and from the Federal Government, and the amendment does not affect State citizenship at all. When the fourteenth amendment throws its cloak around all persons against a denial by the State of due process of law, and affords equal protection of the laws, it throws it around all persons, and one does not have to be a citizen; he can be a foreigner sojourning in this country, but no State can deny him life, liberty, or take property from him without due process of law or deny him the equal protection of the laws. That is what the fourteenth amendment does.

In the first instance, I say that the guardianship of those sacred civil rights of persons is committed by the Constitution to the States. The Federal Government cannot come in and punish individuals who violate the rights of other individuals within the States. The Civil Rights cases and other cases have held that flatly, and there is no question about that; but if the State denies, as the fourteenth amendment says, due process of law and the equal protection of the laws, then what happens? Another sovereignty comes into the picture, and there we have a coalescing of sovereignty. We have as the guardian of the rights of persons under the fourteenth amendment, first, the States; but if the States, in the exercise of any of their authority—legislative, executive, or judicial—deny to anyone the equal protection of the laws or due process of law, then there is another sovereignty to which they may look for the protection of their fundamental rights, and that sovereignty is the Federal Government.

There is where we find the distinction between the doctrine of dual sovereignty which deals with the separate rights of the two sovereignties and the rights that coalesce under the fourteenth amendment. So we have under the fourteenth amendment the rights of persons first committed to the care of the States, and, finally, if the States deny their rights under the fourteenth amendment, then they are committed to the Federal Government. They are committed under the fifth clause of the fourteenth amendment in language as broad, as strong, and as forceful as the human mind can conceive—that is to say:

> The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

The doctrine of the fourteenth amendment is the doctrine of coalescing powers, not separate and distinct powers that never coalesce but are kept apart by the doctrine of dual sovereignty. Therefore, I assert that the doctrine of dual sovereignty has no application to the fourteenth amendment, for there is another sovereignty that can step in, when the State has violated its duty under its sovereign power, and correct the wrong that is being done by the State to any person within its borders. That is not the doctrine of dual sovereignty; it is a doctrine of an overpowering sovereignty; it is a doctrine of a sovereignty that may step in, assume the power that should have been exercised by the State in the protection of the civil rights of persons, and exercise such power in defense of the civil rights of such persons. So when we come to the fourteenth amendment we find an entirely different doctrine from that which exists when we are referring to the doctrine of dual sovereignty.

With regard to the argument of dual sovereignty the distinguished Senator from Idaho asked two questions. First:

> Can one sovereignty interfere with the machinery of another sovereignty?

And then—

> Thus we have in the beginnning the specific question whether the Federal Government can give rise to a cause of action against another sovereignty, the State; whether one sovereignty can proceed to impose upon the other sovereignty anything in the nature of a suit, or a burden, or an embarrassment of any kind whatever.

Mr. President, that proposition has been fairly answered by the Supreme Court of the United States. It was answered in One Hundredth United States Reports in the case of Ex parte Virginia, page 339. I wish to read first from that opinion the fourteenth amendment, which appears at page 344.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person the equal protection of the laws. * * * The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Then the Court, on page 345, says in regard to these powers:

They were intended to be what they really are, limitations of the power of the States and enlargements of the power of Congress. They are to some extent declaratory of rights and though in form prohibitions, they imply immunities, such as may be protected by congressional legislation.

Then, referring to the fifth section, the Supreme Court says on the same page:

All of the amendments derive much of their force from this latter provision—

That is, the enforcing provision—

It is not said the judicial power of the general Government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of the Government shall be authorized to declare void any action of a State in violation of the prohibitions. It is the power of Congress which has been enlarged. Congress is authorized to enforce the prohibitions by appropriate legislation.

And the word "enforce" is italicized by the Court.

Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power.

And here is the complete answer to the query of the Senator from Idaho:

Nor does it make any difference that such legislation is restrictive of what the State might have done before the constitutional amendment was adopted. The prohibitions of the fourteenth amendment are directed to the States, and they are to a degree restrictions of State power. It is these which Congress is empowered to enforce, and to enforce against State action, however put forth, whether that action be executive, legislative, or judicial. Such enforcement is no invasion of State sovereignty. No law can be, which the people of the States have, by the Constitution of the United States, empowered Congress to enact.

I repeat, from the words of the Court, that—

Such enforcement is no invasion of State sovereignty.

Why? Because, as I said a while ago, the guardianship of these rights of persons is committed to two sovereignties, the Federal Government and the State government; and when the State violates those rights, then the Federal Government may step in and exercise its sovereignty.

Mr. CONNALLY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Texas?

Mr. MINTON. I do.

Mr. CONNALLY. Does the Senator contend that there is a certain zone in which both the State government and the Federal Government are charged with a duty and jurisdiction?

Mr. MINTON. The Federal Government has a contingent duty, and that duty is contingent upon a violation by the State.

Mr. CONNALLY. I thought the Senator just said that both the State government and the Federal Government had a duty.

Mr. MINTON. That is true.

Mr. CONNALLY. Let us suppose that the State, then, should make one regulation, and the Federal Government should make another.

Mr. MINTON. The regulation of the Federal Government, being the supreme law of the land, would prevail.

Mr. CONNALLY. Then the Senator is incorrect. Within the zone about which he is talking there is only one sovereignty, and that is the Federal Government, which is supreme.

Mr. MINTON. That is correct. When the Federal Government comes into power it is always sovereign.

Mr. CONNALLY. Certainly; just as the State government within its sphere is sovereign, too. I do not understand that there is any "no man's land" in which both the State and the Federal Governments have a responsibility and a jurisdiction. I do not understand that to be the Constitution, or the law, or anything else.

Mr. MINTON. All I am saying is that there is a field in which the Federal Government and the State government may operate, but the State government operates first. To its charge and keeping are committed the constitutional rights under the fourteenth amendment of persons. There is a contingency under which another sovereignty may come in and operate in the same field in protection of the rights of persons under the fourteenth amendment. That is when the State does something which denies the full protection of the laws, or takes away life, liberty, or property without due process of law.

Mr. DUFFY. Mr. President——

Mr. MINTON. In other words, the Federal Government may come in and exercise its sovereignty only upon the State abusing its sovereign power; and so, when the Federal Government comes in, it is exercising Federal power. It is not exercising State power. The Federal power is supreme when it is permitted to be exercised at all, and it is exercising this Federal power in protection of rights which are committed to it by the Constitution by reason of the denial of those rights by the State.

I now yield to the Senator from Wisconsin.

Mr. DUFFY. Mr. President, the Senator's last statement partially answers the question I was about to propound. The Senator believes that the State, either by acting or by failure to act, might set in motion the events which would permit the Federal Government to come into the exercise of its authority or jurisdiction?

Mr. MINTON. Yes; I think the State is liable for its action; and, as I understand the law, "action" may mean action of omission or of commission.

Mr. WAGNER. Mr. President, will the Senator yield at that point?

Mr. MINTON. I yield to the Senator from New York.

Mr. WAGNER. In further answer to the Senator from Idaho, I recall to the Senator from Indiana that in one of the Scottsboro cases the Supreme Court took jurisdiction of a case under the provisions of the fourteenth amendment by reason of denial of the equal protection of the laws because the court had omitted to assign counsel to the defendant; so there was an absolute failure to act.

Mr. MINTON. That is correct.

Mr. CONNALLY. Mr. President, will the Senator yield at that point?

Mr. MINTON. Yes; I yield to the Senator from Texas.

Mr. CONNALLY. With regard to the interruption of the Senator from New York, in which he stated that it was held in one of the Scottsboro cases that the failure to assign counsel—although there was a sharp conflict between the judges as to that fact—was a denial of due process of law, let me ask what authority that is for affirmative legislation. It simply meant that in the trial of the case under the fourteenth amendment the court, which was a State agency and which was acting for the State, should see that the defendant secured due process of law, which is not part of the fourteenth amendment upon which this bill is supposed to be based.

Mr. MINTON. But the answer to the Senator's query is made by the Supreme Court in the case to which I have just referred, and from which I read a while ago at page 345, when the Court said, referring to this power to protect:

It is not said the judicial power of the General Government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of the Government shall be authorized to declare void any action of a State in violation of the prohibitions. It is the power of Congress which has been enlarged. Congress is authorized to *enforce*—

And I repeat that the word "enforce" is italicized—

the prohibitions by appropriate legislation.

Mr. President, on the proposition of appropriate legislation, the discretion lies wholly with Congress. The Supreme Court of the United States has said so. It said so in the case of Virginia against Rives, reported in One Hundredth United States Reports, page 313, and on page 318 the Court said:

It is doubtless true that a State may act through different agencies—either by its legislative, its executive, or its judicial authorities—and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another. Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial department of the State.

And mark this:

The mode of enforcement is left to its discretion.

That is to say, to the discretion of the Congress of the United States is left the mode of what? Of enforcing the rights of persons under the fourteenth amendment. For what reason? Because they have been denied by a State. The State, therefore, is subject, by the Constitution itself, to the act of the Congress of the United States to protect these persons who have been denied their rights by the State. This is not a foreign government stepping in. This is our Government. This is "We, the people," who have decreed by their fundamental enactment that when the rights of persons are denied by a State to which those rights have been committed, the Federal Government may step in and enforce those rights; and the discretion to enforce those rights is left entirely with the Congress of the United States.

That brings me to this bill. This bill is a two-headed sort of measure. It is a bill of a double aspect. It seeks, in section 3, to punish an officer for dereliction of his duty. In section 5 it seeks to punish the subdivision of the State, the county, or the city, or the municipality in which the lynching may occur, for the failure of its officers to do their duty, and to give a cause of action for damages. Is that warranted by the construction which has been placed upon the fourteenth amendment by the Supreme Court of the United States? Let us take up section 3, in the first instance, and see. As I said, that section is directed to punishing an officer of the State who does not do his duty under the law.

In One Hundredth United States Reports, to which I have so frequently referred, I refer again to the case of Ex parte Virginia. A judge in Virginia, so it was charged in the indictment, had discriminated against a colored man on trial for his life by not permitting any colored men to be selected for the jury. It was openly charged in the indictment that that was the fact, that the judge had discriminated in the selection of the jury. The question arose as to whether or not the sanctions of the law passed by Congress could be visited upon this judge who had denied this man the equal protection of the laws or due process under the fourteenth amendment. The question went to the Supreme Court of the United States, and it was there argued that the Federal Government has not any right to invade the sacred precincts of the sovereignty of the State and to punish one of the State officials for not doing his duty as he should have done it; that that is the State's right, that that is the State's authority, that that is the State's prerogative.

What did the Supreme Court of the United States say to that argument? I read from page 347 of the case of Ex parte Virginia, reported in One Hundredth United States Reports:

Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is the act of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

On that authority the Supreme Court of the United States held that the judge in the State of Virginia, the great, sovereign State of Virginia, the Old Dominion, should answer at the bar of justice of a Federal court for not doing his duty, thereby enforcing the prohibitions of the fourteenth amendment under the fifth section thereof, as the Supreme Court said they had a right to do. The discretion lay entirely with Congress, and that was the way Congress was dealing with it, under that act.

I say, therefore, that the third section of the bill before us is directed at punishing a State officer who fails or neglects to do his duty. That is all the section seeks to do. If an officer in the performance of his duty denies the equal protection of the laws to someone, or takes life, liberty, or property without due process of law, he is acting for the State, I care not whether it be affirmative action or negative action. If it is one's duty to act and he fails to act, the liability attaches just the same as if he acts when he should not act. The third section of the bill can be bottomed upon the part of the opinion in Ex parte Virginia, which I have just read.

Mr. ANDREWS. Mr. President——

The PRESIDING OFFICER (Mr. BROWN of Michigan in the chair). Does the Senator from Indiana yield to the Senator from Florida?

Mr. MINTON. I yield.

Mr. ANDREWS. Did not the decision in the case the Senator has just cited have reference to the selection of an impartial jury to try a case, which was guaranteed under the Constitution under another provision, and has not that always been the rule, and the decision could not have been otherwise?

Mr. MINTON. What is the other provision of the Constitution?

Mr. ANDREWS. That one shall have a right to trial by an impartial jury.

Mr. MINTON. That is not in the Federal Constitution.

Mr. ANDREWS. It is, in substance.

Mr. MINTON. No; the Court here was dealing with the rights of a person under the fourteenth amendment, which that person asserted had been denied him by a judge of a State in the selection of a jury, and he was indicted in the Federal court for the dereliction in his duty. The Supreme Court held that the indictment was good and turned him back to the Federal court for prosecution.

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

Mr. MINTON. I yield.

Mr. CONNALLY. I do not desire to interrupt the Senator, but I think he is a little inaccurate in his statement of the facts in the Virginia case. The judge who tried the case was not indicted; it was the county judge, who, as a portion of his duty as county judge, acted as a jury commissioner and selected the jurors. So even the Virginia case cannot be used as an authority for the horrible doctrine here asserted—the right to put State judges and Governors and attorneys general in jail. In that particular case the defendant happened to be a county judge. He did not participate in the trial of the case at all. It was a question as to the selection of the jury. I thought the Senator would want to be corrected.

Mr. MINTON. It does not appear whether the county judge in Virginia had to try the man or not. That does not appear from the opinion. In my own State there is no such practice as that. We have no county judge selecting a jury to try a case in the circuit court. The court which is to try a man impanels the jury. The statement of facts in

this case does not disclose whether or not this judge tried the case. It was a county judge; the Senator from Texas is right about that.

Mr. CONNALLY. It was not a question of impaneling the jury; it was a question of selecting the jury list.

Mr. MINTON. Even so, if he was a county judge—and the statement of fact shows he was—he was an officer of the court, and the Federal law came there and laid its heavy hand on him in the great Old Dominion, the State of Virginia, and punished him for dereliction of duty.

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

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

Mr. LEWIS. I beg to call the attention of the Senator from Indiana to the fact that my able friend the Senator from Texas failed to observe that, while it is true the man was a county judge, while it is true that he also exercised the duty of selecting and arranging the list of jurors, it was, as the Senator from Indiana wishes to make clear, in his judicial capacity that he served in the position of having to select members from the jury panel.

Mr. MINTON. I am sure that the Supreme Court did not agree with the Senator from Illinois in that. I want to keep the record straight on that. The Supreme Court of the United States did not hold that.

Mr. GEORGE. Mr. President, if the Senator will yield, I want the Senator from Illinois to recollect that the Supreme Court said that the county judge in Virginia was not acting in his judicial capacity. Had he been acting in his judicial capacity, it is a very clear and unmistakable inference that he could not have been held, but he was exercising a purely ministerial function.

Mr. LEWIS. I say to both of my friends that while the Court stated that in that particular action the man was not serving as a judicial officer, the fact is it was because of his position as a judge that he was authorized under the laws of Virginia to select the jury list.

Mr. GEORGE. The Senator is quite right; he was, so to speak, ex officio a jury commissioner, by virtue of the fact that he was a judge. But I call the attention of the Senator from Indiana to the fact that in Ex parte Virginia the particular section of the Federal Code which was held to be good was one which made it a crime for any jury commissioner or any other official who exercised the power of a jury commissioner to deliberately exclude from the jury list and box colored persons on account of race, color, or previous condition of servitude, and for no other reason. So he was indicted for an act, because he did exclude from the jury boxes in Virginia colored people for no other reason than that they were colored, on account of their race, or color, or previous condition of servitude.

Mr. MINTON. I did not say otherwise. That is exactly what I stated happened. It is true, nevertheless, that it was the Federal Government which came in, with the Federal power, taking hold of an officer of the court and punishing him in a Federal court for the dereliction of his duty as an officer of the court.

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

Mr. MINTON. I yield.

Mr. WAGNER. On the question as to whether the particular individual was acting on behalf of the State, perhaps the Senator has already read this, but I will ask him to permit me as a part of my question to read just this excerpt:

> A State acts by its legislative, its executive, or its judicial authorities.

And further on:

> Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State.

The point I wish to emphasize is that in the particular instance he was acting for the State.

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

Mr. MINTON. I yield.

Mr. BORAH. I understand that the Senator from Indiana and the Senator from New York take the position that the act complained of must be a State act.

Mr. MINTON. I admit it.

Mr. BORAH. So I take it that the argument made by the able Senator from Illinois is not accepted by the able Senator from Indiana.

Mr. MINTON. I am frank to say that I do not support the argument of the Senator from Illinois. I admit that before the Federal Government can step in there must be State action which denies the right of some person under the fourteenth amendment. The Federal Government has not any right to come in unless that thing has actually happened, and it will always be a question of fact as to whether or not there has been something done or left undone which has denied equal protection of the laws, or taken life, liberty, or property without due process of law.

Mr. BORAH. The Senator would also, I take it, take the position that the Federal Government can never step in for the purpose of throwing its protection around an individual who has been injured by another individual in the State?

Mr. MINTON. I think that is clear, unless the individual was acting in an official capacity at the time he injured the other person.

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

Mr. MINTON. I yield.

Mr. PEPPER. When the officer, or one having the status of an officer, acts not only outside of but in contravention of the local law, then can such action on the part of the officer be chargeable to the State?

Mr. MINTON. Let us look at that proposition a moment. Let us analyze it from the very beginning, and see what its aspects are.

There can be no question that the officer himself, as an individual, could, by failure to do his duty as an officer, lay himself liable to some individual who was injured by his act. I think the Senator from Florida will admit that to be a fair legal proposition.

There is no doubt in my mind that the State can also say to the county or the municipality of which the man was an officer that if he does thus and so in violation of his duty the county or the municipality may be liable. I think the Senator will admit that to be a fair proposition of law.

That is because the State is sovereign over both. The State is sovereign over the individual and it is sovereign over the agencies of Government which it has set up as a city, or county, or township, or what not. Therefore the State is sovereign over both, and the State can punish both.

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

Mr. MINTON. I yield.

Mr. CONNALLY. If the State may do that and is sovereign over that jurisdiction, how can the Federal Government also do it?

Mr. MINTON. The Senator knows that the Federal Government and the State both punish persons for committing identically the same act which is an offense against the Federal sovereignty and at the same time is an offense against the State sovereignty.

Mr. CONNALLY. Yes, if it is such an offense; but I am asking the Senator now, if as between the State and its citizen the particular responsibility rests upon the State under its sovereignty as a State, how can the Federal Government come in and undertake to do the same thing, and in effect oust the State itself?

Mr. MINTON. Because the State is not doing its duty toward the persons who are committed to its protection under the fourteenth amendment. It is denying to some person the equal protection guaranteed by the fourteenth amendment, or taking away some rights without due process of law.

I shall proceed to discuss some suggestions evoked by the Senator from Florida. We have now reached the point where the State has punished its own subdivisions for the misdoings of its own officers. That is because the State has sovereignty over the individual, and can punish him. That was the common law. We do not need to have any statute for that. And then the State, being sovereign over its own creatures, places liability upon the county or the municipality.

I say that is done by virtue of sovereignty. Then we assume that under the fourteenth amendment rights of persons have been denied by States, and the Federal Government steps in. It is exercising its sovereignty, and it may punish State officers for violations of the rights of persons, because the Federal Government in the last analysis is the protector of those rights against State action.

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

Mr. MINTON. I yield.

Mr. PEPPER. The argument of the Senator from Indiana is now based upon the statement he last made, namely, that the Federal Government is the protector of those rights. He based his previous statement upon the fact that the officer is only accountable to the State government by virtue of the State constitution and the State statute. Therefore, it is for violation of the duty which he owes to his sovereignty that he may be punished, but he may not be punished for the violation of no duty to no sovereignty, as it were. Yet that is what the Senator by his argument would attempt to do. The Federal Constitution says that the judges of the several States shall administer the Federal law.

Mr. MINTON. If the Federal Government steps in it is only because the State has failed; it is only because the State has done something which has provoked the exercise of power by the Federal Government. The Federal Government's power is contingent, contingent upon the State doing something which denies civil rights to some person within its borders. When it does that, when there is such denial, then the Federal Government comes in and puts its protecting arm over that person, and excludes entirely all State sovereignty.

If the Federal Government in the protection of a person whose rights have been denied by the State chooses to punish the officer, that is within its discretion, under Virginia against Rives and Ex parte Virginia. If it chooses to punish the subdivision of the State for the dereliction of its officer, that is within the discretion of the Congress. Why? Because under the fifth section of the fourteenth amendment the Congress of the United States is given power to enforce the fourteenth amendment by appropriate legislation and, as I said a while ago, the Supreme Court of the United States in Virginia against Rives, said that the Congress of the United States is the sole judge of the appropriateness of its legislation; that it lies within the discretion of the Congress of the United States how the guaranteed rights shall be enforced. If it lies within the discretion of the United States how such rights shall be enforced, can it be denied that this bill, which would fasten liability upon a county, is an exercise of such discretion? If it is, then it can fasten liability upon the county. That seems to me to follow logically.

Mr. CONNALLY. Mr. President, will the Senator yield to me for a question?

Mr. MINTON. I yield to the Senator from Texas.

Mr. CONNALLY. I understood the Senator from Indiana early in his argument to concede that the Federal Government has no constitutional power under the fourteenth amendment to punish individuals.

Mr. MINTON. As such.

Mr. CONNALLY. Under this bill?

Mr. MINTON. As such.

Mr. CONNALLY. As such. Let us suppose, then, that every man in a county and every woman and every child in a county go out and join a mob, constitute a mob, and lynch someone. Under the Senator's position, of course, the Federal Government could not punish them as such at all, could it?

Mr. MINTON. No.

Mr. CONNALLY. And yet, under his theory, it could levy a penalty on the county, which its taxpayers would have to pay, and assess a penalty on the county itself, unless the sheriff, who might be absent, or who might be somewhere else, intervened and protected the victim of the mob; is that correct?

Mr. MINTON. Yes. There are frequently legal distinctions without a difference.

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

Mr. MINTON. I yield.

Mr. PEPPER. The Senator made the statement, if I understood him correctly, that it is within the discretion of the Congress appropriately to exercise its power to protect an individual and to vindicate his rights.

Mr. MINTON. No; I said to enforce the fourteenth amendment.

Mr. PEPPER. Very well. In the Civil Rights cases Congress elected to exercise its power to protect the rights which it thought were conferred by the fourteenth amendment in a broad way, and yet the Court held that was not a legal exercise of the congressional power.

Mr. MINTON. Yes; but the Senator from Florida knows that the fourteenth amendment starts out by saying that no State shall do thus and so, not "no individual shall do thus and so," but "no State." Of course, the Supreme Court of the United States held that under the Constitution Congress could not put the protecting arms of the Government around individuals in their own States and attempt to protect them in the enjoyment of their rights against other individuals. Why? Because the Constitution of the United States said it could not; that the only thing that was committed to the protection of the Federal Government under the fourteenth amendment was the rights of persons which had been denied by State action. And I concede that until a case can be made which makes the State particeps criminis, as we lawyers say, the State cannot be held liable.

Mr. PEPPER. Mr. President, will the Senator yield to answer one more question?

Mr. MINTON. I yield.

Mr. PEPPER. If the sheriff does nothing, but if it is the law of his own State that he shall protect his prisoner, and a Federal offense has been committed, how can the State be chargeable?

Mr. MINTON. In other words, if the State officer neglects to do his duty, how can the State be liable for his omission?

Mr. PEPPER. Yes.

Mr. MINTON. If he may make his State liable for an act of commission, he may make his State liable for an act of omission, because, if it is one's duty to act and he fails to act, liability fastens just as if he acted when he should not.

Mr. PEPPER. The Senator from Indiana is talking about civil liability imposed under the general law, whereas in this particular case the Federal Government can have no authority unless the provisions of the fourteenth amendment may be invoked.

Mr. MINTON. Of course, I have never said anything to the contrary.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Idaho?

Mr. MINTON. I yield.

Mr. BORAH. I have been very much interested in the Senator's able presentation of this matter. I think the Senator and I can agree that before there can be any action on the part of the Federal Government there must be State action of some kind, and I think the Senator and I will agree that under no circumstances can the Federal Government throw protection about an individual citizen for injuries done by another citizen of the State. The only controversy between the able Senator and myself narrows down to the proposition whether or not there is State action in the particular matter described in section 3 of the bill.

Mr. MINTON. That is correct. Section 3, following the authority laid down in Ex parte Virginia, punishes the officer of the State, not for what he does as an individual or what he does not do as an individual but for what he does or does not do as an officer of the State. So he is not being punished as an individual for what he does or does not do as an individual, but he is being punished for what he does or does not do as an officer. And that fastens an entirely different liability upon him.

Mr. BORAH. If we should be so unfortunate as to have this measure here for some time, I shall undertake to discuss the decision in the One Hundredth United States Reports, in State against Virginia, but I think there is a wide difference between the facts in that case and the principle apparently laid down in section 3.

Mr. MINTON. Of course. When the Senator gets around to it, I wish to direct his attention to page 347, and I shall read it to him again.

Mr. BORAH. I am very glad to have the Senator read it. I suppose I have read it 20 times.

Mr. MINTON. So have I.

Mr. BORAH. I understood well that it was the bible of those who were proposing this measure.

Mr. MINTON. Since the Senator has directed my attention to section 3, of course I shall wait until he discusses section 3, and not burden the Senate with further discussion of it.

If I may return to my line of argument, I was trying to sustain the right of the Federal Government to do what it attempts to do under the fifth section of the bill.

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

Mr. MINTON. I yield.

Mr. BAILEY. I am troubled by the Senator's position in this respect: Suppose I am a farmer in North Carolina, and someone robs me of my pig, and I complain to the Federal Government that I have been deprived of my property without due process of law, and that it was the fault of the sheriff. Does the Senator contend that that would give the Congress jurisdiction and power to enact a law enabling me to recover damages, or to put the sheriff in jail for failing to protect my property against the thief?

Mr. MINTON. No.

Mr. BAILEY. I should like to know the distinction, then, between that interpretation of the Senator's position and the interpretation upon which he insists under the fourteenth amendment. I have merely confined my question to property. The amendment says "life, liberty, or property." Why confine it to property? I should like to have the Senator make the distinction.

Mr. MINTON. Whenever the sheriff is so exercising State authority as a sheriff as to deny to anyone the equal protection of the laws, or to take his property without due process of law, such exercise of authority constitutes State action. That is as far as I go.

Mr. BAILEY. Mr. President, that is my complaint. I am complaining that the sheriff of my county, as an officer of the State or of a subdivision of the State, is so acting that I am not protected with respect to my property. The question is, Does that give the Congress the jurisdiction or the power to enact legislation imposing a penalty upon the sheriff, or enabling me to sue him for damages?

Mr. MINTON. When one is discussing power, he can always reduce the power to an absurdity. Power may always be abused. It is no argument against the existence of power to say that the power may be abused. Such an argument can always be made. It is a reductio ad absurdum.

Mr. BAILEY. Mr. President, the reductio ad absurdum always lies when the proposition is absurd in itself. There is no ground for complaint on that score. But the fourteenth amendment clearly provides for the protection of life, liberty, or property against deprivation without due process of law. I merely transferred the whole principle of this bill from lynching to stealing. I ask the Senator again, Does he insist that the Congress has jurisdiction and power to pass legislation to protect the citizen of any county or State of the Union against the delinquencies of the sheriff in the matter of stealing?

Mr. MINTON. I will answer the Senator by a comparable argument. If it ever became the custom in North Carolina or Indiana for the sheriff and hog thieves, in broad light when everybody could see them, to go out with a mob and steal hogs and nobody was ever prosecuted, and if that condition became peculiar to North Carolina and Indiana, I think the people might come to Washington and ask the Federal Government to protect their property in their hogs against that sort of activity in North Carolina or Indiana.

Mr. BAILEY. Mr. President, while the Senator said my proposition was absurd to begin with, he is now saying it is serious, and is agreeing that the state of affairs cited would give the Congress jurisdiction.

Mr. MINTON. Yes; I think it would. The Senator is now confining it to stealing. If stealing were connived at or winked at by the officers of the State until it became a scandal, and nobody was ever prosecuted for stealing in Indiana or North Carolina, I think the Federal Government would have the power to intervene. There were eight lynchings last year, and no one was prosecuted. There have been hundreds of lynchings in the past 10 or 15 years, with less than 1 percent of prosecutions.

Mr. BAILEY. Mr. President——

Mr. MINTON. Whenever stealing becomes so much of an avocation in my State or in the State of the Senator from North Carolina that people cannot hold their property under the protection of the law, or may not have the equal protection of the law in the holding of their property, and the local authorities do not do their duty, then I say the Federal Government may step in and say that the Federal power applies to stealing, if stealing becomes a recurring practice.

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

Mr. MINTON. I yield.

Mr. BAILEY. The Senator says there were eight lynchings in America last year. Will he state now the number of cases of stealing in Indiana last year in which there were no prosecutions? I will warrant that there were thousands; but on his thesis, his proposition, the Federal Government has the power to go into Indiana or to expand this bill by an amendment giving the Federal Government the power to go into any State and deal with stealing. I ask the Senator if he is willing to have an amendment added to the bill that in all cases where there is a great deal of stealing and no prosecution the Federal Government may impose penalties and civil liabilities upon sheriffs? Will the Senator accept an amendment of that sort?

Mr. MINTON. Mr. President, we are getting nowhere with that kind of an argument.

Mr. BAILEY. I am satisfied the Senator is not.

Mr. MINTON. I admit that there has been stealing in Indiana, but I dare say the record of Indiana will compare favorably with that of North Carolina. But, be that as it may, there have been plenty of prosecutions for stealing in Indiana. Indiana was disgraced at one time by a horrible lynching, and there was no prosecution for it. The State of Indiana was outraged. I should not be ashamed, as a citizen of that proud State, if the Federal Government had stepped in and punished the officers who were derelict in the performance of their duty, if the officers had connived at lynching and such connivance constituted State action. I know the people in my State would not object to such Federal interference. In fact, they would welcome it. If lynchings occurred periodically in Indiana, and the State of Indiana were not doing its duty, I should say, let the Federal Government come in and help the State of Indiana.

We have had some horrible bandits in Indiana. When we found out we could not handle them, thank God the Federal Government stepped in and helped us catch them. I never objected. I do not object to the Federal Government stepping in and exercising its power in cooperation with the other authorities.

Mr. PEPPER. Mr. President, will the Senator yield for a question?

Mr. MINTON. I yield.

Mr. PEPPER. If the Senator's view is correct, that when domestic violence assumes the dimensions of becoming a national danger the Federal Government may voluntarily go into the State and suppress the domestic violence, why did section 4 of article IV of the Federal Constitution specifically prescribe the two cases in which the Federal power could come inside the State boundaries to suppress domestic violence, namely, upon the invitation either of the Governor or of the legislative authority of the State?

Mr. MINTON. Of course, the Senator knows that that part of the Constitution deals with political authority, as the Supreme Court has said time and time again. That part of the Constitution deals with the Federal Government coming in with the armed forces of the United States in aid of the States. The Senator knows that that is what it means. The Supreme Court has said so. So he is talking about the political power of the Federal Government under section 4 of article IV of the Constitution, which has no application at all. It challenges only the military authority. That part of the Constitution has been construed by the Supreme Court of the United States as authorizing the entrance of Federal troops into a State only when the legislature, in session, invites them in and asks for them or the Governor of the State, if the legislature is not in session, requests it. That is all. That is the construction placed upon it by the Supreme Court.

Mr. PEPPER. Mr. President, will the Senator yield for one more question?

Mr. MINTON. I yield.

Mr. PEPPER. I desire to ask a question of the Senator which will illustrate the point as to whether the State is a guarantor of the rights and liberties of the citizens or whether, under the terms of the fourteenth amendment, it merely is subject to a prohibition against itself depriving the citizen of those rights. I make this illustration: Let us suppose, in the first place——

Mr. MINTON. Before the Senator gets too far, let me answer him in the words of the Supreme Court:

> They are to some extent declaratory of rights, and, though in the form of prohibitions, they imply immunities such as may be protected by congressional legislation.

So they are guaranties.

Mr. PEPPER. Let us suppose, in the first case, that a citizen of sovereign State A does violence to another citizen of sovereign State A, which the State fails to prevent. Let the next case be one wherein the citizens of an adjoining State come into State A and commit wrongs upon the citizens of State A in deprivation of the rights guaranteed by the fourteenth amendment. What I propose to ask the Senator from Indiana is whether or not, in either of those cases, the State, by its failure to prevent those acts or wrongs, has been delinquent in the duty it owes to the Federal Government.

Mr. MINTON. On the presentation the Senator makes, I should say it is perfectly evident that it has not been.

The Senator from Idaho, in his speech on February 4, argued that this bill is unconstitutional because it invades the police powers of the States. The Senator from Idaho cited some authorities along that line, none of which, of course, dealt with an attempt on the part of the Federal Government to exercise its power within its own jurisdiction in derogation of the rights of the States.

The Federal Government, I assert, does have police power, because police power is nothing but an attribute of sovereignty; and if the Federal Government is sovereign—and nobody denies that it is—within its own grants, then it has the attribute of sovereign police power.

Whenever the Federal Government acts in matters as to which it has a right to act, and the State comes in conflict with it there, in anything the State does it must yield to the Federal Government. So when the Federal Government is exercising its police power in a field in which it may legally exercise it, the Federal Government is not exercising the police power of the State. It is exercising its own police power. So the argument of the Senator from Idaho that this bill invades the police power of the States falls to the ground, because it is not the police power of the States that is being exercised. It is the police power of the Federal Government, which arises upon the denial of rights guaranteed under the fourteenth amendment.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. MINTON. I yield.

Mr. CONNALLY. Mr. President, let me ask the Senator from Indiana if it is not true that the only Federal right which the fourteenth amendment confers is the right not to be discriminated against by the State? Is not that the only Federal right conferred?

Mr. MINTON. I should not want to limit it to that. It may mean that, but it is conceivable that it could mean much more.

Mr. CONNALLY. Let me read the Senator what the fourteenth amendment provides. After saying that all persons born or naturalized in the United States shall be citizens of the United States, and so forth, it says:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law.

Is it not true that the only Federal right which that amendment confers is the right of equality; in other words, the right not to be denied due process in the one case, and the denial of privileges and immunities in the other? If that be true, is not the Federal power of Congress limited to the correction by affirmative legislation of the denial and that it goes no further than the denial? For instance, when the fourteenth amendment was adopted many of the Southern States, as well as other States of the Union, the State of Ohio, for instance, had laws providing that none but white persons could sit on a jury. The fourteenth amendment was leveled at the legislation by many of the States which, in fact, did discriminate against people of color. So when the fourteenth amendment was submitted in the debates, Mr. Stevens and Mr. Blaine and others pointed out, while the colored man had been given freedom under the thirteenth amendment, that he did not have equality, because many of the States by law were discriminating against him, and, therefore, they said no State shall do so-and-so and so-and-so. But it did not give the Federal Government the right to go into the State and say who should sit on a jury; the States were still free to enact any legislation as to the persons who should sit on a jury, except that they could not discriminate and say that a white man should sit on a jury and a colored man should not. The amendment said that the States no longer could say that white men could be punished for murder by one degree of punishment and colored men by another. Therefore, whatever power the Federal Government acquired under the fourteenth amendment affirmatively was by legislation to make ineffective the denial of equality by the States.

Mr. MINTON. I think the Senator may be right about the limitation as to the denial of equal protection of the laws, but I do not think that it is limited to that provision of the fourteenth amendment that no person shall be denied life, liberty, or property without due process of law. I think it entails more than discrimination. I think we can readily conceive of cases where one would be denied life, liberty, or property without due process of law without there necessarily being any discrimination. It might be that the very process itself which would be used would take life, liberty, or property, but would not discriminate at all; the law might apply to everybody in the community, and everybody in the State, but might be the wrong kind of process. So I do not think that the fourteenth amendment is limited to discrimination. I think that may be true as to that portion of it which deals with the equal protection of the laws.

Mr. President, I should now like to conclude. I have spoken much longer than I had intended, because, after all, I am not engaged in a filibuster, although I am glad of the opportunity to speak on the subject.

Mr. President, the Senator from Idaho in his brilliant peroration concluded his great speech on February 4 by saying:

> If the fourteenth amendment is to be loosely construed so as to permit the Federal Government to go into the States and fasten financial responsibility upon the States or the subdivisions of the States, it can be construed so that it is possible to go into the States and make the duly elected officials of the people subject to the jurisdiction of the Federal Government, there is nothing left of the State government.

Ah, the Senator was in good company when he made that lament. He had high authority with him. I read again from Ex parte Virginia, page 358:

> Nothing, in my judgment, could have a greater tendency to destroy the independence and autonomy of the States; reduce them to a humiliating and degrading dependence upon the central government; engender constant irritation; and destroy that domestic tranquillity which it was one of the objects of the Constitution to insure—than the doctrine asserted in this case, that Congress can exercise coercive authority over judicial officers of the States in the discharge of their duties under State laws.

The argument in that opinion is very much like the peroration of the Senator from Idaho as he closed his great speech; he was, I repeat, in good company; he had high authority; and that high authority was the minority of the Supreme Court speaking. I have just read from the dissenting opinion of Mr. Justice Field in Ex parte Virginia. So the lament of the great Senator from Idaho is not based on the opinion of the majority of the Supreme Court of the United States.

Ah, Mr. President, in conclusion, let me say to you that I believe in the doctrine of State rights realistically; I am interested in State rights; but I am much more interested in human rights. I am much more interested in the substance than I am in the symbol, and I have no hesitancy in challenging the symbols that fritter away the substance.

I think it is clear, under the authorities which I have cited, that the pending bill, if enacted, will not invade the sovereign powers of the States, for the simple reason that the Constitution of the United States has committed to the Federal Government the power that is proposed to be exercised, and when the Federal Government has that power, as the Supreme Court has said, as I have pointed out time and time again, and has discretion in its exercise of that power to enforce it, I submit that this bill is wholly within the provisions of the Constitution of the United States.

Mr. CONNALLY. I suggest——

The PRESIDING OFFICER. The Senator from Louisiana [Mr. ELLENDER] has the floor.

Mr. CONNALLY. The Senator from Louisiana agreed to yield to other Senators or proceedings, and I claim my rights.

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

Mr. CONNALLY. No; the Senator from Louisiana yielded originally, with the understanding that other Senators might speak without taking the Senator from Louisiana from the floor. Claiming that right, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Brown, Mich.	Copeland	Green
Andrews	Brown, N. H.	Davis	Hale
Ashurst	Bulkley	Dieterich	Harrison
Austin	Bulow	Donahey	Hatch
Bailey	Burke	Duffy	Hayden
Bankhead	Byrd	Ellender	Herring
Barkley	Byrnes	Frazier	Hill
Berry	Capper	George	Hitchcock
Bilbo	Caraway	Gerry	Holt
Bone	Chavez	Gibson	Hughes
Borah	Clark	Gillette	Johnson, Calif.
Bridges	Connally	Glass	Johnson, Colo.
King	Maloney	Radcliffe	Townsend
La Follette	Miller	Reames	Truman
Lee	Minton	Reynolds	Tydings
Lewis	Murray	Russell	Vandenberg
Lodge	Neely	Schwartz	Van Nuys
Lonergan	Norris	Schwellenbach	Wagner
Lundeen	Nye	Sheppard	Walsh
McAdoo	O'Mahoney	Shipstead	Wheeler
McGill	Overton	Smith	
McKellar	Pepper	Thomas, Okla.	
McNary	Pope	Thomas, Utah	

The PRESIDING OFFICER. Eighty-nine Senators have answered to their names. A quorum is present.

Mr. ELLENDER and Mr. PEPPER addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. PEPPER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisana yield to the Senator from Florida?

Mr. ELLENDER. I yield for a question.

Mr. PEPPER. I was wondering if, without violating the unanimous-consent agreement, I could complete the hypothetical case which I started to state to the Senator from Indiana [Mr. MINTON]. I make that request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? The Chair hears none.

Mr. ELLENDER. With the understanding that I do not lose the floor, I yield.

The PRESIDING OFFICER. The Chair rules that the Senator from Louisiana will not lose the floor.

Mr. PEPPER. Mr. President, I merely desire to complete the hypothetical case which I started to propound to the Senator from Indiana [Mr. MINTON] in illustrating the nature of the State's obligation as I humbly see it.

I asked the Senator from Indiana whether or not the State would be violating any obligation it owed to the Federal Government if it failed to protect one of its own citizens against other of its own citizens. Then I asked him, in the second place, whether the State would be delinquent in the obligation that it owes to the Federal Government if it failed to protect its own citizen against the aggressions of citizens of another State coming into the first State and inflicting violence upon a citizen of the first State.

The Senator from Indiana answered the question in the negative, by which he gave recognition to the fact that under the fourteenth amendment the State government owes no obligation to the Federal Government to prevent another person from inflicting violence upon its own citizen, but merely an obligation not itself to inflict affirmatively an injury upon its own citizen without due process of law or denial of the equal protection of the laws.

Mr. President in my remarks a few days ago I invited any Senator to cite a case in the United States Supreme Court where a mere omission on the part, either of the State or of one having the status of a citizen or a State officer was held to give rise to the exercise of Federal jurisdiction, and therefore to become a Federal offense. In spite of the remarks of my learned and able friend from Indiana, I have yet heard no case cited which establishes such a proposition.

Mr. ELLENDER. Mr. President, I was very much interested, of course, in the constitutional arguments advanced by my able colleagues who have just spoken; but as I have indicated on several occasions on the floor of the Senate, the questions involved in the bill under consideration go beyond the Constitution.

I have asserted many times that the pending bill and similar bills will lead to social equality between the whites and the Negroes. The pending bill is a make believe "antilynching bill." There is nothing genuine about it. The bill is not being advocated because it will prevent lynching but only to satisfy the demands of a few Negro politicians, who are likely to make further requests should they be successful in their present attempt to humiliate the South.

In the course of my speech, I have produced several tables showing the ratio of crime as between the white and the colored people in various cities of the country, and I shall

now continue along that line. I have but a few cities left to cover, and the figures are very interesting, and I shall ask the attention of Senators.

I concluded a while ago a statement of the number of arrests made in the city of Charleston for the year 1935. I will now present the record of arrests in the same city for the year 1936 for the crimes of murder, manslaughter, rape, robbery, aggravated assault, burglary and housebreaking, grand larceny, and highway robbery.

These crimes are the eight with which I have been dealing heretofore in giving the statistics as to various other cities, and for that reason I am confining my remarks to these crimes only.

Crimes	Whites	Negroes	Total
Murder	None	2	2
Manslaughter	None	None	None
Rape	None	None	None
Robbery	37	253	290
Aggravated assault	1	12	13
Burglary and housebreaking	None	3	3
Grand larceny	7	11	18
Highway robbery	None	3	3

Or a total among the whites of 45 during the year 1936, against 284 among the colored people, with a grand total of 329 among both whites and colored. The rate per 10,000 among the whites amounted to 13, whereas the rate among the Negroes amounted to 101.

In other words, the ratio between the whites and the colored was 1 to 7, and bear in mind, as I pointed out a while ago, that the white population in Charleston was 55 percent of the whole, as against 45 percent for the colored.

I have marked this table exhibit 2–b and in due time I will ask that it be incorporated with my remarks.

Now, I present figures for the same city for the year 1937:

Crime	White	Colored	Total
Murder	None	6	6
Manslaughter	None	None	None
Rape	None	None	None
Robbery	37	229	266
Aggravated assault	1	20	21
Burglary and housebreaking	18	52	70
Grand larceny	12	15	27
Highway robbery	7	4	11

Total whites, 75; total Negroes, 326; grand total, 401.

Rate per 10,000, whites 22, colored 116, or a ratio of 1 to 5, in the city of Charleston for the year 1937.

I have marked this table "Exhibit 2–C," and in due time I will ask that it be incorporated with my remarks.

I now cite figures for the city of Houston, Tex. Houston is a city with a total population, according to the 1930 census, of 292,352, of which 214,687, or 74 percent, are white, 63,337, or 21 percent, are colored, and 14,352, or 5 percent, belonging to other races. For the major offenses with which I am dealing, that is, murder, manslaughter, rape, robbery, aggravated assault, burglary, theft—felony—and auto thefts, the record for the year 1935 is:

Crime	Whites	Negroes	Total
Murder	8	28	36
Manslaughter	None	None	None
Rape	5	8	13
Robbery	112	100	212
Aggravated assault	172	82	254
Burglary	198	256	454
Theft, felony	239	151	390
Auto theft	351	46	397

Total, whites, 1,085; Negroes, 671; total, 1,756. Rate per 10,000, whites 50, colored 106, or a ratio of 1 to 2.

I mark this Exhibit 3–a and in due time will ask that it be incorporated with my remarks.

For the year 1936, in the same city—Houston—bearing in mind the population is 21 percent colored as against 74 percent white, the figures are as follows:

Crime	Whites	Negroes	Total
Murder	15	40	55
Manslaughter	None	None	None
Rape	11	9	20
Robbery	68	75	143
Aggravated assault	166	73	239
Burglary	189	227	416
Theft, felony	214	138	352
Auto theft	275	48	323
Grand total	938	610	1,548

Rate per 10,000, whites 44, Negroes 96, or a ratio between the whites and the Negroes of about 1 to 2¼.

I have marked this table "Exhibit 3b," and in due time will ask that it be incorporated with my remarks.

The following are the figures for the same city of Houston for 1937:

Crime	Whites	Negroes	Total
Murder	20	31	51
Manslaughter	None	None	None
Rape	6	20	26
Robbery	106	83	189
Aggravated assault	203	103	306
Burglary	149	332	481
Theft, felony	186	140	326
Auto theft	294	62	356

Totals, whites, 964; Negroes, 771; or a grand total of 1,735.

Rate per 10,000, among the whites, 45; among the Negroes, 122; or a ratio between the whites and the Negroes of a little over 1 to 2½.

I have marked this table "Exhibit 3–c," and later on I will ask that it be printed along with my remarks.

I ask Senators to study these statistics. In the city of Houston, where the population is 21 percent Negroes as against 74 percent whites, the ratio between the whites and colored ranges from 1 to 2, to 1 to 2½, whereas in the city of St. Louis and in the city of Cincinnati, where the colored population, as I showed a few days ago, is only 11 percent of the entire population, there is more crime among the colored than among all the whites, and the ratio of arrests between the whites and colored is 1 to 8 and as high as 1 to 11. And again I state to the Senate that these figures conclusively prove that the South knows how to handle the Negro problem much better than our northern neighbors.

I propose now to quote figures which I obtained from one of the Wickersham Commission reports. I am sure many of the Senators are familiar with the Wickersham Commission, which was appointed several years ago to investigate crime, and it is my understanding that 10 reports were made. I quote from one of those 10 reports; that is, the one dealing with Crime and the Foreign Born. It happens to be report No. 10, issued by the commission. The letter of transmittal by George W. Wickersham, chairman of the commission, reads as follows:

JUNE 24, 1931.

To the President of the United States.

Mr. PRESIDENT: I beg to transmit herewith the 10th report of the National Commission on Law Observance and Enforcement, treating of Crime and the Foreign Born.

I have the honor to be,

Very truly yours,

GEORGE W. WICKERSHAM,
Chairman.

I propose to cite figures from the report to substantiate the figures which have been inserted in the RECORD by me pertaining to various cities of the country, and to show that the same ratios arrived at by me were also found to exist by the Wickersham Commission in its study of crime among the male population of 15 years and over.

Remember, the reports which I have cited heretofore deal with the eight major crimes—of murder, manslaughter, rape,

robbery, aggravated assault, burglary, larceny, and auto theft—as exists among the Negroes and whites, both male and female, of all ages.

The figures I have cited for the various cities show the ratio existing between the whites and Negroes with respect to both sexes and all ages. This Wickersham Commission report gives figures relating only to the male element of both races from 15 years of age and above.

I now call the attention of Senators to the close relationship of the ratio between the whites and the colored in this Wickersham Commission report compared with the ratios shown in the statements I have heretofore placed in the RECORD. The following are the detailed number of arrests per 10,000 of like population, among males 15 years of age and over, in the city of Detroit for the year 1930:

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	0.8	0.9	16.5
Negligent manslaughter	1.0	.5	1.5
Rape	2.2	1.5	8.1
Robbery	6.2	2.0	48.2
Aggravated assault	1.6	1.8	30.2
Burglary—breaking or entering	8.0	2.0	73.4
Larceny—theft	24.6	12.1	202.7
Auto theft	3.8	1.1	17.7
Total	48.2	21.9	398.3

Listen to these figures from Detroit: Among the native-born whites there were 48.2 arrests per 10,000; among the foreign-born whites, 21.9; and among the colored, 398.3.

Remember, the population in Detroit in 1930 was a grand total of 1,568,662, of which 66 percent was native white, 25 percent foreign-born white, and 8 percent Negro. All other races, 1 percent.

With those figures in mind, Senators, listen. The ratio between the native whites and the colored was 1 to 8 plus. The ratio between the foreign-born whites and the colored was 1 to 18 plus. Those figures correspond, with very little degree of difference, to the figures I have heretofore cited to the Senate respecting this city and also other northern cities.

I have marked this table "Exhibit 4," and later on I shall ask that it be printed at the conclusion of my remarks.

Now let us take the city of Los Angeles for the year 1929–30. I shall give the number of males, 15 years of age and over, per 10,000 of the same class, charged with major offenses, by nativity and color.

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	2.3	2.2	5.5
Rape	5.0	1.1	20.6
Robbery	24.7	7.4	51.5
Aggravated assault	4.1	3.0	54.6
Burglary—breaking or entering	23.1	10.2	80.8
Larceny—theft	21.3	11.7	72.1
Auto theft	16.7	5.3	45.9
Total	97.4	40.9	331.0

The total population of Los Angeles, according to the 1930 census, was 1,238,048. Seventy-two percent were native whites; 15 percent were foreign-born whites; 3 percent were colored. All others, 10 percent.

Let us see what ratio existed. Among the native whites the rate per 10,000 was 97.4. Among the foreign-born whites, 40.9. Among the colored, 331. Just think of that! With only 3 percent of the population of Los Angeles being colored, the ratio between the native whites and the colored was 1 to 3½, and between the foreign-born whites and the colored, 1 to 8.

I have marked this table "Exhibit 5," and later on will ask that it be printed in full, following my remarks.

Now we come to the city of Cleveland. The report shows the number of arrests per 10,000 of like population, taking all classes of males 15 years of age and over, charged with the eight major offenses. Total population in Cleveland, as shown by the 1930 census, is 900,429. Of this, the native whites comprise 66 percent, foreign-born whites, 26 percent, and Negroes, only 8 percent.

Listen to the figures:

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	1.3	1.2	18.2
Negligent manslaughter	.8	.3	.6
Rape	1.6	.3	1.7
Robbery	13.6	1.4	64.9
Aggravated assault	1.1	.9	19.4
Burglary—breaking or entering	14.2	1.4	76.9
Larceny—theft	23.7	7.2	154.9
Auto theft	12.1	.5	25.6
Total	68.5	13.2	362.2

Among the native whites, out of every 10,000 of males of 15 years and over, there was a total of 68.5 arrests. Among the foreign-born whites, 13.2. Among the Negroes, 362.2. In other words, the ratio between the native whites and colored was a little over 1 to 5, and the ratio between the foreign-born whites and colored was 1 to 27.

I have marked this table "Exhibit 6," and at the proper time I shall ask that it be printed along with my remarks.

Let us take the city of Buffalo, N. Y., for the year 1930 and consider the arrests among the same classes of people for the same crimes. The population of Buffalo, according to the 1930 census, was 573,076. Native whites amounted to 77 percent, foreign-born whites to 21 percent, and Negroes to 2 percent.

Let us see how Buffalo fared:

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	0.4	0.3	12.5
Negligent manslaughter	3.9	1.0	12.5
Rape	4.5	1.1	45.7
Robbery	7.5	3.0	91.4
Aggravated assault	15.2	11.7	490.2
Burglary—breaking or entering	32.1	4.4	220.2
Larceny—theft	81.5	29.6	473.6
Auto theft	21.2	4.2	87.2
Total	166.3	55.3	1,433.3

In the case of the native whites, the rate per 10,000 was 166.3; for foreign-born whites, 55.3; for Negroes, 1,433.3. Just think of that, Senators!

The ratio of native whites to the colored was 1 to 8½, and the ratio of the foreign-born whites to the colored was 1 to 26 plus.

I have marked this table "Exhibit 7," and later on will ask that it be printed following my remarks.

Let us take the city of Cincinnati for the year 1930, on the same basis. Remember, Senators, the report deals with the number of males per 10,000 of the same class, 15 years of age and over, charged with major offenses, by nativity and color. The total population of Cincinnati as shown by the 1930 census was 451,160. Native whites, 82 percent; foreign-born whites, 8 percent; Negroes, 10 percent. Here are the figures:

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	1.5	0.4	15.4
Negligent manslaughter	3.3	.4	5.8
Rape	2.6	.4	8.0
Robbery	9.6	.4	74.6
Aggravated assault	5.2	1.7	87.0
Burglary—breaking or entering	14.5	.4	111.9
Larceny—theft	32.9	3.7	470.4
Auto theft	11.4	1.2	81.2
Total	81.0	8.7	854.4

Total arrests per 10,000 for the native white, 81. For the foreign-born whites, 8.7. For the Negroes, 854.4.

This gives us a ratio between the native whites and the colored of 1 to 10½, and between foreign-born whites and colored of 1 to 98.

I have marked this table "Exhibit 8", and at the conclusion of my remarks I shall ask that it be printed along with the other tables from which I have read.

I invite Senators to compare these tables with various other tables which I placed in the RECORD pertaining to the cities that I mentioned here, and Senators will find that there is very little difference between these figures, as compiled by the Wickersham Commission, so far as the ratio between the whites and Negroes is concerned, and those which I prepared and have introduced heretofore.

Mr. President, I have here a summary of the crime figures as compiled by the Wickersham Commission for the five cities I have just mentioned, which summary I propose to place in the RECORD at the conclusion of my remarks so that Senators can see for themselves at a glance ratios in crime that exist as between the whites and the Negroes in these five cities. The population for all of these five cities I have just mentioned is, according to the 1930 census, 4,731,375, of which 71 percent are native white, 20 percent foreign-born white, and only 6 percent Negroes. Three percent are other races. Here are the figures per 10,000 of like population:

I give the ratios between the whites and the colored for the five cities: Among the native whites and the Negroes, 1 to 6. Among the foreign-born whites and the Negroes, 1 to 19. I have marked this table "Exhibit 9," and later on I shall ask that it be printed along with other tables on this subject immediately following my remarks. The figures I have just given, Mr. President, should convince anyone that wherever the colored people congregate in a particular locality, especially in the North, they are more prone to violate the law than the whites. As I said heretofore, whenever you give them an inch they take a yard. Give them a yard and then take a rod. Give them a rod and they take 5 miles. [Laughter.]

I contend that if these colored people are permitted to congregate in Harlem and ask for such rights, or are permitted to congregate in Indianapolis and ask for such rights, or are permitted to do the same thing in various other cities, they will not stop merely by asking for the enactment of the pending bill, but they will ask for the passage of other legislation leading to social equality, so that in the course of time they may take charge of some of the governments of the States of our Nation. I, for one, do not want to see that happen and will never consent to it.

That concludes the data I have gathered with reference to crime. A comparison of the ratio of crime as between the Negroes and the whites in the North and in the South ought to be convincing. As I have shown, in Cincinnati, with a Negro population of only 11 percent out of a total population of 451,000 there were more arrests among the 11 percent of colored people than there were among the entire white population. I believe Senators ought to take notice of that condition.

As I have pointed out, we have done a much better job in the South than has been done in the city of Washington, D. C., where the Federal Government is in charge. I have submitted data showing that in the city of New Orleans, La., the ratio of crime as between the whites and the Negroes amounts to only 1 to 1½, to 1 to 3, whereas in the city of Washington, which is under control of the Federal Government, the ratio runs from 1 to 6, to 1 to 10. For that reason, I say, let us alone; we have dealt with the Negro problem satisfactorily in the past and we will continue to do so if only the rest of the country will not disturb us.

I propose to continue reading descriptions of various race riots that have taken place throughout the country. As I pointed out a few days ago, most of the race riots referred to took place in the North. The reason why more of them have taken place in the North than in the South is that in the North the Negro usually is a little more brazen and impudent than in the South. He goes a little too far.

Of course, the white people of the North do not like to rub elbows with the colored people. I think the northerners dislike it more than do southern people.

As I pointed out, various northern State legislatures have given certain privileges to the Negro race in exchange for his vote in the hope that the Negroes would not try to exercise those privileges. I may say to the Senator from Illinois [Mr. LEWIS] that the only reason why the colored people do not exercise those privileges is because they have not the power to do so; but wait until they get stronger politically. I say then they will demand such rights, not only theoretically, through legislation, but actually. That demand is what gave rise to many of the riots to which I referred 2 or 3 days ago. I read about a riot in Atlanta, and one in Springfield. I read about one in Washington, D. C., which lasted for 4 days. The Army, the Navy, and the Marines could not stop the riot in our Capital City. As the newspaper from which I quoted pointed out, it was fortunate that rain fell on the fourth day, because with the help of the rain the authorities were able to stop the rioting.

While all that was going on in Washington for 4 days, a riot occurred in New Orleans, and a small group of policemen stopped it. How? Simply because the people of the South know how to handle the colored problem, whereas the people of the North do not.

I read from the Outlook of January 15, 1921, which gives an account of a race riot which took place in Tulsa:

THE LESSON OF TULSA

On the night of June 1 a newspaper despatch from Tulsa, Okla., said: "The hospitals of Tulsa are filled with wounded and dying men tonight and the morgues are crowded with dead after 24 hours of rioting between white men and Negroes."

On the same day a woman stenographer in a Tulsa office wrote this moving letter to the editors of the Outlook:

"Today Tulsa is torn by a civil battle between the white and black races which is sickening to all right-minded, thinking people of this city. All of little Africa is burning; many people, both white and black, lie dead and wounded.

"The cause of the trouble is the usual one. A young Negro is accused of attempting to attack a little elevator girl. He claims he intended no wrong, but, of course, his story has no chance of recognition.

"I am a stenographer in a downtown office, and just now a large company of Negroes were marched through the street past my window, under the protection of white soldiers. They are taking them to the ball park, where they will be under protection. They are homeless, most of them innocent of any wrongdoing or even wrong thinking, helpless, dumbly wondering why this thing should be.

"The whites here are much more to be blamed than the Negroes. It is largely an element of hoodlum white boys, craving excitement, and looking for any opportunity to start a race riot."

In other words, Mr. President, as I pointed out, the same little element which started the riot in Atlanta and which started riots in some other cities started a riot in Tulsa. I claim that it is the same little element which does the lynching in the South and in other parts of the country. The Senate should take note of the vast majority of good people of the South who are as much opposed to lynching as are the proponents of this bill, and give some credence to their honest views regarding the pending bill. They all know that this measure will not in any manner prevent lynchings; that, on the contrary, as I have stated on many occasions, its passage would in all probability increase them.

I continue reading from the Outlook:

"How long are such outrages going to be allowed? Cannot America find some means of preventing such terrible occurrences? The Negroes are with us here in America, though they did not ask to be brought here. There is wrong on both sides, but in some manner law and order must be maintained."

What caused the rioting, shooting, and burning that left in Tulsa a wake of deaths (at least 30 persons were killed), widespread suffering and destitution, thousands of homeless people, acres of smoldering ruins, a money loss of perhaps a million dollars? Superficially, the answer might be that it was a strange misunderstanding of facts. General Barrett, in command of the State militia, is quoted in the papers as saying that the riot was caused by "an impudent Negro, a hysterical girl, and a yellow journal reporter." Again superficially, it may be said that this

horror was caused by the misuse of a word; it was reported that a white girl had been "assaulted" by a colored man; the fact was, it now appears, that a bootblack stepped on an elevator girl's foot, that she slapped him, and he grasped her by the throat.

But the real causes lie deeper. Americans take the observance of law and order for granted. Civilization, they assume, has reached a stage where force is not needed. Then, under some comparatively slight provocation, the wild-beast element in society leaps up, the peace officers are unready, and we have the race riots of Washington, Omaha, East St. Louis, Chicago, and Tulsa. Especially is this true when race feeling is involved. Race aversion (from which few of us are free) easily becomes race prejudice; race prejudice is quickly fanned into race hatred; race hatred among the ignorant and violent elements, black and white, may at any moment blaze into race war.

The following account comes to the Outlook from a well-informed western correspondent upon our telegraphic request:

"Tulsa, the scene of the recent rioting, is an Oklahoma oil city of mushroom growth. It has a population of 73,000, of whom perhaps 8,000 are Negroes. The Negroes are employed chiefly in forms of service not sought by the whites. The men are porters, barbers, bootblacks, day laborers; the women cooks, charwomen, laundresses. There has been no industrial race friction.

The industrial depression had brought an unusual number of idle men from the oil fields to Tulsa. A few gathered at the courthouse where the Negro was confined. The sheriff ordered them away but did not enforce his order. An altercation followed. Word spread that a lynching was contemplated. Several armed Negroes appeared. A Negro peace officer appealed to them to disperse, assuring them the prisoner would be protected. Most of them started away, but leaders called them back. Whites and blacks continued to gather. The police did nothing. Then a shot was fired and a white man fell.

This was the beginning of a series of battles between rapidly growing mobs of whites and blacks, which the small police force was unable to control. The fighting lasted into the morning. It resulted in the death of 9 white men and more than 20 Negroes and in the wanton burning of the Negro residence district, leaving thousands of innocent persons homeless. Tulsa was impotent, but the government of Oklahoma functioned promptly. By early morning the State was pouring National Guardsmen into the city. Governor Robertson proclaimed martial law, and the rioting abruptly ended. A citizens' committee with the local Red Cross unit at once took the situation in hand and organized relief work. Tulsa is a wealthy community. It cannot spare its Negro workers. At the present writing plans are under way to raise a fund to rebuild the houses destroyed.

What is the significance of this tragedy for the rest of the Nation? Tulsa is not essentially different from any American city in which there is a considerable Negro element. Contemplating the dark episode, almost any other city might echo the humble thanksgiving, "But for the grace of God there goes John Bunyan." So long as race feeling exists there is danger of such outbursts. Deprecate it all we please, the foundations of order are secured through effective police backed by a firm demand for law and order by all decent citizens and helped by the earnest desire of white and colored people to draw together in just and friendly civic relations and to abstain from forcing the questions of social relations to the front. Potentially disorderly elements are restrained by fear of the instruments by which society defends itself. Prompt and energetic action on the part of the peace officers at the first sign of trouble in Tulsa that Tuesday night would have prevented the riots. Governor Robertson, who arrived in the city soon after the disturbances were over, expressed a general opinion when he called the affair "damnable and inexcusable," and blamed the ineptitude of the officers responsible for maintaining order. At the outset a few well-directed policemen could have dispersed the trouble-makers at the court house. Once the mob spirit was aroused and armed crowds had gathered, the situation was out of control until the display of overwhelming force by several hundred determined guardsmen.

In the long run civilization must depend on the education, tolerance, and intelligence of the mass of the people. But, as the experience of Tulsa and so many other cities shows, police forces cannot be demoralized by politics or by neglect except at risk of disaster.

I do not want such a condition as is described in this article to exist in the South or anywhere else, and I do not want to give opportunity for it to happen in the future.

A similar comment regarding the Tulsa riot is made in the Nation in its issue of June 15, 1921, under the title "Tulsa." I quote from the article:

TULSA

"An impudent Negro, a hysterical girl, and a yellow journal"—this, according to the adjutant general of Oklahoma, is the combination which precipitated the terrible race riot in Tulsa and the killing of a score or so of people. Just how "impudent" the Negro was—impudence in a Negro is often self-respect in a white—remains to be proved, and how hysterical the girl; the deadly possibilities of yellow journal reporters the country, alas, knows to its shame. This time the unscrupulous journalist brought about the worst riot since East St. Louis'. The Negro quarter was destroyed by deliberately kindled fires, and thousands of persons were made homeless and penniless, the property damage alone being $1,500,000. But the damage to Tulsa itself would be irreparable if the attitude of that community were the brazenly defiant one which usually marks a southern community after a scene of such violence and lawlessness. Happily, Tulsa has had remorse and is not afraid to admit it. A former mayor, Judge Loyal J. Martin, chairman of the emergency committee, has declared: "Tulsa can only redeem herself from the country-wide shame and humiliation into which she is today plunged by complete restitution and rehabilitation of the destroyed Black Belt. The rest of the United States must know that the real citizenship of Tulsa weeps at this unspeakable crime and will make good the damage, so far as it can be done, to the last penny.

There at last we have the true American note—no effort to blacken a race or to mitigate the shame, but that honest confession which alone is good for the soul of the guilty. To quote Judge Martin again:

"We have neglected our duties and our city government has fallen down. We have had a failing police protection here, and now we have to pay the costs of it. The city and county are legally liable for every dollar of the damage which has been done. Other cities have had to pay the bill of race riots, and we shall have to do so probably, because we have neglected our duty as citizens."

Precisely, that is a good explanation of the intensity of the race problem in most of our cities. Your businessmen lure the blacks into the cities from the land; they pour into already overcrowded quarters to live in hovels or apartments so dilapidated as to be abandoned by all but the most shiftless whites. The burned Negro quarter in Tulsa was described as "a mile square of shacks, huts, and hovels." Then if the Negro seeks to break out of such a ghetto you denounce him for his impudence in intruding upon the white man's preserves and lowering the value of his property. You curse him if out of his slough of despond come contagious diseases, if immorality and vice are rampant among human beings living like animals; and if a criminal bred in this environment comes out of it, you lynch him.

"We Americans," President Harding has just said, "are united in the sweetest concord that ever united men." Witness the smoking ruins of Tulsa, ruins that are to be rebuilt, though the innocent dead cannot be made to walk again! Is it all to end there? Surely there could be no clearer cause than this for the passage of Senator McCORMICK's bill for a commission to study the race issue. If Mr. Harding is to be President of the whole Nation, if he is to do anything to bring about that "sweetest concord" which today is a figment of his imagination, he should insist upon an immediate inquiry into the color problem.

Now we come to Chicago in 1920. On June 21, 1920, the New York Times carried the following article:

TWO DEAD, MANY HURT, IN CHICAGO RIOT—SAILOR AND WHITE CIVILIAN KILLED AND COLORED POLICEMAN WOUNDED BY NEGROES—AMERICAN FLAG BURNED—POLICE RESERVES AND RIFLE SQUAD AT SCENE OF TROUBLE STARTED BY PARADING ABYSSINIANS

CHICAGO, June 20.—A race riot that in its first stages cost the lives of R. L. Rose, a United States sailor, and Joseph Hoyt, a cigar dealer, the wounding of Joseph P. Owens, a Negro policeman, and serious injuries to other persons had its inception on the South Side tonight with the burning of an American flag.

The available police of three stations were rushed to the scene of conflict, Thirty-fifth Street and Prairie Avenue, with Chief of Police Garrity in command. Chief of Detectives Money and his rifle squad were also turned out.

The rioting began with some 200 members of a Negro society who planned to go back to Africa. They were on their way to a meeting above the Entertainers' Cafe, 209 East Thirty-fifth Street. They paraded west in Thirty-fifth Street and built a bonfire in the middle of the road in front of the cafe. Into this someone hurled an American flag.

A big crowd of whites and Negroes gathered. There were threats and shouts and the brandishing of revolvers.

Another flag went into the flames as Policeman Owens and a white patrolman rushed up. The Negroes crowded about them, threatening and jeering. A party of blue jackets, indignant at the sight of the burning banner, pushed their way into the crowd.

"I don't know just how it happened," said James W. Osborn, a spectator, "but suddenly Owens drew his revolver. There was a number of shots and everybody scattered, it seems, except the members of the Negro society."

Nearby was an automobile filled with rifles. The Negroes made a dash to it and seized the weapons. The policeman fell, wounded in the abdomen, at the first volley. The sailor ran for protection into a cigar store on the corner. He was unarmed. Three of the Negroes followed him to the door of the shop, took aim and killed him and Hoyt, who was behind the counter. The chauffeur of a taxicab standing on the corner was fired upon by another Negro band. The bullet missed him, went through the windshield and sent showers of glass in every direction.

When Chief Garrity arrived, he ordered out all the police reserves in the southern portion of the city.

An investigation was begun immediately. It was found that the organization which had burned the flags was composed of

Syrians. They had with them on their parade their own flag, red, yellow, and green, with a lion on one side of it.

The police who poured into the territory had hard work to keep the great crowds moving. Thousands of colored men and women surged about the place where the sailor and the other dead man lay, and about the Entertainers' Cafe. There were threats on all sides, and the police feared a recurrence of the race riots of last year, with its heavy toll of white and Negro dead.

No arrests were made, but many persons were taken to the Cottage Grove Avenue Station for questioning by the police.

The Abyssinians, it was learned, were to sail on one of the Black Star Steamship Co. vessels, and the police believe the company may be able to furnish the names of those who had already purchased their tickets.

As will be noted from a reading of the article to which I have just referred, the race riot in Chicago resulted in wounding quite a number of people. Two persons were killed. I say that the riots in Chicago, in Tulsa, and in Washington, D. C., were started by the so-called "hoodlum" element. People who hate the Negroes and who are not sympathetic toward them and who do not understand them.

The same class of people are accountable for some of the lynchings that took place in the South. Those lynchings should not be chargeable to the law-abiding people of the South. We of the South are capable of handling the problem and, if left alone, we will do it properly.

Now I refer again to the race riot which took place in Chicago and will give an outline of it, which shows exactly the conditions and circumstances under which it happened. I repeat that I do not propose, if I can help it, to give occasion to repetition of riots of this kind in any part of our country by passing such legislation as that now proposed which seeks to give to the Negro a right which means nothing to him. It is said, "Pass this legislation, and it will stop lynching." I say it will not; I have said so many times. It is merely a little hand-out, not to stop lynchings but to satisfy a few Negro politicians.

The following is from the New York Times of June 22, 1920:

CHICAGO RIOT SPURS NATION-WIDE INQUIRY—GOVERNMENT JOINS INVESTIGATION OF ABYSSINIAN CULT AFTER SHOOTINGS THERE—LEADERS KNOWN IN EAST—WHITE PRISONER AND ONE NEGRO FORMERLY ACTIVE IN NEW YORK—CHICAGO SLAYER IDENTIFIED

CHICAGO, June 21.—While policeman Joseph P. Owens, shot in defense of the American flag, was fighting for his life tonight in the Michael Reese Hospital, his brother officers were cleaning up the mysteries back of the "Abyssinian" parade, the flag burning in Thirty-fifth Street, and the fusilade that killed two white men and wounded half a dozen other persons on Sunday night.

Grover C. Redding, said to be a Georgia darky, posing as an Abyssinian leader, was identified by two witnesses as the slayer of Sailor Robert L. Rose and Joseph Hoyt, cigar store clerk. He was also pointed out by "Dr." R. D. Jones, of Washington, D. C., as the man who burned the flag.

Search was being made for the Fernos, father and son, who, with Redding, are said to have led the parade. The Fernos are declared to have wounded the policeman and others. They, like Redding, were mounted on black horses, and are said to have carried small Winchester rifles under their fantastic robes. There was no sign tonight of any race riot. Both white and colored businessmen in the district offered their united influence for the preservation of quiet.

Sporadic outbreaks that occurred during the morning had resulted in the beating of a number of Negro clergymen and others, but the police had cleaned the streets of all who might be inclined to rowdyism and the Black Belt was quiet.

Jonas was held by the police today with Redding and others alleged to belong to Redding's fantastic Ethiopian or Abyssinian association. Police Capt. Thomas Caughlin pronounced Jonas a radical, but Jonas asserted he had nothing to do with Sunday's parade.

POINT OUT NEGRO SLAYER

The witnesses who pointed out Redding as the slayer of Rose and Hoyt are Harry Scott and D. J. Spillard, an employee of the Entertainers' Cafe, in front of which the shooting occurred.

Redding denied that he had taken part in the parade, denied even that he was Redding. He said that he was George Brown, of St. Louis, and that he had just come to the city and got a job as a laborer on the surface lines. He was not dressed like a laborer, however, and Jonas was positive in his identification of the man.

Jonas was found at Thirty-fifth Street and Grand Boulevard this afternoon. His wife was taken into custody with him. Dispatches from New York identify Jonas as "the Reverend Secretary of the League of Darker People." He was said to have been associated recently with the Black Star Line, owned by wealthy Negroes of the West Indies, but officials of the line denied this.

Jonas in his speech here Sunday afternoon advocated that the Negroes and other classes of laboring men should get together behind Mayor Thompson as a candidate for President of the United States, heading a third party.

He denied that he had anything to do with issuing of propaganda to South Side Negroes in an attempt to get them to return to Abyssinia, with "easy money," equality, and opportunities unlimited.

Federal officials are making an investigation into the dissemination of this propaganda, and Jonas agreed to turn over to them all the evidence in his possession regarding the Abyssinian delegates since they arrived in this country.

Jonas said he had introduced these delegates to President Wilson and had tried to get the Republican National Convention to adopt a plank for a resumption of the treaty with Abyssinia.

PLAN NATION-WIDE INQUIRY

Edward J. Brennan, chief investigator for the Department of Justice, declared today that foreigners who took part in the demonstration might be deported, save those who might be found guilty of murder under the laws of the State of Illinois.

The Fernos went to their home at 4419 East Forty-fifth Street after the riot had ended, held a conference with some of their followers, then changed their clothes and fled.

Search is also being made for two brothers of the name of McGavick, who are said to be agitators of the Abyssinian colonization scheme, and to have been implicated in Sunday's affair. It is believed they may have gone to Philadelphia or New York City.

One of them is said to have left on a Pennsylvania flyer Sunday night. He was dressed in a dark gray suit, is brown skinned, about 30 years old, 5 feet 8 inches tall, and sports a "Charlie Chaplin" mustache.

Admiral F. B. Bassett, commandant of the Great Lakes Training Station, issued an order today forbidding men on leave to visit Chicago until further notice. The commandant's order was prompted by the fact that the 3,500 men on leave in Chicago on Sunday started toward the Black Belt when they heard of the death of their mate, Rose.

Rose's body was taken to Great Lakes today and will receive military burial. R. O. Bennett, Rose's buddy, has asked the Red Cross to try to find the relatives of the dead sailor.

Rose had been in the Navy of the United States for some time. Previously he served in the British Navy. He enlisted at Philadelphia and gave no next of kin. However, it is believed his father is living in Manila.

Marcus Garvey, president of the Black Star Line, with offices at 56 West One Hundred and Thirty-fifth Street, denied yesterday reports that members of a Negro society who planned to go back to Africa and who were involved in the riots in Chicago, had arranged to sail on one of his ships.

AGITATORS GAVE NEW YORK ADDRESS

Chicago dispatches said the propaganda circulated among Negroes there was signed by "George Gabriel, Abyssinian linguist," and by Redding. It gave the offices of the organization.

Charles Manson, a Negro, of 115 West One Hundred and Thirty-eighth Street, said an organization styling itself the Star Order of Ethiopia had been active in various parts of the United States, particularly in New York. Grover C. Redding, secretary and missionary of the order, he said, had lived with him until 4 months ago and then left for Alabama.

George W. Harris, a Negro alderman and editor of the New York News, 135 West One Hundred and Thirty-fifth Street, said he did not believe that Negroes burned the American flag, as reported in Chicago dispatches. On the contrary, he believed that American Negroes were patriotic. If the flag was burned, he said, it must have been done by radicals.

Joel Hickerson, of 62 East One Hundred and Thirty-third Street, described as prophet or bishop of the Church of the Living God, which meets at 54 West One Hundred and Thirty-third Street, said he was interested in the so-called Ethiopian movement. He pointed out one poster, among others in his church, which read, "All come—Ethiopian convention, July 4–6."

He said that the convention was to be held in a One Hundred and Thirty-fifth Street hall and that addresses would be made by Abyssinian, East Indian, West Indian, and Ethiopian speakers. Hickerson said he knew Redding. He also said that the Reverend R. D. Jonas, a white minister, had spoken at his church meetings on behalf of the Ethiopian cause.

In the World's Work for December 1922, under the heading "March of Events," the editor goes into detail as the causes of the riot that happened in Chicago 2 years earlier. I read:

THE CAUSES OF THE CHICAGO RACE RIOT

In July 1919 a race riot broke out in Chicago in the course of which 20 Negroes and 15 white people lost their lives, and 537 people were injured. This outbreak in a northern city was shocking in itself; the fact was, however, that it was only one episode in a display of racial antagonism that was almost epidemic throughout the country. Omaha, Washington, Boston, Tulsa, and other cities were scenes of similarly disgraceful performances.

What was the cause of all this popular fury? "Race riots" have not been unknown in northern cities, but for many years nothing remotely resembling these disturbances had blackened our great centers of population. Evidently they had some common explanation. The country, therefore, owes a great debt to the Chicago Committee on Race Relations, which was appointed soon after the riots, and which has just published, through the University of Chicago Press, the results of its investigations. This report scientifically analyzes the causes of the recent race riots, so far as Chicago is concerned, and it may be assumed that these causes explain the similar tragedies that took place in other cities.

A phenomenon that obtained much prominence in the public prints 4 or 5 years ago was the migration of Negroes from the South into the great cities of the North. This migration seemed to have been the direct cause of the attacks that subsequently followed. The movement apparently gave certain northern cities, especially Chicago, their first experience with the Negro problem. In 1910 this population in Chicago was 44,000; in 1920 the census disclosed that it had increased to 110,000, and this growth of about 66,000 may be taken as representing Chicago's share of the 500,000 Negroes who came north after 1914. Its Negroes previous to this accretion had been of the settled kind that were found in most American cities; practically all of them earned their living by some kind of personal service; they were for the most part well-behaved and hardly ever clashed with white people, or, indeed, had very close contact with them. But these new Negroes from the South were mainly plantation workers; their purpose in coming north was to obtain the high wages which were then offered by industrial plants. The suspension of immigration caused by the war, and afterward the entrance of the United States, had shut off the supply of low grade European labor which had for years manned the stockyards and other industries of Chicago. Southern Negroes largely filled in this gap. Negro women, who had supported themselves chiefly by domestic service, now began to find employment in the mail-order houses, the millinery shops, the clothing factories, and other industries. All this was unprecedented in the story of the Negro race; it represented a great economic improvement; the Chicago Negro found himself, like the white man, a workman in the trades; the day when he would have to content himself with being a waiter, a barber, a porter, or a laborer of the lowest grade was apparently passing. The fact that in the main the black man now received the same wages paid his white associate, also magnified his new importance.

THE "INFERIORITY COMPLEX" IN NEGROES

But anyone who even slightly comprehends that subtle yet very definite thing known as "race consciousness" will understand that these phenomena of equality must inevitably make trouble. White men found themselves obliged to work side by side with Negroes; white women now discovered that their working companions were frequently Negro women. With most white people this would not have made hard feeling; but the white workers concerned, especially those in the stockyards, represented a low order of intelligence and social control—they were Lithuanians, Poles, and other immigrants from Central Europe; a philosophic restraint is not their leading quality. Bad blood resulted. The mere fact that the labor unions refused to admit Negroes on even terms gave the new employees another grievance; and the fact that they were used as strikebreakers increased their unpopularity. But the so-called "social contacts" proved more serious incentives to racial antagonisms.

That, Senators, substantiates the views which I have been trying to express on this floor. The white folks of the North do not like the Negro; they have little patience with his shortcomings and the moment he tries to meet them on their own level, or to take advantage of the privileges accorded to him through various laws, he is hastily and firmly repulsed. The editor from whom I am reading bears me out in that statement. I say that if the colored people are granted the privileges that are being offered by various legislatures throughout the Nation, for poltical purposes, some day they are going to try to take advantage of them, and more race riots are going to occur in this country than one could imagine. Talk about civil war under such circumstances as I have outlined, there will be a war between the whites and the blacks if this racial hatred is fired by such legislation as is being fostered. Mark what I am telling you, Mr. President—give the Negroes the right to vote throughout the country, give them social equality, and see if I am not right; the clash will not be far distant.

It seems to be generally agreed that these southern Negroes were not especially favorable specimens of their race. For the most part they were ex-fieldworkers; they were illiterate, their manners were exceedingly uncouth, their clothes outlandish and bad smelling, and their bewilderment at their new surroundings caused them to behave in a way that made them still more unpopular. The mere circumstance that they were not "Jim Crowed," as they had been in the South, led to strange psychological reactions. Suddenly finding themselves sitting side by side with white people in trolley cars and on the elevated roads—an experience to which they had been entirely unaccustomed—the poor ignorant creatures did not know how to behave, and imagined that a bumptious assertion of independence was essential to their new dignity. It was a manifestation of the "inferiority complex" under rather pitiful circumstances. They sprawled in their seats, they insisted on sitting when white women were standing, and they were constantly on the outlook for insults. Negroes now began to appear in places where their presence had previously been unknown. They found living quarters in sections which poor white immigrants had for years regarded as their own; their children began to mingle in large numbers with white children in the public schools; but perhaps what caused the greatest ill-feeling was the increasing presence of Negro men and women in the public recreation centers. The public parks became a favorite resort; Negro couples filled a considerable percentage of the park benches; Negro baseball and basketball teams preempted a considerable proportion of the public fields; Negroes did not hesitate to appear in the municipal dance halls; they insisted on sharing with the whites the public bathing beaches; the mere fact that, in large numbers, they attended band concerts, added to the general ill-feeling.

The Chicago report presents other facts, but these are sufficient. None of these grievances directly caused the riot, but these were the influences that, working ceaselessly for several months, created that atmosphere of hostility and that "race consciousness" which finally had a disastrous outcome. Most race riots begin with some atrocious act—such as the Negro murder of a white man or an assault upon a white woman. But not this one; the provocation, indeed, so far as one appears, was nothing more serious than the presumption of a Negro bather at one of the beaches, who drifted on a railroad tie from the part of the water tacitly set aside for Negroes into the area preempted by the whites. He was stoned, was hit in the head, sank, and drowned. The "riot" was on. The resentment, the race antagonism, that had been slowly developing for more than a year, now found expression in the usual insane fashion. The whole proceeding not only pictures the human motives that cause a display of this kind, but suggest also the utter hopelessness of the problem. The present commission makes many suggestions for a general improvement in race conditions, but none that are particularly definite or practicable. That the police and municipal authorities were extremely lax and that greater vigilance in these quarters can curb such outbreaks at the beginning is apparent. But a race riot is a strange thing; it bursts out suddenly, sometimes for no especially tangible reason, runs its course, and then suddenly ends. The most encouraging fact is that the Chicago masses show no particular desire to repeat this disgraceful episode.

Here is an account of a race riot which took place in Pittsburgh in August 1931. It grew out of the fact that a number of white bathers did not like to bathe with colored folks on the same beach; all illustrating, Senators, the fact I have been arguing, that certain privileges are being ostensibly accorded to the colored people by the laws of many Northern States, and the white people of those Northern States are refusing to recognize those privileges. I say they are accorded simply to mislead the colored people, with the result that they get them into trouble when demanding equality, and the result is race riots.

I read from the Pittsburgh Sun-Telegraph of August 21, 1931:

BATHERS RIOT AT HIGHLAND PARK POOL—POLICEMAN STABBED, SEVEN HELD AFTER BATTLE; NINE ARRESTED IN EAST END STREET FIGHT

A series of near riots at the Highland Park swimming pool, during which a policeman was stabbed and seven persons arrested, marked the attempt of several scores of Negro picnickers to enter the pool in a group. White bathers, resenting the presence of Negro swimmers, attacked many of the picnickers and stoned others who entered the water.

Patrolman Charles Schierlein, of Mount Washington station, was stabbed twice in the left hand when he attempted to arrest Thelma Brown, 25, Negro, of 1 Dick Street. T. H. Lewis, 38, Negro, of 6120 Orphan Street, who is said to have attacked Patrolman Schierlein to prevent the arrest, was charged with the stabbing, although police failed to find a knife in his possession.

RIOT CALLS SOUNDED

More than 50 policemen armed with riot clubs were rushed to the park in radio-equipped scout and emergency cars when it was learned that a picnic was being held in the park by the United Baptist Sunday schools. Representatives of 25 Negro churches gathered in the park and a few of their number were beaten when they attempted to enter the pool.

The riot calls were sounded when William Struthers, general chairman of the picnic is said to have demanded that the white bathers be ordered from the pool and that it be turned over to the picnickers. This was refused, and when a crowd of picnickers swept into the pool they were set on by a number of young men who had been in the water. Police quelled the disturbance.

Later rocks were hurled from the hillside into the pool. The Brown woman was arrested for inciting a riot, police said, when she urged several of her friends to beat up the white youths. Patrolman Schierlein started to take her to one of the police patrols when he was set on by Lewis, police said. Another battle followed and police finally arrested five other men.

BATTLE IN STREET

Those arrested, with the exception of Lewis and the woman, were charged with disorderly conduct. They are Chester Dudley, 21, Negro, of 6359 Luther Street; Kenneth Washington, 18, Negro, of 1849 Runnette Street, Penn Township; Paul Forlees, 18, Negro, of 5374 Warble Street; Raymond Ligton, 29, Negro, of 501 Larimer Avenue, and John Derizzo, 22, of 105 Stoebner Way.

Nine persons were arrested on suspicious-person charges, following a free-for-all fight between whites and Negroes at Lincoln and Lemington Avenues, last night. Bricks, clubs, and other missiles were used by the combatants, most of whom fled when police arrived. The fight came as an aftermath of the disorders at the Highland Park pool, police said.

Those arrested, according to police, were Joseph Johnson, 21, of 1817 Torrance Street; Carl Thornton, 21, of 1817 Runnette Street; John Taylor, 22, of 10 Torrance Street; James Fucell, 19, of 1400 Brushton Avenue; John Thomas, 22, of 1400 Brushton Avenue; James Washington, 19, of 1300 Barnesfeld Street; Charles Key, 20, of 37 Torrance Street; John Lindsey, 20, of 77 Torrance Street, and Clarence Carmel, 21, of 7300 Mount Carmel Street.

All of this happened notwithstanding the fact that there was on the statute books of Pennsylvania a statute giving to these people the right they claimed to have. I repeat that placing such laws on the statute books, and attempting such others as the pending bill and like measures, will lead to the same result in the future; and this must not again take place in this country.

I read from the New York Times of Sunday, September 9, 1934, an account of an occurrence in Maryland:

RACE RIOT SWEEPS MARYLAND TOWN—200 WHITE MEN BATTLING 400 NEGROES DRIVE NEGRO POPULATION OUT OF PRINCESS ANNE—MOB COURSES STREETS—ROUSED BY A FIST FIGHT, IT OVERRIDES POLICE AND FORCES FLIGHT OF NEGRO FAMILIES

PRINCESS ANNE, MD., September 8.—A race riot between 200 white men and from 400 to 500 Negroes was raging on the streets of this small town on the Eastern Shore of Maryland at 11:30 o'clock tonight. The entire Negro population was being driven from the town.

The trouble started when a Negro allegedly cursed a white man on the street and the two engaged in a fist fight.

The white man badly beat the Negro and drove him from the streets.

A few minutes later the white man started gathering his friends and, rapidly increasing as it marched down the streets, the crowd started for the Negro section of the town.

Forcing their way into a Negro restaurant, the men found the already beaten Negro, dragged him out, and began beating him again. In a few minutes, a battle royal was raging.

The Negroes were scattered and the white men, gathered in angry groups, began talking. A little later they made a rush into the Negro section and began driving men, women, and children.

Screaming and with blood on some of them, the Negroes fled in all directions—afoot and in automobiles, the white men after them with fists, clubs, bricks, and knives. Some of the Negroes fought back, but soon fled.

The small force of three police, headed by Chief Marion Austin, was powerless, and word was sent to Salisbury, 15 miles north, for State police.

How many persons were injured and whether any were killed could not be learned.

That account refers to an incident which happened in Maryland. That again illustrates, Senators, the ill-feeling which actually exists between the whites and the colored population of States not enforcing the color line. I say that down South we understand the Negroes, we sympathize with their weaknesses, we know their habits, and one does not find race riots going on as are enacted in the North, because the average Negro keeps his place down there.

Here is an occurrence in Missouri in November 1934 as reported in the New York Times of November 7, 1934. Here again is a race riot:

SHOTS IN MISSOURI STOP NEGRO VOTE—ONE WHITE MAN IS SLAIN AND TWO ARE WOUNDED BY GUNMEN AT HOLLAND FOR RIDING WITH NEGROES—SEVERAL OF LATTER ARE BEATEN IN TERROR WAVE—TWO MEN KILLED IN KENTUCKY, ONE IN OHIO

HOLLAND, MO., November 6.—Gunmen seeking to prevent Negroes from voting in today's election terrorized this southeast Missouri town today, killed one white man, wounded two others, beat several Negroes, and disappeared before State highway troopers arrived and restored order.

Almost before the firing had ceased Grover W. Dalton, chairman of the State Republican committee, issued a statement calling the disorders "an outrage and a disgrace to the entire State," but adding that "no more than should be expected from the Pendergast-dominated State Democratic machine."

The shootings climaxed a series of anti-Negro demonstrations which have occurred elsewhere in southeast Missouri in recent weeks, prompted by the slaying of Dave Martin of Sikeston, a shell-shocked World War veteran, whose body was found in a field. Three Negroes, now held in jail at Poplar Bluff for safekeeping, are said to have confessed killing Martin.

In today's affray, Horace Farrow, 36 years old, was shot dead and his father, John E. Farrow, 65, was wounded in an attack occurring in front of the Holland Consolidated School about 8:30 a. m.

An hour later, Clarence Posey, identified as a well-to-do farmer, said to be a Republican, was shot and wounded as he was driving into town with several Negroes to vote.

The slaying of Horace Farrow and the wounding of his father, authorities said, was a case of "mistaken identity." The Farrows, officers said, had hired Sampson Brown, a Negro, to drive them to Alamo, Tenn., on a business trip, and Edmond Drobie, a Negro school teacher, was making the trip with them.

Drobie asked to stop at the home of W. K. Myers, superindent of the Holland School, for some books.

As the car containing the Farrows and the two Negroes pulled away from the Myers home, an automobile containing three men drove up and one or more of the men started firing, the gunmen apparently under the impression that the Farrows had brought the Negroes into town to vote.

A bullet struck Horace Farrow in the back and passed through his body, killing him instantly. The elder Farrow was wounded in the arm.

An hour later the three men encountered Posey south of town and began firing. He suffered a scalp wound and was taken to a hospital at Blytheville, Ark.

Several other reports of violence were received. In one instance, the three men stopped an automobile driven by a woman who was bringing several Negroes to vote. She was not molested, but the Negroes were reported to have been beaten severely.

That account again illustrates that the people of the North resent the Negro's attitude. Race riots follow, and I again state that if by law Negroes are given this privilege without actually according the right in the future, it is sure to lead to riots whenever they attempt to exercise the privilege that is denied them.

In New York City in March 1935 the following occurred, according to the New York Herald Tribune of March 20, 1935:

NEGRO BOY, 10, AND A HEARSE START HARLEM RIOT OF 3,000; MOB GATHERS QUICKLY AS FUNERAL CAR, AT SCENE BY CHANCE, STARTS RUMOR CANDY SNATCHER IS KILLED; SECOND CROWD GATHERS, POLICE CONCENTRATE; STORE WINDOWS SMASHED ALONG ONE HUNDRED AND TWENTY-FIFTH STREET BLOCK; ALLEGED RED CIRCULARS SPREAD ANGER IN THRONG

A 10-year-old Negro boy's attempt to snatch a few pieces of candy precipitated a battle between police and Negroes inside and outside the S. H. Kress & Co. chain store at 256 West One Hundred and Twenty-fifth Street late yesterday afternoon. Although the confusion in the store, which began at 4 p. m., was soon ended, it was 7 p. m. before police had cleared mobs from streets in front and behind the store and for hours afterward there were further outbreaks.

A series of trivial incidents, including the accidental appearance of a hearse and a frantic woman's conclusion that the candy lover had been killed, caused the minor incident within the store to grow gradually into a pitched battle between 50 or more police and 3,000 Negroes and some white sympathizers.

SECOND CROWD GATHERS

After police had dispersed this mob, they believed that their troubles were ended, but soon after 9 o'clock a new throng of 2,000 rioters assembled at One Hundred and Twenty-fifth Street and Seventh Avenue. Police kept pushing them back, but because of their number the crowd kept forming anew. As the evening wore on, the riot spread throughout Harlem, with smaller outbreaks here and there. Police were rushed to the section from other parts of the city.

By 10 p. m. windows had been smashed in almost every store front on One Hundred and Twenty-fifth Street between Seventh and Eighth Avenues, the rioters hurling bricks and rocks from windows, roofs, and even from moving automobiles. Many Negroes were arrested in addition to one Negro and four white persons seized in the earlier battle.

BOY BITES TWO MEN AT START

The boy's pugnacity was the prime cause of the trouble. He bit two employees of the store on the hand when they tried to haul him from the candy counter, and this in turn caused a woman clerk to faint. In the riot that soon developed outside two policemen suffered minor injuries, while many others were thumped with rocks and pelted with bottles. Five persons, one a Negro, were arrested.

The store stands midway between Seventh and Eighth Avenues, with its main entrance on One Hundred and Twenty-fifth Street and a rear entrance on One Hundred and Twenty-fourth Street. All the rear windows and two large plate-glass windows in front were shattered by rocks or bottles and many inside counters were damaged. Traffic in One Hundred and Twenty-fifth Street was disrupted for nearly 2 hours.

Several shots were fired into the air when persons standing on nearby roofs in One Hundred and Twenty-fifth Street bombarded police with missiles from above. It was not determined whether police or someone in the crowd fired the shots. No one was hit so far as was known.

BOYCOTT URGED ON HARLEM

The young recreant who caused the riot, identified by police as Cleve Rivera, of 272 Morningside Avenue, disappeared soon after he had been caught near the candy counter. Although store officials and police insisted the boy had not been harmed, much of Harlem still believed last night that he had been beaten badly and the League of Struggle for Negro Rights issued a statement calling on Mayor F. H. LaGuardia to act to stop "so-called race riots in Harlem." The statement urged a boycott of the store.

The employees who seized the boy and were bitten were Charles Hurley, 28, of 2875 Sedgwick Avenue, and Steve Urban, 39, of 4359 Gunther Avenue, both of the Bronx. They turned him over to Jackson Smith, the manager, who went with the boy and two employees into a rear room to learn what had happened. When he found that only a little candy was at stake he said he refused to press the matter and let the youngster go.

Meanwhile, customers in the store, many of them Negroes, had watched the two employees struggle with the boy and then lead him to a rear room. A rumor spread rapidly that he was being beaten. Customers who left the store told persons in the street and soon there was a crowd of 500 Negroes in the store, milling against the counters and demanding that the boy, already free, be released.

BITTEN MEN ARE TREATED

Three police radio cars and emergency squad 6, from East One Hundred and Twenty-second Street, were called, and they gradually pressed the crowd from the store, although not before many articles had been brushed off counters and trampled. As police beat the crowd back, it was discovered that Miss Clara Browder, 20, a clerk, of 473 West One Hundred and Fifty-eighth Street, had fainted. She was treated by the same Harlem Hospital physician who arrived to attend the two employees who had been bitten, each on the right hand and wrist.

Most of those driven from the store congregated outside in One Hundred and Twenty-fifth Street, and the rumor that the boy had been beaten grew slowly into a report that he had been badly hurt, and finally that he had been killed.

Within an hour the throng in One Hundred and Twenty-fifth Street, ignoring police orders to move on, had swelled to 3,000, according to police estimates, and from somewhere pickets had appeared bearing placards reading: "Kress brutality beats Negro child." Several Negroes and white persons mounted soap boxes in the block between Seventh and Eighth Avenues and began denouncing the Kress Co., shouting that it had refused to employ Negroes.

Police reinforcements had been called meanwhile, including all available reserve—uniformed police and detectives from the West One Hundred and Twenty-third Street station, three additional radio cars, emergency squad 5 from East One Hundred and Fifty-second Street, and about six mounted patrolmen. As the police increased their numbers and sought to disperse the mob, its mood became more angry. Bottles and rocks were soon flying.

During the battle Patrolman Irwin Young, of the West One Hundred and Thirty-fifth Street station, suffered a laceration of his right hand, and Patrolman Michael Kelly, of the West One Hundred and Twenty-third Street station, suffering a sprained ankle. Kelly was hit on the leg with a heavy rock while charging the mob. Young was uncertain whether he had been hit by a rock or bitten by somebody. Kelly was taken to Harlem Hospital, while the others were treated at the scene.

Police seized members of the mob who appeared to be its leaders as they drove it back and by 6:30 p. m. they had the One Hundred and Twenty-fifth Street block open to motor- and surface-car traffic. The Negroes began to break into smaller groups and the riot appeared ended when, by coincidence, a hearse stopped on One Hundred and Twenty-fourth Street, a few feet from the back entrance of the store. Some excitable woman saw it and shouted, "It's come to get the dead child."

Almost at once the throng reassembled, this time pushing toward the hearse in One Hundred and Twenty-fourth Street, and the battle then turned to that street. Although the crowd there was smaller, police had difficulty, because the Negroes showered them with miscellaneous missiles from roofs, hallways, and other hiding places.

The store had been closed at 6 p. m. and carpenters and painters, called by the management, were working inside to repair the damage caused there earlier. When members of the mob saw the workmen they shattered all the rear windows.

STORES ALL ALONG BLOCK ATTACKED

By 7 p. m. police had broken up the crowd in One Hundred and Twenty-fourth Street. Thereafter they patroled One Hundred and Twenty-fourth and One Hundred and Twenty-fifth Streets between Seventh and Eighth Avenues constantly to prevent more groups from assembling. The police were hopelessly outnumbered, however, and by 8 p. m. one or more windows in virtually every One Hundred and Twenty-fifth Street store front in the block had been smashed.

Police said that the rumor that the child had been killed had been started by the Young Liberators, which they described as a Communist organization. Last night this group was distributing mimeographed circulars throughout Harlem reading:

"A child brutally beaten.

"A women attacked by bosses and cops.

"A child near death.

"A 12-year-old child was brutally beaten, because the manager thought he stole a 5-cent knife.

"A Negro woman who defended him had her arm broken by thugs and was arrested.

"Workers protest against this lynch attack."

Soon before 10 p. m. all available patrolmen from the sixth inspection division were ordered to Harlem to augment police already there.

There, again, we have an illustration of the apparent ill-feeling which exists between the two races. If the northern whites understood and sympathized with the Negroes of the North as the southern whites understand and sympathize with the Negroes of their section, I am positive that the North would not be confronted with as many riots as I have been describing to the Senate this afternoon.

Here is an account of a race riot that occurred on January 23, 1938, this year. I read from the Long Island Daily Press of Monday, January 24, 1938:

Jamaica youth is killed in south side race riot.—Seven Negroes under arrest in stabbing.—Fatal street brawl begins after argument over parked car.

Imagine that—an argument over a parked car; again showing the ill-feeling which exists in the North between the whites and the colored people. In this case a race riot occurred, in which people were killed and wounded, over a parked car.

Negroes and whites rioted on Jamaica's South Side shortly before dawn yesterday, and when police dispersed the mob after a 30-minute pitched battle, a Jamaica youth lay mortally wounded on the sidewalk. He died 5 hours later in Mary Immaculate Hospital.

Seven Negroes are under arrest today, charged with homicide and felonious assault. Five white men and women are awaiting hearings on disorderly-conduct charges. They were served with summonses.

Casualties from the riot, said to have started with an argument over a parked car, totaled eight. One, a white man, is in a critical condition with stab wounds. Six others, three of them Negroes, were all slashed and bruised, but none critically.

The officers spent more than 19 hours yesterday questioning the more than 40 persons who were at or near the scene when the fight started, and late last night they locked up seven of the Negroes on felonious-assault charges and served three white men and two women with summonses charging disorderly conduct.

The dead man is:

Robert Thomas, a print-shop employee, of 170–05 Gothic Drive, Jamaica. He died in Mary Immaculate Hospital 5 hours after he arrived there.

The injured are:

George Miller, 39, white, of 32 Clarendon Drive, Valley Stream. He is in the same hospital with deep stab wounds.

Theodore Dausch, 29, white, of 61–29 Thirty-sixth Road, Maspeth. Cuts of the right cheek and a bite on the left arm.

William Miller, 32, white, of 42 Washington avenue, Oceanside, stabbed over the left eye.

Eugene Woods, 27, white, of 32–09 Greenpoint Avenue, Long Island City. Stab wounds of right knee and leg.

James Manley, 35, Negro, a longshoreman of 175–15 One Hundred and Tenth Avenue, South Jamaica. Scalp cuts.

Riley Tennyson, 21, Negro, a chauffeur of 169–12 One Hundred and Fourth Avenue, South Jamaica. Scalp and left eye cut.

Samuel Murray, 41, Negro, a tailor of 109–25 One Hundred and Seventy-fifth Street, Jamaica. Scalp cuts.

Those arrested on a double count—felonious assault and homicide—are:

Tennyson, Manley, and Murray.

Clarence Hedon, 35, Negro, a waiter of 173–09 One Hundred and Eighth Avenue, South Jamaica.

Thomas Tucker, 31, Negro, a chauffeur of 171–36 One Hundred and Fifth Avenue, South Jamaica.

Rudolph Rasberry, 29, Negro, a chauffeur, same address.

Frank Clark, 35, Negro, a longshoreman, same address.

Disorderly conduct summonses were returned in Long Island City Court this morning by the following white men and women:

Mrs. Stacia Clements of 105–03 One Hundred and Seventy-first Place, South Jamaica.

Mrs. Mary Dausch of 61–29 Fifty-sixth Road, Maspeth.

Dausch, her husband.

William Miller,

Charles Miller, 54, his father, of 234 Raymond Avenue, Rockville Centre.

The battle opened at about 4 a. m. at One Hundred and Fifth Avenue and One Hundred and Seventy-first Street, South Jamaica.

Since early Saturday night a birthday party for Steven Hoffmann, a boarder, had been going on in the Clements home, with about 25 white men and women taking part. Hoffmann, who is 31 today, is a waiter in Bill's Grill at 92–05 One Hundred and Sixty-eighth Street, Jamaica.

Simultaneously a party was going on around the corner at 171–36 One Hundred and Fifth Avenue, the home of Tucker, Rasberry, and Clark. Only Negroes were here.

AT MILLER'S CAR

When Hoffmann's party began to break up, Charles Miller and his son, William, went to their car, parked around the corner near the Tucker-Rasberry-Clark home.

"From what we can learn," District Attorney Charles P. Sullivan said last night, "Tennyson came outside and started an argument with the Millers over the spot where their car was parked. He is said to have claimed he could not get his car moving because of the Miller car's position.

"When other Negroes joined the argument the Millers attempted to return to the Clements home. A fight started. Negroes ran from one house and whites from the other, and the fight was on."

A riot call brought uniformed police and detectives from the Jamaica station. Thomas was taken to the hospital with George Miller. All the principals were rounded up and taken to the Jamaica precinct for questioning.

Searching the Tucker home, Capt. James J. Fogarty and his aides, all of the homicide squad, found a pocketknife with a 5-inch blade under a soft cushion in the Tucker living room. The kitchen yielded a 12-inch bread knife, police said.

A search of Tucker and Herdon brought a pocketknife to view, police allege.

Blood-soaked clothing found on Tucker and Tennyson was confiscated by police, it was said. The four knives were carefully scraped and the scrapings, along with the bloody garments, were sent to city toxicologist Dr. Alexander O. Gettler for analysis.

The dead youth, a former Jamaica High School student, was with the Quadri Color Co.'s plant at 184–10 Jamaica Avenue, Hollis.

His father, Robertson I. Thomas, who died 8 years ago yesterday, had been president of the Quadri firm.

The Thomas youth was a sergeant with the One Hundred and Sixty-fifth Infantry, National Guard, in Manhattan. Surviving are his mother, Mary, two brothers, Jordayne and Ralph, and two sisters, Constance and Natalie.

The prisoners were questioned in the Jamaica station house for more than 19 hours. The questioning was guided by District Attorney Sullivan and five of his aides, Chief Assistant District Attorney Harry I. Huber, Edward Potter, Martin Schwaeber, John H. Krogmann, and James F. T. Delaney. Police working on the case were under Inspector John A. Lagarenae, in charge of Queens detectives. Thirty detectives from all parts of Queens aided the district attorney's staff in taking statements from the more than 40 Negroes and whites involved.

In connection with the last article which I read, from Jamaica city, I have here the letter which accompanied the newspaper clipping. I shall not give the name of the sender of the letter or his address, but listen to what he says:

Enclosed clipping is an answer to Senator WAGNER's antilynching bill. I live near where it happened and I want to tell you it is not safe for a white person to walk around alone at night even though there are lots of white people owning homes there.

In New York City the niggers have about the best location, with level ground, and centrally located. They are driving the decent white people away. On Saturday nights there are hundreds of extra police transferred from other stations to the nigger belt, as a riot is apt to start at any time.

Mr. President, I have read to the Senate the accounts of numerous riots which took place in recent years, and all of these occurred on almost every occasion because of the racial antagonism which exists between the whites and the blacks of the North. They do not understand each other. The Negroes of the North try to exercise the privileges which the whites of the North have accorded to them, but which they do not want them to exercise. If we in the South give to a colored man certain rights, we are not hypocritical about it, we give them to him and let him exercise them, but in the North a right is given to him as a pretense and the hope that he will not exercise it, and when he does, he meets trouble coming and going.

I shall now take a few moments of the time of the Senate to read some examples of letters and telegrams I have received from all over the country relative to this question. These letters and telegrams I have selected at random from the thousands I have received. A few of them are comical, but most of them reflect, I will say to the Senator from New York [Mr. WAGNER], the true feeling of the people of the North, East, South, and West toward the Negro problem.

As I have contended throughout the debate, it is my belief that the pending bill, together with like bills, involves more of a social problem than anything else. It is my contention that it is absolutely wrong for the State of New York to give to the Negro people by legislative enactment certain rights which they cannot afterward exercise because the great mass of white people do not approve, although the laws are on the statute books. Most of the riots of which I have read resulted from the racial prejudice which exists between the white people of the North and the Negroes of the North.

The first letter which I shall read, with due apologies to the charming former Senator from Alabama, Mrs. Graves, is from Chicago, and reads:

CHICAGO, ILL., *January 18, 1938.*

Senator ELLENDER:

DEAR SIR: All of you Senators that are against passage of the lynch bill must remember if Negroes were in position to lynch your people instead of your people lynching Negroes you would want the bill passed in a hurry; but remember you haven't the type of Negro to deal with today as you had when the Yankees and Confederates were fighting years ago, so the time will soon come, if you southerners isn't careful, where you will be running to Negroes for help; but instead of blacking your faces and hiding you, they will be knocking your brains out. The old-time Negro knew enough years ago the South would be his country; he knew where all your money was, because you had no banks, and all he had to do was kill you and taken all you had—land, money, and all—so fight hard as you wish, the Negroes isn't going to stand for lynching much longer. I want to wake you up on just a little thing that you haven't dreamed of. Some few years ago the Negro was organized by a race of people from across the pond, and pretty soon when they strike at you, then you will be surprised. Your eyes are open, but you sound asleep. And when the war does come and you arm the Negroes, which you will have to do, then you won't need no lynch bill; it will be dead for always. I don't see how you can figure it would be such a disgrace to stop lynching anyone. And tell that old woman Senator that spoke during the last time the bill came up and was defeated on account of her speech she will be the one, I hope, get her lesson first. Excuse mistakes; but remember the Japs is trying every way to get you in a fight, and you are afraid; but to lynch to you it is all O. K. This country has become a great Christian nation because the Japs have slapped you on both sides of your face, and all you ask is to apoligy. What fools you are! By-by, dear Senator.

[Laughter.]

That old woman I spoke of is name Mrs. Graves. Please show her this letter.

Try and guess who wrote this letter.

[Laughter.]

Mr. President, I hold in my hand another communication, which is mimeographed, and is prepared, I believe, by and comes from communistic sources. It shows conclusively that the Communists of the Nation are trying to mislead the Negroes, to misrepresent facts to them, and to get them to do things which I know they would not otherwise do except under such leadership. The colored people are easily misled, and before this debate ends I shall present to the Senate some articles published in various papers prepared by Communists to show how they have been working for years and years in order to get the Negroes to join them so as to obtain a larger following. I will not be surprised if sooner or later they succeed, and we will have more Communists in our midst than Senators would think possible.

I now present a letter which was addressed to me recently, headed "Peace." I suppose all Senators recognize that this salutation comes from one of Divine's "angels." [Laughter.] It is addressed:

Mr. ALLEN J. ELLENDER,
Senator of Louisiana, White House, Washington, D. C.
Personal.

NEWARK, N. J., *February 9, 1937, A. D. F. D.*

It may be remembered that I spoke some time ago about Divine. He added to "Anno Domini" the initials "F. D.," for

"Father Divine." As I have said, I am about to read one of the letters that has come to me, and it is from Faith Confidence, who is one of the angels living in one of Divine's heavens. [Laughter.] She signs it "Faith Confidence." It is a little better written than the last one from which I read:

NEWARK, N. J., *February 9, 1937, A. D. F. D.*

PEACE

Mr. ALLEN J. ELLENDER,
Senator of Louisiana, White House, Washington, D. C.

MY DEAR SENATOR ELLENDER: "As a man thinketh in his heart so is he."

May my salutation to you be peace.

When shot and shells are bursting, and men are falling on the battlefield, and brother fighting brother, it is then we can realize how wonderful the word "peace" is.

It is the love that surges through my heart and veins that causes me to write this letter.

Oh, how I wish that you knew. How I wish you understood the tranquillity of the mind and heart as well as the soul. How beautiful this word "peace" is, but first it must be established within our own hearts and lives. We must love one another as God so loved us.

How unkind and selfish mortality has been.

"God does not make a distinction or look at the outer appearance but looks at our hearts."

As a child I received part of my education in New Orleans, La., and I know conditions of the Southland.

I do so much wish you as well as the whole world knew our Father. How wonderful he really is. How kind and gentle, how merciful, how compassionate, how adorable sweet. I mean Father Divine, who stands in our midsts calling all people of the earth together in universal love.

This winderful Father who heals the sick, restores the sight of the blind.

Think of that!

I have heard the mute give praises to his everlasting name. I have seen an incurable cancer case come up in ambulance and later beheld the wonderful works of "god." The patient cured of cancer.

Yes; I tell you with all the love that is in my heart. This wonderful little holy body—

That is Father Divine she is talking about. [Laughter.] The leader of the cult who has forsaken medical science and is resorting to methods employed in India and dark Africa—

that looks like a man, is the embodiment, the holy tabernacle of God.

Does not Scripture tell you "By His good works ye shall know Him"?

This righteous Government that Father has established, the Bible speaks about. I believe you will find it in the Book of John, chapter 17. If you will test our Father's love, you will taste of the sweetness of life, you will drink from the cup that is filled and overflowing with love.

Listen to this, Senators. Some of you might be interested.

Mr. BARKLEY. Mr. President, will the Senator yield? It is my purpose to suspend at this time and move an executive session if it is agreeable to the Senator from Louisiana.

Mr. ELLENDER. I should like to complete the reading of this letter and one other letter.

I call the attention of Senators to this quotation from this "angel," who probably writes from one of the heavens of Father Divine:

Haven't you some complicated problem that seems to perplex your brain? Isn't there something you desire to seek counsel? Father is the good counselor, the everlasting father, the prince of peace, the king of kings, the lord of lords.

He is God.

And yet he is so sweet and so humble.

[Laughter.]

His name has encircled the earth like a strong golden love chain, and we are becoming to be links in that chain of love. O let not doubt cast its dreary shadow on your heart, for doubt is a deceiver.

Doubt had cast its shadow over my heart, but God in his infinite sweet love led me out into the light of faith. The dawn of the new day. I ask His forgiveness for every doubting. He knows best my heart. O that I might become worthy of his love. O that I might serve him in love and obedience.

From the depths of my heart I tell you, yes, he is God.

I will close with his precious words with you, "Peace, everyone." May they find their way to your heart.

FAITH CONFIDENCE.

I may state to the Senate that I have received many similar letters in high praise of this former slave's son from Georgia. Think of such a condition in America.

I propose to alternate in the reading of these letters; I will read one letter which is sympathetic to the pending measure and one which is against it. I will read a letter from Mount Vernon, N. Y., dated January 20, 1938, as follows:

While not a southern man, I have been there enough to believe that those who are for the antilynch bill do not know much of what they are speaking of, and am with you and those who are fighting this bill. With you to the hilt. And trust that you and yours may be able to fight to a finish those of the North and West and East who are so ill-informed as to conditions under which the South lives or would have to live with Negro supremacy.

I now ask to have printed in the RECORD at this point the tables to which I previously referred and from which I have given the figures.

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

Prisoners received in State and Federal prisons and reformatories, 1936

	Number of prisoners [1]	Total population [2]	Rate per 10,000
Negroes:			
10 Southern States [3] (3 Southern States not reporting: Alabama, Georgia, Mississippi)	6,886	5,779,958	12.0
35 remaining States and District of Columbia	8,592	3,085,508	28.0
Whites:			
10 Southern States	9,339	19,611,562	4.8
35 remaining States and District of Columbia	35,369	84,718,040	4.2

[1] Based on report prepared by U. S. Bureau of the Census.
[2] Population figures based on 1930 census.
[3] Arkansas, Florida, Kentucky, Louisiana, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

Arrests, city of Jacksonville, 1937

	Whites	Negroes	Total
Murder	6	32	38
Manslaughter	10	10	20
Rape	3	2	5
Robbery	29	27	56
Aggravated assault	31	128	159
Housebreaking	80	167	247
Larceny	155	380	535
Auto theft	19	26	45
Total	333	772	1,105
Rate per 10,000 population (1 to 4)	41	161	

Population:		
Whites	81,320	(63%)
Negroes	48,196	(37%)
Total	129,516	

Crime figures furnished by chief of police, Jacksonville, Fla.
Population figures from 1930 census (U. S. Bureau of the Census.)

Arrests, city of Charleston, 1935

	Whites	Negroes	Total
Murder	1	7	8
Manslaughter	None	None	None
Rape	None	None	None
Robbery	51	272	323
Aggravated assault	17	41	58
Burglary and housebreaking	1	14	15
Grand larceny	6	37	43
Highway robbery		13	13
Total	76	384	460
Rate per 10,000 population (1 to 6)	22	137	

Population:		
Whites	34,177	(55%)
Negroes	28,062	(45%)
Total	62,239	

Crime figures furnished by chief of police, Charleston, S. C.
Population figures from 1930 census (U. S. Bureau of the Census).

Arrests, city of Charleston, 1936

	Whites	Negroes	Total
Murder		2	2
Manslaughter	None	None	None
Rape	None	None	None
Robbery	37	253	290
Aggravated assault	1	12	13
Burglary and housebreaking		3	3
Grand larceny	7	11	18
Highway robbery		3	3
Total	45	284	329
Rate per 10,000 population (1 to 7 plus)	13	101	

Population:

Whites	34,177	(55%)
Negroes	28,062	(45%)
Total	62,239	

Crime figures furnished by chief of police, Charleston, S. C.

Population figures from 1930 census (U. S. Bureau of the Census).

Arrests, city of Charleston, 1937

	Whites	Negroes	Total
Murder		6	6
Manslaughter	None	None	None
Rape	None	None	None
Robbery	37	229	266
Aggravated assault	1	20	21
Burglary and housebreaking	18	52	70
Grand larceny	12	15	27
Highway robbery	7	4	11
Total	75	326	401
Rate per 10,000 population (1 to 5 plus)	22	116	

Population:

Whites	34,177	(55%)
Negroes	28,062	(45%)
Total	62,239	

Crime figures furnished by chief of police, Charleston, S. C.

Population figures from 1930 census (U. S. Bureau of the Census).

Arrests, city of Houston, 1935

	Whites	Negroes	Total
Murder	8	28	36
Manslaughter	(1)	(1)	(1)
Rape	5	8	13
Robbery	112	100	212
Aggravated assault	172	82	254
Burglary	198	256	454
Theft, felony	239	151	390
Auto theft	351	46	397
Total	1,085	671	1,756
Rate per 10,000 population (1 to 2 plus)	50	106	

[1] None reported.

Population:

Whites	214,687	(74%)
Negroes	63,337	(21%)
Others	14,328	
Total	292,352	

Crime figures furnished by chief of police, Houston, Tex.

Population figures taken from 1930 census (U. S. Bureau of the Census).

Arrests, city of Houston, 1936

	Whites	Negroes	Total
Murder	15	40	55
Manslaughter	(1)	(1)	(1)
Rape	11	9	20
Robbery	68	75	143
Aggravated assault	166	73	239
Burglary	189	227	416
Theft, felony	214	138	352
Auto theft	275	48	323
Total	938	610	1,548
Rate per 10,000 population (1 to 2¼)	44	96	

[1] None reported.

Population:

Whites	214,687	(74%)
Negroes	63,337	(21%)
Others	14,328	
Total	292,352	

Crime figures furnished by chief of police, Houston, Tex.

Population figures taken from 1930 census (U. S. Bureau of the Census).

Arrests, city of Houston, 1937

	Whites	Negroes	Total
Murder	20	31	51
Manslaughter	(1)	(1)	(1)
Rape	6	20	26
Robbery	106	83	189
Aggravated assault	203	103	306
Burglary	149	332	481
Theft, felony	186	140	326
Auto theft	294	62	356
Total	964	771	1,735
Rate per 10,000 population (1 to 2½ plus)	45	122	

[1] Not reported.

Population:

Whites	214,687	(74%)
Negroes	63,337	(21%)
Others	14,352	
Total	292,352	

Crime figures furnished by chief of police, Houston, Tex.

Population figures from 1930 census (U. S. Bureau of the Census).

Number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, Detroit, year 1930

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	0.8	0.9	16.5
Negligent manslaughter	1.0	.5	1.5
Rape	2.2	1.5	8.1
Robbery	6.2	2.0	48.2
Aggravated assault	1.6	1.8	30.2
Burglary—breaking or entering	8.0	2.0	73.4
Larceny—theft	24.6	12.1	202.7
Auto theft	3.8	1.1	17.7
Total	[1] 48.2	[2] 21.9	398.3

[1] Proportion, 1 to 8+. [2] Proportion, 1 to 18+.

TOTAL POPULATION—1930 CENSUS

Native white	1,040,860	(66%)
Foreign-born white	399,281	(25%)
Total white	1,440,141	(91%)
Negro	120,066	(8%)
Others	8,455	(1%)
Total population	1,568,662	(100%)

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

Number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, Los Angeles, 1929–30

	Native white	Foreign-born white [1]	Negro
Murder and nonneligent manslaughter [2]	2.3	2.2	5.5
Rape	5.0	1.1	20.6
Robbery	24.7	7.4	51.5
Aggravated assault	4.1	3.0	54.6
Burglary—breaking or entering	23.1	10.2	80.8
Larceny—theft	21.3	11.7	72.1
Auto theft	16.7	5.3	45.9
Total	[3] 97.4	[4] 40.9	331.0

[1] Exclusive of Mexicans.

[2] Los Angeles does not separate homicides into negligent and nonnegligent manslaughter.

[3] Proportion, 1 to 3½–.

[4] Proportion, 1 to 8+.

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

TOTAL POPULATION—1930 CENSUS

Native white	891,736	(72%)
Foreign-born white	181,848	(15%)
Total white	1,073,584	
Negro	38,894	(3%)
Others	125,570	(10%)
Total population	1,238,048	

Number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, Cleveland, year 1930

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	1.3	1.2	18.2
Negligent manslaughter	.8	.3	.6
Rape	1.6	.3	1.7
Robbery	13.6	1.4	64.9
Aggravated assault	1.1	.9	19.4
Burglary—breaking or entering	14.2	1.4	76.9
Larceny—theft	23.7	7.2	154.9
Auto theft	12.1	.5	25.6
Total	[1] 68.5	[2] 13.2	362.2

[1] Proportion: 1 to 5¼+. [2] Proportion: 1 to 27+.

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

TOTAL POPULATION—1930 CENSUS

Native white	597,603	(66%)
Foreign-born white	229,487	(26%)
Total white	827,090	
Negro	71,899	(8%)
Others	1,440	(—)
Total population	900,429	

Number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, Buffalo, year 1930

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	0.4	0.3	12.5
Negligent manslaughter	3.9	1.0	12.5
Rape	4.5	1.1	45.7
Robbery	7.5	3.0	91.4
Aggravated assault	15.2	11.7	490.2
Burglary—breaking or entering	32.1	4.4	220.2
Larceny—theft	81.5	29.6	473.6
Auto theft	21.2	4.2	87.2
Total	[1] 166.3	[2] 55.3	1,433.3

[1] Proportion: 1 to 8½ plus. [2] Proportion: 1 to 26 minus.

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

TOTAL POPULATION—1930 CENSUS

Native white	440,553	(77%)
Foreign-born white	118,316	(21%)
Total white	558,869	
Negro	13,563	(2%)
Others	644	(—)
Total population	573,076	

Number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, Cincinnati, year 1930

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	1.5	0.4	15.4
Negligent manslaughter	3.3	.4	5.8
Rape	2.6	.4	8.0
Robbery	9.6	.4	74.6
Aggravated assault	5.2	1.7	87.0
Burglary—breaking or entering	14.5	.4	111.9
Larceny—theft	32.9	3.7	470.4
Auto theft	11.4	1.2	81.2
Total	[1] 81.0	[2] 8.7	854.4

[1] Proportion, 1 to 10½+. [2] Proportion, 1 to 98+.

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

TOTAL POPULATION—1930 CENSUS

Native white	368,277	(82%)
Foreign-born white	34,835	(8%)
Total white	403,112	
Negro	47,818	(10%)
Others	230	(—)
Total population	451,160	

Total number of males per 10,000 of male population of same class, 15 years of age and over, charged with major offenses, by nativity and color, for the following five cities: Detroit, 1930; Los Angeles, 1929–30; Cleveland, 1930; Buffalo, 1930; Cincinnati, 1930

	Native white	Foreign-born white	Negro
Murder and nonnegligent manslaughter	1.4	1.1	14.8
Rape	3.3	1.1	9.8
Robbery	13.5	2.8	58.4
Aggravated assault	4.3	3.0	55.7
Burglary—breaking or entering	17.1	3.5	86.6
Larceny—theft	31.2	12.6	226.0
Auto theft	11.9	2.1	37.2
Total	[1] 83.9	[2] 26.5	490.7

[1] Proportion, 1 to 6—.
[2] Proportion, 1 to 19—.

Statistics compiled by National Commission on Law Observance and Enforcement, as carried in its report entitled "Report on Crime and the Foreign Born" of date June 24, 1931.

TOTAL POPULATION—1930 CENSUS

Native white	3,339,029	(71%)
Foreign-born white	963,767	(20%)
Total white	4,302,796	(91%)
Negro	292,240	(6%)
Others	136,339	(3%)
Total population	4,731,375	

Mr. ELLENDER. Mr. President, I now ask unanimous consent to print in the RECORD, following my remarks, extracts from certain letters, telegrams, and so forth, received by me in connection with the pending bill.

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

The matters referred to are as follows:

NEW YORK.

SENATOR. There are criminals in and out of jail; in high places, and in gutters. Are you advocating lawlessness and mob rule? This is democratic America and the twentieth century. Get yourself straightened out. The mass of people are ashamed of lynch festivals. We should all be equal—black and white—socially, and before the law. Quit stalling. Pass the antilynch bill.

LAKE CHARLES, LA., *January 24, 1938.*

The antilynching bill.
United States Senator JOHN H. OVERTON,
Washington, D. C.

United Senator Senator ALLEN ELLENDER,
Washington, D. C.

DEAR SENATORS: In view of the fact that this legislation, from my casual reading sometime ago, provides remuneration or damages against State officials, etc., in an action by relatives of persons lynched through mob violence, wholly within a sovereign State, I have wondered on what theory:

1. Congress can be vested with power to enact such legislation or give Federal courts jurisdiction, as I understand the Federal Government does not become liable for any such damages regardless of whether the culprit is a Federal or State prisoner.

2. If such law is within the power of Congress, why there cannot be a provision for damages in favor of relatives, etc., for injury inflicted by a white or "nigger" rape fiend, or by gangster-murderers, as the criminal act of an individual or individuals in willfully committing a heinous crime of such nature as to arouse the ire of all good citizens is no different from that of a mob.

3. Why the injured person should not have a lien on any recovery by relatives of such culprits, since they are as much entitled to protection against the acts of criminals under our Constitution and laws the same as a criminal who has been apprehended, especially as in most cases the culprit has confessed his crime or the proof is established beyond any reasonable doubt.

4. If Congress should have the power to pass such a measure, then such an amendment would probably kill the bill, since gangster-murderers are more common in the North than in the South.

FEBRUARY 5, 1938.

Senator ELLENDER,
United States Senate, Washington, D. C.

SIR: Enclosed is a copy of a clipping out of this damnable nigger paper that is allowed in the National Capital:

"SAYS UNITED ASIA WILL GIVE HOPE TO AFRICANS

"To the EDITOR OF THE AFRO:

"I congratulate you on your editorial of January 15, regarding the Sino-Japanese War, which can be appreciated despite the fact that it means suffering and death to millions of Chinese.

"On the other hand, psychologically, a victorious Japanese in China will be a decisive blow to white supremacy in the East and West.

"In the eyes of the Chinese, the *Panay* incident was a defeat for the white world. Like us in America, the Chinese were made to feel inferior through the ruthlessness of the whites. The latter believed their power could never be challenged by anyone not their color. The *Panay* occurrence showed the Chinese that the legend of white supremacy could be questioned and shot to pieces.

"The more Japan strengthens herself commercially in China, the more effectively will the yellow man be able to combat barriers placed against him in America. Consequently, while we sympathize with the Chinese people, eventually a united Asia will be an encouragement to Africa and our dark-skinned brothers throughout the world.

"———— ————.

"NEW YORK."

Thanking you for your attention, I beg to remain,

———— ————.

RESOLUTION ON WAGNER-VAN NUYS ANTILYNCHING BILL

JANUARY 20, 1938.

At a meeting of branch 2 of the Communist Party of the United States of America, attended by members, friends, and neighbors of the twelfth assembly district, Manhattan, the following resolution was passed:

"Whereas the reactionary filibuster of the 11 Senators who are leading the shameful fight against the Wagner-Van Nuys antilynching bill is a criminal sabotage of the democratic rights not only of the Negro people but of the rights of the entire American people; and

"Whereas the passage of the Van Nuys-Wagner antilynching bill is of vital importance in order to preserve elementary human and civil rights as guaranteed by the thirteenth, fourteenth, and fifteenth amendments of the Constitution of the United States for the Negro people, rights which are daily being flouted, as witnessed by the hundreds of lynchings which have taken place in this country and which are a blot on the democratic traditions of this country; and

"Whereas the cynical behavior of the 11 Senators in supporting the filibuster is a shocking action which does not express the sentiments of the working and liberty-loving people of this country: Therefore be it

"*Resolved*, That we, the members of branch 2 of the Communist Party of the United States of America, go on record as strongly supporting this bill; and be it further

"*Resolved*, That since the Communist Party has always been in the forefront of the fight for Negro and other minority group rights and against all forms of racial intolerance and bigotry, that we demand the immediate cessation of the filibuster against this bill and urge that everything possible be done for its speedy passage."

BRANCH 2, COMMUNIST PARTY,
114 Lexington Avenue, New York City.

LOUISVILLE, KY.

Hon. Senator ELLENDER,
Washington, D. C.

DEAR SIR: Keep up your fight to kill the antilynching bill. If it is ever passed, a white woman cannot walk the streets of Louisville, Ky. On December 20, 1936, I was on my way home from work. In four blocks of my home a 6-foot Negro knocked me down and took my pocketbook and my week's earnings, which was $6. The police picked me up and brought me home. I was badly hurt. I am 53 years old. I wonder how some of your Negro-loving foes would like for this to happen to their wives, daughters, or mothers?

Tell the northern Senators that want to protect the Negro, to tune in on the police calls in Louisville between 6 and 8 o'clock any night and especially Saturday night. Surely they will change their minds, and get to work on bills to stop people from walking the streets cold, hungry, and broke. Keep your good fight up. Hold the floor for the rest of this session of Congress if it takes it to kill this bill and don't forget there will be lots of Senators looking for new jobs next November.

Ever trying to cram the Negro down white people's throats, and make them like it. Let the North have the Negro. We don't want the black devils. I wish you would read this letter to the Negro lovers if you think it is all right. I am enclosing paper clippings of this week end. Please read them all. So hoping you the greatest of success in your great fight to save the white women from the murderous claws of the black Negro. The Nation surely is behind you. Fight on—don't turn back.

Respectfully yours,

————————.

PEACE

LOS ANGELES, CALIF.,
January 28, 1938, A. D. F. D.

SENATOR ELLENDER,
Senate Chamber, Washington, D. C.

DEAR SIR: I am writing to you at this time, calling your attention to the fact that you have made some assertions in the assembly meeting of the Senate of the Government, of which I am part and parcel, expressing yourself in a manner unbecoming a gentleman, public officer, and a citizen of the country, a servant of the people, and paid by the people.

We are aware of the fact that such disreputable men as you are for many years have tried to keep other citizens under the hammer of southern ignorance and potentiality. It is true that this prejudicial feeling of yours reaches much further than the South, or in your immediate circle, but as an individual I am here to say that we are endeavoring to qualify ourselves and there are many who are already qualified to fill the office and offices in the Government that are to be filled and more competently, more honest and true than those who are now serving and have served.

I venture to say that you and your colleagues, as you have expressed the fact that you are not desirous in permitting other citizens to enjoy the rights and privileges of this country, or the blessings of liberty, and to pursue happiness and to promote the general welfare, but rather to promote the partial welfare of the people, which is a gross violation to the third and fourth meanings of the Constitution, and will no doubt hinder the existence of peace within the boundary of the United States, and I further wish to say although you were not elected directly from California, an open national protest can be made for your recall, as you have proven to the country at large your insufficiency and incompetency, serving the people in the spirit of liberty.

Such men as you are will very soon bring about a rebellion in this country. Our religion, as is being mocked by you, is the kind of religion that will eventually right the wrongs of men throughout the world. You have, through and by your statement, infringed upon the spirit and freedom of religion as per law.

As an individual, I am asking at this time that you refrain from making such statements that have been made by you, otherwise we will think there is something in that orange juice that you so frequently imbibe, as spoken of by the papers.

In God we trust, the true and living God, and Father Divine is He! We have been lifted, arisen, and elevated to the Christ consciousness, in His mind and His spirit, throwing off all besetting sins and everything that tends to tie and bind and running the race with patience, and patience is a virtue.

We hear the cry of Father Divine in his infinite stand for equality and social equality, without being married to any of your connections, humanly speaking, because, if you took the time to meditate and ponder over the advocacy of our Father Divine, you would understand that we are living according to the gospel, "no marriage or given in marriage for we are equal unto the angels." If we were thus recognized by the Almighty of our equality, what have we to consider from such corrupt, vile, and ignorant minds as you have. Think this over carefully, and you will have no cause for sleepless nights, and we have listened to the voice of our Lord telling us to qualify ourselves, and we will also be able to serve God and His country as Senators, Congressmen, and Governors, judges—yes, as President of the United States; it is the will of God and it must be done, and none can hinder it—the time has come and now is.

Since your feeling and the feeling of other men is so profound in that respect, why not leave us alone to ourselves, and I am quite sure that you will not have any trouble or any responsibility by way of taking care of us as most of you are thinking that you have to do, as we are fully able as men and women to take care of ourselves as you and others have and are doing, because the same was done before the malicious spirit of John Hawkins and Queen Anne organized their forces and brought our ancestors to this Western Hemisphere, cutting down the roots and branches, but forgot the roots and the trees are growing again.

I further wish to say that as one that has been awakened by the conscious recognition of the Tabernacle of God on earth among men, which is the personified body of Father Divine, I will endeavor to combat such men as you are until something is done to stop the spread of ignorance and malicious mischief by way of words throughout the country.

If you and others feel that you do not want to sit with us in the senatorial assemblage or congressional assemblies or as cabinet workers, or in public offices in a general way, then I repeat, why not leave us alone, for the time is coming when we are going to strike out in a godly and christly manner and yet a lawful one, to elect our own President, Governors, Senators, Congressmen, judges, etc., for we are aware of the fact that you and your type and your people, as you have claimed them to be, would never consider us by way of voting to put us into office.

It goes without saying that we will have to do it ourselves, and we are prepared for same. It may be cited at this juncture such a thought is a divided thought, but it is the only solution to the problem that is confronting the human family and in particular the American and the European nations.

It has been long since said that the Caucasian nation and the Ethiopian nation, yea, the Ethio-American nation cannot, and will not live together, peacefully, because of Caucasian domination and the spirit of Uncle Tom, plus turn-coat British subject, or may I say, British objects?

The time has come that the Scripture and the Gospel, the Prophets and the Psalms, they are being fulfilled in our lives, for it is written: "Ethiopia shall soon stretch out her hands to God and princes shall come out of Egypt (darkness) and 58,000,000 or more of people have stretched forth our hands to the Emmanuel (God with us), Father Divine."

I further wish to say in the mortal way of speaking that it has been said that "50,000,000 Frenchmen can't be wrong"—then how much more 58,000,000 of angels, made of all languages, tongues, and people—yea, even many of your complexion—also stretching forth their hands for emancipation from their delusions and false imaginations, people you call your race, and as per fulfillment of the Scripture and the twenty-fifth chapter of the Gospel of Jesus Christ recorded by Matthew. The sermon on the mount, as preached by Father Divine, when he was in the sonship degree of the body called Jesus. The very same wrangling that is now going on went on heretofore—the Roman government thought that they had defeated God, and today we find that the spirit of Rome is ruling in America.

If Catholics, Ku Kluxers, and "black legions" and every detestable spirit, such as they are, can be lawmakers, why cannot we, who have always been law-abiding citizens through and by our merits and our obedience, become lawmakers now?

The Constitution of the United States affords us that privilege, and we know it, and will now hence demand it and see that it is given to us, or we will take it—not by mob violence or unlawful rebellion but in the onward rush of righteousness, justice, and truth; and Father Divine is the moving spirit; we are following him, never to be beaten, nor to retreat. The world is undergoing a serious change, and America and Americans must live up to the Constitution; that is the most angelic document in a way of speaking ever seen heretofore which was transmitted to them by the spirit of Father Divine more than 130 years ago.

In reference to equality, social equality, most people have misrepresented the meaning of social equality and equality and we as well-thinking people, having been elevated from that which is termed negroism, coloredism, and other isms after the manner of men, giving thanks to Father Divine's personal presence of same, can only see one truism, and that is angelicism, the advocacy of Father Divine, plus constitutionalism in its entirety.

We are willing to serve side by side in public offices with other well-thinking citizens and in particular, Federal capacities. We are demanding it! It has been decreed by god—Father Divine—and his words will never go out and come back void; he, as our only leader, our general, we intend to follow; he has never lost a battle, coming down through 42 generations, and in this battle as in the Ammaggdon, he is victorious, and we are his children, unafraid.

No more of celebrating Lincoln's birthday; we are celebrating the advent of the father, holy ghost, and son, and if Lincoln were here he would have to celebrate us for bringing him out of the mirks and mire, placing him and the country where it is now, not taking any glory for ourselves, giving all the glory to Father Divine for it was his will and yet is his will—we are conquering and to conquer—Amen!

This letter is not private. It is personal and impersonal. Father Divine reigns.

In reference to the antilynching bill that is worrying you and other men, it is a crime in itself that so-called learned men would try to make an offence that is already a Federal crime in itself, a Federal offence. Is it not true that taking the life of any person by way of mob violence, yea, even an individual because of some grievance; committing such an offence is punishable by law, and the penalty is death! How, then, you men have failed to recognize the meaning of such a law or the Constitution proper—hindering and trying to hinder, yea, have hindered the life and existence of other citizens on this earth.

I dare say that the assembly itself, entertaining themselves as they are completely out of order to the true meaning of the Constitution from a standpoint of life, liberty, and the pursuit of happiness.

Shame! Shame! Shame! Time wasted! Prejudice, ignorance, race consciousness, and man's stupidity must be done away with and god's intelligence must reign. It has been so decreed and must go on, for the mouth of god has spoken and Father Divine is god!

Very truly,

———.

NEW YORK, N. Y., *January 23, 1938.*

Senator ELLENDER: Stop this filthy attack on the Negro people.

You don't belong to a civilized country. Your actions are typical of barbarians.

The United States can well do without your filibusters, whose contents defy our great American Constitution.

I voice the opinions of the majority of southerners and the entire North.

This letter specifically expresses the feeling of an entire social club composed of 105 members (Club Raven, 97 Avenue B, New York City).

Yours truly,

———.

NEW YORK, N. Y., *February 7, 1938.*

Hon. ALLEN J. ELLENDER,
United States Senator, Washington, D. C.:

Raven Club, 95 Avenue B, New York City, is a social club composed of white members—Polish, Jewish, etc.—and are believed to be communistic. Club has a membership of about 50 and has only been at this location approximately 2 weeks, therefore very little known about them in vicinity.

LEWIS J. VALENTINE, *Police Commissioner.*

NEW YORK CITY.

You are absolutely right about Harlem, and the same can be applied to Chicago.

Harlem was once a prosperous and partly residential section, but now the black blight is all over it. The little cash in circulation is either relief money or that spent by degenerate whites and visitors—nothing constructive. It is simply a burden on the rest of the city and a potential menace.

REAL NEW YORKER.

LOUISVILLE, KY., *January 19, 1938.*

U. S. Senator ELLENDER, of Louisiana,
Washington, D. C.

DEAR SIR: I have been reading your position on the antilynch bill in the CONGRESSIONAL RECORD. Thus far I am somewhat in sympathy with some of your views, although it so happens that I am a member of the colored group.

I write respectfully requesting that you send me a copy of the bill, your speech, and table of figures showing the crime of lynching by years.

With much pleasure I note that you are too much of a gentleman to resort to cheap and undignified vilification to carry your point. Thank you in advance for complying with this, my respectful request.

Yours very truly,

———.

SEATTLE, WASH., *January 26, 1938.*

Hon. ALLEN J. ELLENDER,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR ELLENDER: I am a native of old Virginia, and like yourself, I am bitterly opposed to lynching and mob violence of every kind, but I agree with you that the proposed measure will not reduce the probability of lynching, but will tend to increase it. But this is not my chief reason for opposing it. To me it is a flagrant invasion of States' rights and offensively reflects on the sovereignty and integrity of the Southern States. While I deplore filibustering as a general principle, I assure you that if there ever was an issue which justified it this is it, and I pray God that you and the other Senators opposing it may have physical strength to fight on.

I am writing you this out of my heart, not that I know you, but just to say God bless you.

———.

BROOKLYN, N. Y., *January 23, 1938.*

Senator ELLENDER,
The Senate Chamber, Washington, D. C.

DEAR SIR: You, being a United States Senator, are privileged to express your views on certain measures that are brought before you; consequently, you have gone your limit in your fight against the passing of the antilynch bill. You have even gone so far as to point out that you are so much opposed to the mingling of the Negro and white race and are against intermarriage between the same. My dear Senator, stop and think, for marriage is a lofty institution. The number of mulattoes in the South indicates and definitely shows that the two groups do mingle. If marriage was permitted, perhaps the morals of both groups would be lifted.

Furthermore, don't forget that there is a living and just God, and in His time He will come to the rescue of a downtrodden group. Then the bill will be passed, and I hope your conscience will sit in judgment on you.

Sincerely yours,

———.

GRENADA, MISS., *January 20, 1938.*

Senator ALLEN J. ELLENDER,
Washington, D. C.

DEAR SENATOR ELLENDER: I believe you will be interested in the enclosed editorials on the probable passage of the antilynch bill by some northern Democrats.

The resolutions were adopted at a mass meeting of representative citizens of Grenada and Grenada County. Furthermore, their action was heartily approved of and the same resolutions adopted last night at an overflowing meeting of the chamber of commerce and other civic bodies, which held a joint meeting at our community house. The determination to try to do something about this is not merely the idea of a few Grenada citizens but the entire

community. We believe that our attitude represents the feeling of the entire southland.

I wish to bring as forcibly as possible to your attention the resentment felt in Mississippi of the betrayal by some northern Democrats, and unless that wing of the party desist in their unfair and prejudiced practices, we will be forced to surrender to them the title to our party, retaining the tenets thereof for ourselves. We have only to look back to 1928 to know what the South will do when they feel justified, and we wonder if we are not now more justified than some of our sister States were then.

We have just begun to realize the awful possibilities of this bill, seeing plainly that it is merely the entering wedge that will take from us our State's rights. We are simply not going to surrender these rights without a fight, and should the supreme test come we most surely shall cling to our State's rights. Our fathers and their fathers fought for that cause, and we revere their heroic deeds too much to pass this up without, too, making a sacrifice.

Yours truly,

———.

RESOLUTIONS

The following resolutions were adopted by a mass meeting of Grenada citizens at the mayor's office yesterday.

The resolutions:

"We, the people of Grenada, Miss., in mass meeting assembled, hereby resolve:

"1. The people of our southland condemn lynching as well as other crimes and resent the implication that our sentiment is otherwise. We point with pride to the fact that crime in our section has been lessened more within recent years than elsewhere in our country and are determined that this record shall grow better.

"2. We disapprove the efforts being made in Congress to enact into law the proposed antilynching bill. We regard such proposal as unwise, unjust, and in direct violation of the constitutional rights of the States. As such it ought to be condemned by every American citizen regardless of his locality or political affiliations.

"3. We are disappointed and aggrieved that such measure has been initiated and is being fostered by members of the Democratic Party. This procedure on their part is evidence of their disregard of our judgment, lack of appreciation of our unbroken loyalty, and a departure from the fundamental principles of the party itself. If such course is carried to a successful conclusion it must be evident to the country that we, who remain loyal to the tenets of our party, cannot follow our mistaken brethren to their abandonment of these tenets. Divorcement, produced by their mistaken desertion, will, of necessity, be the result.

"4. We appreciate and endorse the position of our own Senators and commend their efforts to defeat the proposed legislation. We are deeply conscious of and genuinely appreciate the statesmanship, devotion to the Constitution, and unselfish regard for justice manifested by that great American, Senator BORAH. We realize of course, and, at the same time, esteem most highly the fact that his position is motivated by his sense of duty, without regard to its personal or political effect.

"5. We regret the abolition of the 'two-thirds rule' of our Democratic convention and urge our leaders to seek a restoration thereof at the earliest opportunity.

"6. *Resolved further*, That a copy of this resolution be furnished to our two Senators in Congress and to our State senator and representatives, and that same be brought to the attention of the United States Senate and the Mississippi Legislature."

BROOKLYN, N. Y., *January 20, 1938.*

Senator ELLENDER:

Say, Al, what about sitting down and let Congress proceed with important legislation? There are 130,000,000 people just praying for relief.

Father Divine shouldn't worry you. You are trying to make a small man look big. He does not represent the colored people any more than Capone, Dillinger represents the best in the white race.

I do pray to God that some day the South will be a decent place for any person to live and not be denied the right of a citizen. The background of you southerners is not altogether very brilliant—ex-convicts, malcontents, and the undesirable element of the Old World. You are only dragging the South down deeper and deeper. May God have mercy on your soul, because you certainly need it.

Not sincerely yours,

———.

You would like to regulate who or whom I may marry. Nuts to you.

PITTSBURGH, PA., *January 21, 1938.*

Hon. ALLEN J. ELLENDER,

United States Senate, Washington, D. C.

MY DEAR SENATOR ELLENDER: Keep up your great fight for racial purity. North of the Mason-Dixon line are millions of white Democrats who feel exactly as you do, but who have been betrayed by "pork hungry" politicians bent on garnering the Negro vote.

Let us keep in mind that the color line was drawn either by God Himself, or by that inexorable manifestation of the divine will which men call Nature. Since the distinction was made by such high authority, thinking men and women should be only too glad to observe it.

May God help you in your struggle against those who would barter white women for black votes.

Sincerely yours,

———.

PITTSBURGH, PA., *January 20, 1938.*

Senator ALLEN J. ELLENDER,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR: I read in the newspapers today an account of your speech before the Senate in opposition to the antilynch bill.

I suggest, learned Senator, that if you reversed one of your statements to read thus: "The quicker (the white) people of this Nation realize, or be made to realize, that (the Negro) is (not inferior), the better off he will be"; then you will have stated a demonstrable truth and not a dogma.

Yours truly,

———.

NEW JERSEY

JANUARY 23, 1938.

Hon. ALLEN J. ELLENDER,

Senate Office Building, Washington, D. C.

DEAR SENATOR: Allow me to express my hearty approval of your recent speech in the Senate against the antilynching bill, in which you spoke of conditions in New York City's Harlem. You certainly told the truth about that place. Having lived in the big city for 9 long years, from 1923 to 1932, I know something of conditions there, and I say without hesitation that Harlem is a festering sore on the body of our fair country. There white people and blacks mingle on terms of absolute equality in the restaurants, theaters, night clubs, hotels, churches, etc. Vice and crime flourish there. Respectable white people do not dare to venture out on the streets after dark, for they know the risk one runs of being slugged and robbed, or worse. But nothing can be done about it, because the politicians need the votes of the blacks, and so must avoid doing anything that would offend them. Ask BOB WAGNER why he is so worried about the South and what takes place there, when such conditions as I have just mentioned exist in his own city.

I wish to say here that I am a northerner; was born and reared in upstate New York, a few miles from Albany, and am also a real rock-ribbed Republican, but I do not believe in equality between white people and Negroes. I believe the latter enjoy too much freedom, and if I had my way about it they would not vote in this country. They are as much of a problem now as they were at the close of the Civil War. God only knows what the final solution of the problem will be, but it is the duty of every white man to do all he can in every way he can, to keep this a white man's country. We want no half-breed yellow race in the United States of America. White supremacy must be maintained at any cost. All honor to the southern Senators who have filibustered against this antilynching bill, and I earnestly hope that the filibuster will continue until BOB WAGNER's pet bill is either beaten or shelved. I am willing to let the Southern States take care of the Negro question in their own way.

I enclose a clipping from the New York Sun of January 17 which may interest you. And now, with best wishes, I remain,

Yours sincerely,

———.

PEACE

SEATTLE, WASH., *February 8, 1938.*

Mr. ALLEN J. ELLENDER,

Senate Office Building.

DEAR SIR: The prejudicial mortal minds of this world might believe and declare that your complexion and mine were the same, but I'm writing this to tell you that I thank God Almighty, Father Divine, that I do not believe in races, creeds, and colors. Evidently it took an antilynching bill to show you how you look in the eyes of others, for it certainly has revealed the libelous, slanderous, and prejudicial state of your own consciousness. Why don't you get acquainted with the Constitution of these United States? Especially as regards religious freedom.

Peace.

———.

PENNSYLVANIA

PITTSBURGH, PA., *January 20, 1938.*

Senator ALLEN J. ELLENDER.

DEAR SIR: As a citizen interested in maintaining, as you say, white man's respect and superiority over the Negro, may I say that since the colored race were granted a vote by Governor Earle, in this State of Pennsylvania, our so-called hill district and east end are fully as bad as Harlem in New York, which you refer to. I was born and raised just north of Harlem, therefore I am in a position to make comparison. Our best theaters, restaurants, and all places of amusements are becoming so infested with the colored race that one hardly cares to patronize them.

We have Negro police. There are United States postal employees up to, as I understand, very close to official positions. A short

time ago I read in the newspaper where they are fighting to become school teachers. God forbid they should ever teach my child.

Senator, do not think this is written by one prejudiced against the colored race. I am not. I believe they are entitled to share in the earthly goods of the world, but, as you say, not by destroying civilization as they did in ancient India.

In conclusion I, and in behalf of my friends and many business associates, who frequently discuss this matter, implore you to continue your work against a problem more detrimental to the coming generation of white men than most people take time to foresee. May success be the reward of your efforts.

Respectfully,

———.

NEW YORK, N. Y.,
Thursday, January 20, 1938.

DEAR GENTLEMEN: It do us American Negro a great honor if you fellows keep on fighting the lynch bill. Because if the bill is not passed, the lynch bill, to protect our people and their family from inhuman slaughter by this law enforcing officers and blood thirsty poor-white, and now when 14 or 15 millions Negroes refuse to help your people to fight another country like (Japan) getting the Negroe's support and any country that don't believe in pure white supremacy, like Senator from Louisiana [ELLENDER] do. God is with the Negro and when the Negro get smart and see that your people believe in white supremacy instead "of a one for all and all for one"—Divine's motto—"But not for one who's not for all," you will get a surprise of your life. Negro is biding God-speed and he's just praying for a war so he can show men like you! You will need his help, not him needing yours to protect you and your children because his have never been protected in this country. Over 10 millions Negroes is praying for a war and hoping you will be fighting Japan a (non-white race) so you Southerners can have the nerve to ask for Negroes soldiers to fight a (non-white race) and what a surprise you will get! It's too bad (Uncle Sam) isn't divided in two countries! The Negroes will be tickle to fight and die for a man like Wagner and LaGuardia or any north or north east State. But you Southerners going to be the cost of loseing the Negroes' support. In the next war, that got to come. God have it all plan out. Just wait and see! Just like Rome! The last shall be first and first last. Please watch that prophet Negro! Please read careful and study as close as possible. It's a daily talk among Negroes about you Southerners, and hoping for a war!

NEGRO UNION OF HARLEM.

NEW ROADS, LA., *January 26, 1938.*

Hon. Senator ELLENDER,
Washington, D. C.

SIR: Allow me in the interest of 14,000 people to make a plea for better health. Irrespective to all other things in the world, we must have health. We cannot work the fields nor gather the harvest if we are sick. If we are sick, we must beg the good white people to let us have the money to go to the charity hospital. Now, sir, please listen to this:

All we ever had comes from the white people who love us, and regardless to what happens, I still have unshaken faith in the southern white folk. All the newspaper propaganda does not arouse me. My confidence is unshaken. I was born and reared in the South. I have no fear of what may happen to me. What is it all about?

I speak for 14,000 Negroes, and we need you. As you have all ways and always stood by us, please do so now. We are erecting for ourselves a clinic, but we need someone to speak for us in places where people have money. We need your contribution to help us to buy an office examination outfit, which cost $122.50. Still with the faith of our forefathers in you and all good southern white people, may we expect your contribution?

Thanking you in advance, for we know it is forthcoming,

Yours for southern progress,

———.

NEW YORK, N. Y., *January 21, 1938.*

Senator ALLEN ELLENDER:

We, citizens, demand an apology to the Negro peoples for your filibustering and antilynch speech. This is material for a civil war. "A house divided against itself cannot stand." Yours for peace on earth to men of good will.

THE NEGRO NATIONALIST PARTY.

SHREVEPORT, LA., *January 29, 1938.*

Hon. ALLEN ELLENDER,
Senator from Louisiana:

Permit me to thank you and the rest of the delegation from Louisiana for the wonderful work you did against the antilynch bill. The people of the South feel that this is a direct slap at home rule, instead of helping law and order in the South. I feel that this bill, if passed, would work just to the opposite end. The Negro race is progressing nicely in our country. They are provided every facility for free public education and religious worship. The peace officers of the South have worked very hard and have practically succeeded in doing away with lynch law. This courthouse and jail was attacked by a large mob bent on lynching a man who was guilty of raping and murdering a 14-year-old girl. This office and friends of law and order prevented the mob from accomplishing its purpose. Our northern Democrats do not understand the South, and I feel that our Southern State, or any other State in the Union, should be permitted to have some hope of local government free from Federal interference. I feel that the passage of this bill would be a step backwards in law enforcement.

T. R. HUGHES, *Sheriff.*

Mr. ELLENDER. I shall now yield to a question from the Senator from Kentucky [Mr. BARKLEY]. Does the Senator wish to ask me a question?

Mr. BARKLEY. I anticipate having an executive session, and then moving a recess.

Mr. ELLENDER. Mr. President, this afternoon I agreed to yield to quite a number of Senators, who addressed the Senate, and much more time was required than I anticipated. I am now going to ask the Senator if, after the vote on cloture tomorrow, the debate shall continue on the antilynching bill, I will be permitted to continue this debate?

Mr. BARKLEY. I have no objection to that. I ask unanimous consent that following the vote tomorrow on the motion to close the debate the Senator from Louisiana, if he wishes, may continue without losing his rights.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? The Chair hears none.

ADDITIONAL COPIES OF HEARINGS BEFORE COMMITTEE ON WAYS AND MEANS—REVISION OF THE REVENUE LAWS, 1938

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 32, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That, in accordance with paragraph 3 of section 2 of the Printing Act approved March 1, 1907, the Committee on Ways and Means of the House of Representatives be, and is hereby, authorized and empowered to have printed for its use 2,000 additional copies of the hearings held before said committee during the current session on the bill for the "Revision of the revenue laws, 1938."

Mr. HAYDEN. I have conferred with the members of the Committee on Printing relative to the resolution, and I move that the Senate concur in the House concurrent resolution.

The motion was agreed to.

ORDER OF PROCEDURE

Mr. BARKLEY. I ask unanimous consent that during the hour, or whatever time is left after any roll calls tomorrow, prior to the vote at 1 o'clock, such time as may be available for debate be equally divided between those who oppose and those who favor the motion which will be voted on, and that of the time thus divided one-half be controlled by the Senator from New York [Mr. WAGNER] and the other half be controlled by the Senator from Texas [Mr. CONNALLY].

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Kentucky?

Mr. CLARK. Reserving the right to object, I wish to say that in every forum with which I have ever been familiar it has always been the custom for the proponents of a proposition to have the right to open and, if they desire, to close the debate. On the last occasion when cloture on this measure was suggested, I understand from the Senator from New York that he had an agreement with the Senator from Texas that the proponents of cloture should have the close. But when it came before the Senate the Senator from Texas insisted upon his right to close, and the Senator from New York yielded.

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

Mr. CLARK. I yield.

Mr. CONNALLY. I do not know by what authority the Senator makes that statement. All that occurred, occurred on the floor of the Senate, and all that the Senator from Texas ever contended was that the proponents had the right to open and close. The Chair so ruled, and the proponents apparently took advantage of it. The Senator from

West Virginia [Mr. NEELY] took up all the proponent's time in opening the case, and there was nothing left for him to use in closing. That is how it happened.

Mr. CLARK. Then I am misinformed about the matter.

Mr. CONNALLY. The Senator from New York will not claim anything to the contrary.

Mr. CLARK. Then I withdraw the suggestion. It does seem to me that the proponents of any proposition are entitled to the opening and closing.

Mr. CONNALLY. I have no objection to the proponents having the opening and closing if they want it. That was the understanding the other day.

Mr. BARKLEY. It was generally agreed that the proponents had the right to open and close, but unfortunately the Senator from New York yielded his time to open, and it was all consumed, so there was no more time in which to close.

Mr. CONNALLY. I am glad to have the Senator from Kentucky verify my statement, because that is exactly what happened.

Mr. CLARK. I am certainly willing to accept the statement of the Senator from Texas. I was misinformed.

Mr. BARKLEY. The usual rule will be followed.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Kentucky? The Chair hears none, and the agreement is entered into.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive calendar.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY—MAURICE M. MILLIGAN

The legislative clerk read the nomination of Maurice M. Milligan to be United States attorney for the western district of Missouri.

Mr. TRUMAN. Mr. President, I desire to make a few remarks concerning Mr. Milligan's nomination. I shall take about 10 minutes.

Mr. Milligan is now under consideration for confirmation on a reappointment. I have never thought, and I do not now think, that Mr. Milligan is qualified for the position of district attorney for the western district of Missouri. He is not professionally qualified, nor is he morally qualified.

My opposition to Mr. Milligan began long before vote frauds were brought to light in Kansas City. His morals and his political thinking never appealed to me.

The President has appointed him and the President wants him confirmed because of a situation in Kansas City due to vote fraud prosecutions in the Federal court. Mr. Milligan has been made a hero by the Kansas City Star and the St. Louis Post-Dispatch as a result of these prosecutions. The implication has been that any capable lawyer I would recommend for district attorney in western Missouri would not do his duty in regard to the vote fraud prosecutions. Every good lawyer and decent citizen in Kansas City and Jackson County is just as strongly opposed to vote frauds as are the Kansas City Star and Mr. Milligan.

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

Mr. TRUMAN. I yield.

Mr. BRIDGES. Does the Senator think that because a man has done his duty and prosecuted those guilty of vote frauds, some of the worst in the Nation, he ought to be penalized now?

Mr. TRUMAN. No; I do not. I have never asked that he be penalized. I asked that he be made a special prosecutor to continue these prosecutions, and that a district attorney be appointed in Kansas City who was agreeable to the Democrats in that community.

The detail work and the actual trial of the vote fraud cases have been done by Mr. Milligan's two able deputies and not by Mr. Milligan. If the district attorney's office was to have been rewarded for vote fraud prosecutions, by a reappointment, one of these able deputies should have been appointed.

Mr. Milligan has accepted emoluments in the form of fees in bankruptcy proceedings in the Federal court of western Missouri. In fact, he has received more money in fees in one case than his salary has been from the Federal Treasury for a whole year. The Federal court at Kansas City is presided over by two as violently partisan judges as have ever sat on a Federal bench since the Federalist judges of Jefferson's administration. They are Merrill E. Otis and Albert L. Reeves. Mr. Reeves was appointed by that great advocate of clean nonpartisan government, Warren G. Harding, and Mr. Otis was appointed by that other great progressive nonpartisan, Calvin Coolidge.

I want to have inserted in the RECORD at this point an editorial from the Kansas City Times, which is the morning edition of the Kansas City Star, of January 7, 1923, on the appointment of Mr. Reeves. It shows his violent partisanship.

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

Mr. TRUMAN. I also want to say that Mr. Otis has spent his time since he has been a Federal judge in going up and down the country making partisan speeches, which I do not think is the right thing for a Federal judge to do.

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

Mr. TRUMAN. Yes; I yield.

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Did the Senator from Missouri send something to the desk?

Mr. TRUMAN. Yes. I ask that the editorial from the Kansas City Times to which I referred be printed in the RECORD at this point.

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

The editorial is as follows:

[From the Kansas City Times of January 17, 1923]

A DISAPPOINTING NOMINATION

In nominating Mr. Albert L. Reeves as a district judge, President Harding has selected a lawyer of limited experience and qualifications for such a position. Certainly he would not have been the choice of the members of the bar in Kansas City and western Missouri who know the importance and cherish the dignity of the Federal bench.

Politically Mr. Reeves' affiliations have been with the little minority of the Republican Party known as the boss wing, which has been repudiated repeatedly by the great bulk of the party voters. The appointment is in line with the President's other appointments such as those of E. Mont Reily and C. C. Madison.

Mr. Harding's appointments—in this part of the West, at least—have been generally disappointing. They have shown regard to a little clique of personal followers rather than to the public interest. There were other lawyers presented to the President's consideration for the Federal judgeship of much greater distinction than Mr. Reeves, whose appointment would have helped instead of hurt the prestige of the administration. It is unfortunate for the country, and the Star believes for the President himself, that he has set such an inferior standard of local and regional appointments.

These are the facts as this newspaper sees them. It is for Judge Reeves, by his ability and fairness on the bench, to prove that this opinion of his qualifications is mistaken.

Mr. TRUMAN. I yield.

Mr. BRIDGES. Does the fact that Judge Reeves and Judge Otis, the two judges of whom the Senator speaks, together with Mr. Milligan, the prosecuting attorney, were instrumental in sending to the penitentiary a great many persons who were guilty of vote frauds and corruption in Kansas City in one of the worst cases in the country have anything to do with the Senator's opposition?

Mr. TRUMAN. Not at all.

These two judges have made it perfectly plain to Mr. Milligan—and he has been able to see eye to eye with them, due to the bankruptcy emoluments—that convictions of Democrats is what they want. Lawyers in Kansas City have been afraid to act as defendant attorneys in these cases because it was plainly intimated to them that the Federal judges did not consider it the proper thing to do. Lawyers all expect to practice in the Federal court. In fact, a good friend of mine told me that he did not dare act as a defendant lawyer in these cases because he had important matters pending in Judge Otis' court.

No one in Jackson County is allowed on the jury panels. Everyone in a community of 600,000 people is barred from jury service in the Federal court of western Missouri on these cases. Grand juries were hand-picked and the attitude of the grand jury men was ascertained by the court in advance.

Petit-jury panels are investigated by the Secret Service, and if a man is found to have acquaintances in Jackson County he is barred from service.

I say to the Senate, Mr. President, that a Jackson County, Mo., Democrat has as much chance of a fair trial in the Federal District Court of Western Missouri as a Jew would have in a Hitler court or a Trotsky follower before Stalin. Indictments have been wholesale. Convictions have been a foregone conclusion. Verdicts have been directed. This is Federal court justice in western Missouri, on the face of it a conspiracy between the partisan Federal judges and their bought and paid for district attorney.

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

Mr. TRUMAN. Yes; I yield.

Mr. BRIDGES. Does the Senator think that there have been any innocent men sent to prison in this connection?

Mr. TRUMAN. Yes; I do. That is the reason I am making this statement. I know that is the case.

There are certain people in connection with the vote frauds who are guilty and who ought to be punished to the fullest extent. But there are people being railroaded in these wholesale convictions who are no more guilty than the Members of this august legislative body.

I am against vote frauds, but that does not prevent my wanting a district attorney who would represent the Government and the people, and who would be above accepting emoluments from a violently partisan court. I hope the law will be amended so that district attorneys of the United States cannot accept fees from outside sources.

I repeat, the President has made this a personal appointment at the behest of the rabidly partisan press, and I am saying that the approval of this district attorney is an approval of the Hitler-Stalin tactics pursued by the District Court of Western Missouri. Because the President asked for him I have not attempted to exercise the usual senatorial prerogative to block his confirmation. I think, however, I would not be doing my public duty if I did not tell the Senate just what is going on.

Mr. BRIDGES. Mr. President, I should like to say just a few words. It is rather unusual for a Republican to rise up and defend one of the Presidential appointments, but when he is right I have no hesitation in defending him.

Mr. TRUMAN. I do not think the Senator would be doing it unless he thought it would do some injury to the Democratic Party.

Mr. BRIDGES. But I rise to that occasion at this time.

The President has nominated a man as United States attorney for the western district of Missouri who has made a great record in the State of Missouri in prosecuting some of the worst vote frauds and corruption that we have seen in this country. I have in my hand a publication known as the Missouri Non-Partisan News, published in Jefferson City, Mo., on October 23, 1936.

It contains two pictures. One of them is a picture of a residence at 912 Tracy Street, Kansas City, Mo., in the fourth precinct of the second ward. That one residence is shown in the list of June registrations as the home of 141 registered voters.

In the same publication is a picture of a vacant lot at 700 Main Street, Kansas City, Mo. This picture is open to inspection. One hundred and twelve voters registered that particular vacant lot as their home.

To show the tangible results, I have in my hand a tabulation of figures of comparative registrations, showing, in 1936, from the various Kansas City wards, a registration of 263,934, and a registration in 1938, 2 years later, of 177,506. After the vote fraud prosecutions the registrations dropped very materially as a result of the excellent action of Mr. Milligan and the two judges who so honestly and fearlessly did their duty.

I invite attention, Mr. President, to ward 2 in Kansas City. In 1936 ward 2 had a registration of 23,524. I am reliably informed that the total population in that ward was approximately 18,200. There was a total registration of approximately 5,000 more than the total population of the ward. What fraud and corruption.

These are some of the things that the gentleman, Mr. Milligan, whom the President of the United States has nominated for the office of United States attorney for the western district of Missouri, has been helping to clean up. The situation is something that commands the support of decent citizens in this country. I believe that when the President is right we should uphold him. The actions of the Pendergast machine has been such that deserve the condemnation of decent citizens. In this instance the President is standing for clean government, and he has nominated a man who has demonstrated his worth and courage.

The distinguished Senator from Missouri [Mr. TRUMAN] has made reference to two Federal judges, Judge Otis and Judge Reeves, who have contributed something in sending to the penitentiary some of the persons guilty of vote frauds. Instead of receiving a rebuke they should receive the commendation of the people of the Nation and Members of this body.

I have in my hand a photostatic copy of the penitentiary record of a man by the name of Alfred Hendrix. Mr. Hendrix at one time held a position in connection with the W. P. A. organization in St. Joseph, Mo., and was convicted of pay-roll padding and fined and sentenced to jail by Judge Merrill E. Otis.

I also have in my hand a photostatic copy of a newspaper article dated St. Joseph, Mo., January 20, 1936, entitled "A. R. Hendrix quits W. P. A. Missouri district director makes no comment on resignation—by the Star's own service."

The article reads as follows:

A. R. Hendrix, district director of the W. P. A. for 16 northwest Missouri counties, has resigned it was announced today. Mr. Hendrix declined to make any comment for statement concerning his resignation.

Mr. Hendrix is a business agent for the Brewery Workers' Union here and was given leave of absence from that position to accept the W. P. A. post. In 1934 he was manager of Senator TRUMAN'S campaign in northwest Missouri and took a leading part in Democratic club organization work here.

I do not think this personal relationship should enter into this question at all. Here is a man, Mr. Milligan, who has done a great job, who has done his duty, who by his courageous action and the honest and courageous action of the judges sitting in these cases has sent to the Federal penitentiary many guilty persons who have been violating the law, who have been perpetrating ballot stuffing and vote frauds—some of the worst in the history of America.

I hesitate to take issue with the distinguished Senator from Missouri as to matters within his own State, but I cannot sit still in this body and see a man who has fought crime and who obviously has done his duty, and who was the personal choice of the President of the United States for this post, and whom, I assume, the President has personally investigated, be the subject of charges or rebuke here without rising to his defense, which means defense of clean, honest, decent government.

Mr. CLARK. Mr. President, I regret exceedingly to find myself in complete disagreement with my colleague from Missouri [Mr. TRUMAN] in regard to this matter. While I

did not support him in his campaign for the senatorial nomination, since he has been a Member of the United States Senate we have been on the most cordial terms, as we had been on the most cordial terms before either one of us ran for the Senate. We served together in the same division in the Army.

I should not feel called on to say anything at this time except for one remark, I think twice repeated, in the address of my colleague, in which he said that Judge Milligan was morally unfit for the office of United States district attorney. My colleague's statement that he had always been opposed to the appointment of Judge Milligan is undoubtedly correct, although I may say that I was not informed of his opposition until a much later date. Judge Milligan was originally appointed on my recommendation, I at that time being the only Democratic Senator from Missouri, and all of the Federal officials—the marshals, the district attorneys, and the collectors in both the eastern and the western districts—being appointed on my recommendation.

I dare say that my colleague originally disapproved of Judge Milligan's appointment. As I say, I originally recommended Judge Milligan for appointment, because I had known him for a great many years and I had the fullest confidence in him; and I may say that at the time of his original appointment the Department of Justice selected him from a number of eminent lawyers in the State of Missouri whose appointment, I had told the Department, would be eminently satisfactory to me.

During Judge Milligan's service he has made a record of sufficient distinction to have received the encomiums of the Department of Justice and of the President of the United States himself, whose attention has been attracted to the record Judge Milligan has made. Therefore, it seems to me that under those circumstances the recommendation of the Department and the recommendation of the President of the United States, through the nomination of the President of the United States, should be sufficient. Therefore, I should not have entered into this debate had it not been for the remark of my colleague to which I have just referred.

Mr. TRUMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to his colleague?

Mr. CLARK. I yield.

Mr. TRUMAN. I wish to have my colleague understand that I am speaking strictly of Mr. Milligan's public morals, not his private morals. I think a man who would accept emoluments from a court in which he has to try cases has not the right sort of public morals.

Mr. CLARK. I am glad to have my colleague clarify that remark, because I understood, as most other persons must have understood from the language of his original remark, that he was referring to Judge Milligan's private morals. I simply desire to say that I have known Judge Milligan for 25 years, and I have never, in any place whatever, heard his moral character called in question. I am very happy to have my colleague clarify the remark.

Mr. President, as to the matter of accepting appointments from trial judges before whom a district attorney has to appear, I myself agree with my colleague that that is a bad practice. While under the law a district attorney has a perfect right to accept private employment, I agree that in general it is a bad practice. Without any reflection on any individual or any individual judge, I agree that it is a bad practice to have a district attorney appearing before a trial judge accepting appointments from that trial judge. But, Mr. President, that is a matter sanctioned by the statute, or at least not forbidden by the statute, and it is a matter specifically sanctioned by the regulations of the Department of Justice. I submit that if the Congress thinks that is bad practice, the remedy is to change the law, or, if the Department of Justice thinks it is bad practice, to change the regulations, but that it should not be brought up as a matter of moral turpitude with regard to a particular incumbent who has been nominated for reappointment after an honorable career at district attorney, or as a reflection on a particular judge.

I myself think, as my colleague has suggested, that the law ought to be changed, and that, pending the change of the law, the regulations of the Department of Justice should be changed; but the practice is certainly no reflection on the moral character of either the judges or the district attorney, since it is specifically sanctioned by the regulations of the Department.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Maurice M. Milligan to be United States attorney for the western district of Missouri? [Putting the question.] The ayes have it, and the nomination is confirmed.

The clerk will state the next nomination on the Executive Calendar.

UNITED STATES ATTORNEY—PUERTO RICO

The legislative clerk read the nomination of A. Cecil Snyder to be United States attorney for the district of Puerto Rico.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read the nominations of sundry postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters on the Executive 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. BARKLEY. 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 8 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, February 16, 1938, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 15 (legislative day of January 5), 1938

COMPTROLLER OF CUSTOMS

Samuel T. Ladd, of Portsmouth, N. H., to be comptroller of customs in customs collection district No. 4, with headquarters at Boston, Mass. (Reappointment.)

COLLECTORS OF CUSTOMS

John H. Dooley, of Portland, Maine, to be collector of customs for customs collection district No. 1, with headquarters at Portland, Maine. (Reappointment.)

Henry V. Schwalbach, of Milwaukee, Wis., to be collector of customs for customs collection district No. 37, with headquarters at Milwaukee, Wis. (Reappointment.)

PROMOTIONS IN THE REGULAR ARMY

Maj. Marvin Randolph Baer, Infantry, to be lieutenant colonel from January 20, 1938.

Capt. Lewis Morrell Van Gieson, Ordnance Department, to be major from January 20, 1938.

CONFIRMATIONS

Executive nominations confirmed by the Senate, February 15 (legislative day of January 5), 1938

UNITED STATES ATTORNEYS

Maurice M. Milligan to be United States attorney, western district of Missouri.

A. Cecil Snyder to be United States attorney, district of Puerto Rico.

POSTMASTERS

ARKANSAS

George O. Yingling, Searcy.

Clyde F. Flatt, Siloam Springs.

KENTUCKY

George W. Tye, Barbourville.