income, (b) by maintaining production of goods flowing in interstate commerce at a high level of operation, (c) by abolishing unemployment, (d) by providing consumers' goods and services in quantities limited only by the Nation's natural resources, and to create the Industrial Expansion Board, Industrial Expansion Administration, and other Federal agencies to carry into effect and administer the foregoing purposes; to the Committee on Ways and Means.

By Mr. AMLIE: A bill (H. R. 10924) to regulate the flow of interstate commerce (a) by increasing the national income, (b) by maintaining production of goods flowing in interstate commerce at a high level of operation, (c) by abolishing unemployment, (d) by providing consumers' goods and services in quantities limited only by the Nation's natural resources, and to create the Industrial Expansion Board, Industrial Expansion Administration, and other Federal agencies to carry into effect and administer the foregoing purposes; to the Committee on Ways and Means.

By Mr. GUYER: Joint resolution (H. J. Res. 719) to implement the Kellogg-Briand Pact for World Peace; to the Committee on Foreign Affairs.

By Mr. CASE of South Dakota: Joint resolution (H. J. Res. 720) to prescribe the acreage allotments for wheat for 1939; to the Committee on Agriculture.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Ohio, memorializing the President and the Congress of the United States to consider their House Resolution No. 168, with reference to the Cowen Creek project of Clinton County, Ohio; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FLANNERY introduced a bill (H. R. 10925) for the relief of Leroy Lester Weidow, which was referred to the Committee on Naval Affairs.

PETITIONS, ETC.

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

5354. By Mr. HAVENNER: Petition of the American Friends of the Chinese People, San Francisco, Calif., urging passage of the O'Connell Peace Act, House Joint Resolution 527; to the Committee on Foreign Affairs.

5355. By Mr. LAMBERTSON: Petition of Mrs. W. E. Haverfield and 63 other citizens of Topeka, Kans., urging the passage of Congressman CHARLES N. CROSBY's bill, providing for a fund to be raised by a 2 percent gross income tax, to be prorated to all eligibles over 60 years old, with the amendments offered by Congressman BOILEAU; to the Committee on Ways and Means.

5356. By Mr. LAMNECK: Petition of F. H. Nagle and 48 other citizens, of Columbus, Ohio; to the Committee on the Judiciary.

5357. By the SPEAKER: Petition of Robert E. Lee Jordan, Los Angeles, Calif., petitioning consideration of his communication with reference to Senate Joint Resolution 208; to the Committee on the Judiciary.

5358. Also, petition of Hollenbeck Home for the Aged, Los Angeles, Calif., petitioning consideration of their petition dated June 10, 1938; to the Committee on Foreign Affairs.

5359. Also, petition of Alabama Ginners' Association, Hanceville, Ala., petitioning consideration of their resolution with reference to the wage and hour bill; to the Committee on Labor.

5360. Also, petition of the Association of Former Internes of Freedmen's Hospital, Washington, D. C., petitioning consideration of their resolution dated June 10, 1938, with reference to the Freedmen's Hospital; to the Committee on Appropriations.

5361. Also, petition of the city of Brighton, Colo., petitioning consideration of their resolution dated June 7, 1938, regarding the construction of a United States post-office building in the city of Brighton; to the Committee on Appropriations.

SENATE

WEDNESDAY, JUNE 15, 1938

(Legislative day of Tuesday, June 7, 1938)

The Senate met at 10 o'clock a. m., 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 Tuesday, June 14, 1938, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

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

Mr. LEWIS. I announce that the Senator from California [Mr. MCADOO], the Senator from Nevada [Mr. MCCARRAN], the Senators from New Jersey [Mr. MILTON and Mr. SMATHERS], the Senator from South Carolina [Mr. SMITH], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS] are detained from the Senate on important public business.

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

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The VICE PRESIDENT announced his signature to the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 375. An act for the relief of Mrs. John Olson;

S. 1346. An act for the relief of Stillwell Bros., Inc.;

S. 1987. An act for the relief of George J. Leatherwood;

S. 2052. An act for the relief of Henry E. Reents;

S. 2437. An act for the relief of Oscar Jones;

S. 2475. An act to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes;

S. 2797. An act for the relief of Miriam Thornber;

S. 2819. An act to create a Committee on Purchases of Blind-made Products, and for other purposes;

S. 2890. An act for the relief of Clarence Daniel, a minor;

S. 2895. An act for the relief of Leona Draeger;

S. 3057. An act for the relief of John Fanning;

S. 3469. An act to amend section 128 of the Judicial Code, as amended;

S. 3540. An act for the relief of certain personnel of the Coquille River Coast Guard Station, Bandon, Oreg.;

S. 3584. An act for the relief of G. E. Maxwell;

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

S. 3694. An act to provide for the issuance of a license to practice the healing art in the District of Columbia to Dr. Sigfried Speyer and Dr. Luther Fete;

S. 3734. An act for the relief of certain officers and enlisted men of the United States Coast Guard;

S. 3754. An act to amend sections 729 and 743 of the Code of Laws of the District of Columbia;

S. 3846. An act relating to the levying and collecting of taxes and assessments, and for other purposes;

S. 3929. An act to authorize the Legislature of Puerto Rico to create public corporate authorities to undertake slum clearance and projects, to provide dwelling accommodations for families of low income, and to issue bonds therefor; to authorize the legislature to provide for financial assistance to such authorities by the government of Puerto Rico and its municipalities, and for other purposes;

S. 4024. An act authorizing advancements from the Federal Emergency Administration of Public Works for the construction of certain municipal buildings in the District of Columbia, and for other purposes;

H. R. 152. An act to add certain lands to the Rio Grande National Forest, Colo.;

H. R. 447. An act for the relief of Alpha Vint;

H. R. 599. An act for the relief of W. J. Steckel;

H. R. 1141. An act for the relief of J. W. Beams;

H. R. 1250. An act for the relief of Emilie Dew, Jack Welsh, Mary Jane Bowden, and Henry U. Gaines, Jr.;

H. R. 1363. An act for the relief of the estate of Milton L. Baxter;

H. R. 1861. An act for the relief of the firm of Schmidt, Garden & Martin, architects, Chicago, Ill.;

H. R. 2149. An act for the relief of Capt. Guy L. Hartman;

H. R. 2171. An act for the relief of Frank Burgess Bruce;

H. R. 2231. An act for the relief of Charles E. Black;

H. R. 2358. An act for the relief of Dwain D. Miles;

H. R. 2368. An act for the relief of the estate of Catherine Harkins, deceased;

H. R. 2429. An act for the relief of Eugene Nicholas;

H. R. 2487. An act for the relief of Thomas J. Allen, Jr.;

H. R. 2560. An act for the relief of the State of New York Insurance Department as liquidator;

H. R. 2650. An act for the relief of Veracunda O'Brien Allen;

H. R. 2767. An act for the relief of George L. Stone;

H. R. 2779. An act for the relief of Lilly Bundgard and Gloria Bundgard;

H. R. 3225. An act for the relief of Roland Stafford;

H. R. 3232. An act conferring jurisdiction upon the Court of Claims of the United States, to hear, consider, and render judgment on the claims of Joliet National Bank, of Joliet, Ill., and Commercial Trust & Savings Bank, of Joliet, Ill., arising out of loans to the Joliet Forge Co., of Joliet, Ill., for the providing of additional plant facilities and material for the construction of steel forging during the World War;

H. R. 3655. An act for the relief of Clarence D. Schiffman;

H. R. 3747. An act for the relief of George O. Wills;

H. R. 4032. An act for the relief of the New Amsterdam Casualty Co.;

H. R. 4169. An act to carry out the findings of the Court of Claims in the case of the Atlantic Works, of Boston, Mass.;

H. R. 4227. An act for the relief of Mrs. R. A. Smith;

H. R. 4285. An act to increase the salaries of letter carriers in the Village Delivery Service;

H. R. 4367. An act for the relief of Perry Walker;

H. R. 4443. An act for the relief of Meta De Rene McLoskey;

H. R. 4717. An act for the relief of Bernard Knopp;

H. R. 4830. An act for the relief of Mrs. D. O. Benson;

H. R. 4864. An act for the relief of Helen Rauch and Max Rauch;

H. R. 4941. An act for the relief of Rogowski Bros.;

H. R. 5006. An act for the relief of DeWitt F. McLaurine;

H. R. 5153. An act for the relief of George F. Anderson and Vera D. Anderson;

H. R. 5260. An act for the relief of Col. William H. Noble;

H. R. 5308. An act for the relief of Anna Caporaso;

H. R. 5471. An act to amend the laws relating to the distribution of public documents to depository libraries;

H. R. 5597. An act for the relief of Luigi Mazza;

H. R. 5763. An act to provide for the extension of the boundaries of the Hot Springs National Park in the State of Arkansas, and for other purposes;

H. R. 5805. An act to amend an act entitled "An act to provide for the exercises of sole and exclusive jurisdiction by the United States over the Hawaii National Park in the Territory of Hawaii, and for other purposes," approved April 19, 1930;

H. R. 6016. An act for the relief of Lavina Karns;

H. R. 6186. An act for the relief of Moses Red Bird;

H. R. 6296. An act for the relief of Dr. A. C. Antony and others;

H. R. 6327. An act for the relief of Edward J. Thompson;

H. R. 6374. An act for the relief of Lena R. Burnett;

H. R. 6461. An act for the relief of William F. Bourland;

H. R. C669. An act for the relief of Augusta L. Collins;

H. R. 6713. An act for the relief of Genesee Brewing Co., Inc.;

H. R. 6727. An act for the relief of Edward E. Brown, Charles Walker, Frank Parr, John Moyer, and Lynford P. Fowles;

H. R. 6753. An act for the relief of the Derby Oil Co.;

H. R. 6842. An act for the relief of Frank M. Schmitt, Antonio Salas, Victoria Griego, and Victor Coco;

H. R. 6846. An act for the relief of Harvey and Carrie Robinson;

H. R. 6951. An act for the relief of Harold Price;

H. R. 6952. An act for the relief of Hattie Doudna;

H. R. 7012. An act for the relief of J. Anse Little;

H. R. 7060. An act for the relief of James Mohin and Joseph Lercara;

H. R. 7143. An act for the relief of the Curtiss Aeroplane & Motor Co., Inc.;

H. R. 7166. An act for the relief of the estate of Raymond Finklea;

H. R. 7198. An act for the relief of Fred Johnson;

H. R. 7297. An act for the relief of Gordon L. Cheasley;

H. R. 7424. An act for the relief of certain persons whose cotton was destroyed by fire in the Ouachita Warehouse, Camden, Ark.;

H. R. 7429. An act for the relief of Muriel C. Young;

H. R. 7460. An act for the relief of Mr. and Mrs. Roy Blessing;

H. R. 7520. An act for the relief of members of the Navy or Marine Corps who were discharged from the Navy or Marine Corps during the Spanish-American War, the Philippine Insurrection, and the Boxer uprising because of minority or misrepresentation of age;

H. R. 7537. An act for the relief of certain stevedores employed on the United States Army transport docks in San Francisco, Calif.;

H. R. 7606. An act for the relief of Albert Richard Jeske;

H. R. 7607. An act for the relief of Frank B. Decker;

H. R. 7693. An act to authorize the Secretary of War to transfer to the government of Puerto Rico certain real estate of the War Department;

H. R. 7793. An act for the relief of Nicholas de Lipski;

H. R. 7868. An act to provide for conveying to the State of North Dakota certain lands within Burleigh County, within that State, for public use;

H. R. 7874. An act to provide for the leasing of State, county, and privately owned lands for the purpose of furthering the orderly use, improvement, and development of grazing districts;

H. R. 7890. An act for the relief of Brooks-Callaway Co.;

H. R. 7960. An act for the relief of Wilma Artopoeus;

H. R. 7982. An act to regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia;

H. R. 8051. An act for the relief of Roswell H. Haynie;

H. R. 8055. An act for the relief of Helry P. Craig;

H. R. 8098. An act conferring jurisdiction upon the Court of Claims to hear and determine the claims of Edward Forbes and others;

H. R. 8099. An act to amend certain administrative provisions of the Tariff Act of 1930, and for other purposes;

H. R. 8123. An act for the relief of Sonia M. Bell;

H. R. 8165. An act to add certain lands to the Trinity National Forest, Calif.;

H. R. 8176. An act providing for continuing retirement pay, under certain conditions, of officers and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability while in the service of the United States during the World War, and for other purposes;

H. R. 8241. An act for the relief of Fred J. Christoff;

H. R. 8271. An act to confer jurisdiction upon the Court of Claims of the United States to hear, determine, and render judgment upon the claims of the attorneys for the Russian Volunteer Fleet;

H. R. 8275. An act for the relief of Stanley Kolitzoff and Marie Kolitzoff;

H. R. 8365. An act for the relief of the North Mississippi Oil Mills of Holly Springs, Miss.;

H. R. 8375. An act for the relief of Roscoe B. Huston;

H. R. 8380. An act for the relief of Glenn R. Martin;

H. R. 8391. An act for the relief of Frances M. Heinzelmann;

H. R. 8417. An act for the relief of John B. Dollison;

H. R. 8423. An act for the relief of Frank W. Lohn;

H. R. 8424. An act for the relief of John F. Dailey and Ethel M. Dailey;

H. R. 8479. An act for the relief of Jane Murrah;

H. R. 8480. An act for the relief of Commander James T. Mathews;

H. R. 8492. An act for the relief of Robert Doty, a minor;

H. R. 8515. An act to amend the act entitled "An act for the relief of Harry Bryan and Alda Duffield Mullins, and others", approved August 28, 1937;

H. R. 8544. An act for the relief of Alba C. Mitchell;

H. R. 8567. An act for the relief of Margaret B. Nonnenberg;

H. R. 8571. An act granting 6 months' pay to Mrs. Vallie M. Current;

H. R. 8643. An act for the relief of Kate Durham Thomas;

H. R. 8672. An act for the relief of Fergus County, Mont.;

H. R. 8683. An act for the relief of Gus Vakas;

H. R. 8696. An act for the relief of Ruby Z. Winslow;

H. R. 8723. An act for the relief of Spencer D. Albright, Jr.;

H. R. 8743. An act for the relief of Louis Michael Bregantic;

H. R. 8744. An act for the relief of J. G. Bucklin;

H. R. 8858. An act for the relief of Joseph Brum and Gussie Brum;

H. R. 8922. An act for the relief of E. E. Johnson;

H. R. 9084. An act for the relief of John Lawson and Roy Webb;

H. R. 9130. An act for the relief of Marshall Carver;

H. R. 9142. An act for the relief of J. J. B. Hilliard & Son;

H. R. 9196. An act for the relief of J. T. Burt and Alice Burt;

H. R. 9215. An act for the relief of the Read Machinery Co., Inc.;

H. R. 9277. An act for the relief of James M. Wright;

H. R. 9297. An act for the relief of Dr. Samuel A. Riddick;

H. R. 9400. An act for the relief of Adolph Arendt;

H. R. 9535. An act for the relief of Amy M. Ghent;

H. R. 9640. An act for the relief of Shoshone Garage;

H. R. 9674. An act for the relief of John Borowski, Benjamin H. Hammack, and Eber A. Wean;

H. R. 9825. An act for the relief of Raymond Pledger and Thomas P. Giacomini, Jr.;

H. R. 9881. An act to amend section 23 of the act to create the California Debris Commission, as amended;

H. R. 9916. An act to provide for the establishment of a Coast Guard station at or near Shelter Cove, Calif.;

H. R. 9981. An act for the relief of the State of Connecticut;

H. R. 10171. An act to amend the act entitled "An act giving jurisdiction to the Court of Claims to hear and determine the claim of the Butler Lumber Co., Inc.";

H. R. 10346. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Niobrara, Nebr.;

H. R. 10642. An act to amend an act entitled "District of Columbia Alley Dwelling Act," approved June 12, 1934, and for other purposes;

H. R. 10672. An act to amend section 4197 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U. S. C., 1934 ed., title 46, sec. 92), and for other purposes;

H. R. 10772. An act to amend certain sections of the act entitled "An act providing for the public printing and binding and the distribution of public documents," approved January 12, 1895, as amended;

H. J. Res. 620. Joint resolution for the observance of the celebration of the one hundred and twenty-fifth anniversary of the Battle of Lake Erie; and

H. J. Res. 703. Joint resolution to authorize the acceptance of title to the dwelling house and property, the former residence of the late Justice Oliver Wendell Holmes, located at 1720 Eye Street NW., in the District of Columbia, and for other purposes.

MOUNT RUSHMORE NATIONAL MEMORIAL COMMISSION (S. DOC. NO. 222)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Mount Rushmore National Memorial Commission, fiscal year 1939, in the amount of $100,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

CLAIM OF UNITED STATES AGAINST A. BRUCE BIELASKI

The VICE PRESIDENT laid before the Senate a letter from the Acting Comptroller General of the United States, submitting, in compliance with the provisions of section 312 (a) of the Budget and Accounting Act (42 Stat. 26) a report relative to the supplemenal settlement of the claim of the United States against A. Bruce Bielaski, which, with the accompanying paper, was referred to the Committee on Appropriations.

SALARIES OF DIRECTORS, OFFICERS, ETC., OF SUBSIDIZED MERCHANT MARINE LINES

The VICE PRESIDENT laid before the Senate a letter from the Acting Comptroller General of the United States, submitting, pursuant to law, a report concerning the enforcement by the United States Maritime Commission of the provisions of section 805 (c) of the Merchant Marine Act of 1936, limiting to $25,000 per annum the amount of salaries which may be paid directly or indirectly to a director, officer, or employee by subsidized lines, subsidiaries, affiliates, or associates, which, with the accompanying papers, was referred to the Committee on Commerce.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following resolution of the House of Representatives of the State of Ohio, which was ordered to lie on the table:

Resolution memorializing the Congress of the United States to approve legislation affecting Cowen Creek project in Clinton County, Ohio

Whereas the true friends of agriculture understand the need of a definite program designed to help provide a more abundant water supply in dry seasons, and as a flood preventative in excessively wet seasons; and

Whereas the Cowen Creek project of Clinton County, Ohio, will positively solve this problem to a greater extent than any plan so far proposed; and

Whereas it will provide a measure of enjoyment to the people of Clinton and the surrounding counties for recreational purposes in addition to being a part of a soil-conservation plan; and

Whereas this project has been approved by petitions and otherwise by various organizations interested civically and impartially: Therefore be it

Resolved, That we memoralize the Congress of the United States to approve appropriations allocated for this purpose so that the citizens of Ohio can enjoy and be benefited to the extent they so much deserve and that the project be finished as soon as possible and feasible; and be it further

Resolved, That copies of this resolution be transmitted to President Franklin D. Roosevelt, Vice President John N. Garner, the Clerk of the Senate, and the Clerk of the House, and to the Senators and Congressmen from Ohio.

The VICE PRESIDENT also laid before the Senate a letter in the nature of a petition from Augusto Ferrer, of Ponce, P. R., praying for the enactment of House bill 2904, the so-called Philippine travel-pay bill, which was ordered to lie on the table.

Mr. BARKLEY (for Mr. MILTON) presented the following concurrent resolution of the Legislature of the State of New Jersey, which was ordered to lie on the table:

A concurrent resolution memorializing the Congress of the United States of America to eliminate the taxation of gasoline by the Federal Government

Whereas the Congress of the United States of America in 1932 imposed a tax of 1 cent per gallon upon all sales of gasoline; and

Whereas the State of New Jersey and all the other States of the United States had already imposed taxes upon such sales; and

Whereas the Federal tax on such sales was untimely and restrictive and, coupled with the respective State taxes on such sales, places a burden upon the users of gasoline beyond that which they should rightfully carry and beyond that which the traffic can legitimately bear; and

Whereas the taxation of sales of gasoline should properly be left to the exclusive use of the States as a means of providing funds for road construction and maintenance: Now, therefore, be it

Resolved by the Assembly of the State of New Jersey (the senate concurring therein), That the Congress of the United States be, and is hereby, respectfully memorialized to abandon the Federal gasoline sales tax and surrender to the States exclusively the power to tax such sales in the future: and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, the Clerk of the House of Representatives, the Secretary of the United States Senate, and to each Member of Congress elected from the State of New Jersey, and that the latter be requested to use their best endeavors to accomplish the purpose of this resolution.

Mr. VANDENBERG presented memorials numerously signed by sundry citizens of the State of Michigan, remonstrating against the operation of Federal crop control, particularly the corn-allotment plan, which were ordered to lie on the table.

REPORTS OF COMMITTEES

Mr. JOHNSON of California (for Mr. WHEELER), from the Committee on Agriculture and Forestry, to which was referred the bill (H. R. 10785) to amend the Perishable Agricultural Commodities Act, 1930, as amended, reported it without amendment.

Mr. LOGAN, from the Committee on Claims, to which was referred the bill (H. R. 1251) for the relief of Anna L. Andreas and Anita Andreas, reported it without amendment and submitted a report (No. 2204) thereon.

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (H. R. 8199) for the relief of Mrs. Olive Fletcher Conklin, reported it without amendment and submitted a report (No. 2205) thereon.

Mr. BROWN of Michigan, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 7854. A bill for the relief of Joseph Gross (Rept. No. 2206); and

H. R. 9888. A bill for the relief of William Henry Johnston, Jr., a minor (Rept. No. 2207).

Mr. PITTMAN, from the Committee on Foreign Relations, to which was referred the joint resolution (H. J. Res. 702) to provide that the United States extend to foreign governments invitations to participate in the Third International Congress for Microbiology to be held in the United States during the calendar year 1939, and to authorize an appropriation to assist in meeting the expenses of the session, reported it with an amendment and submitted a report (No. 2208) thereon.

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (H. R. 9543) for the relief of Mr. and Mrs. Harold E. Theriault, reported it without amendment and submitted a report (No. 2209) thereon.

Mr. ADAMS, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 5804. A bill to provide for the residence of the United States commissioners appointed for the national parks, and for other purposes (Rept. No. 2210); and

H. R. 6591. A bill to exempt from cancelation certain desert-land entries in Riverside County, Calif. (Rept. No. 2211).

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 23) to reestablish the longevity pay of warrant officers, reported it with an amendment and submitted a report (No. 2212) thereon.

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

H. R. 6306. A bill to authorize the cancelation of deportation proceedings in the case of Henrietta Vendemmia;

H. R. 7039. A bill for the relief of Paul Hirschmann (Rept. No. 2213); and

H. R. 7357. A bill for the relief of Giovanni Raffa (Rept. No. 2214).

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on June 14, 1938, that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 44. An act for the relief of Edward N. Jerry;

S. 82. An act for the relief of F. A. Rumery & Sons, of Portland, Maine;

S. 213. An act for the relief of Ida A. Gunderson;

S. 606. An act for the relief of Mabel F. Hollingsworth;

S. 652. An act for the relief of John B. Jones;

S. 667. An act for the relief of William E. Jones, Walter M. Marston, William Ellery, Richard P. Hallowell, 2d, and Malcolm Donald as executors under the will of Frank W. Hallowell; and Malcolm Donald as executor under the will of Gordon Donald;

S. 824. An act for the relief of Sam Kimzey;

S. 866. An act for the relief of the estate of James D. McEachern;

S. 945. An act for the relief of the Community Investment Co., Inc.;

S. 1168. An act for the relief of Joseph W. Bollenbeck;

S. 1239. An act for the relief of John W. Beck;

S. 1272. An act relative to the military record of James Meagher, deceased;

S. 2072. An act for the relief of Stuart C. Peterson;

S. 2408. An act for the relief of John H. Balmat, Jr.;

S. 2532. An act for the relief of Mr. and Mrs. Guy R. Syth;

S. 2541. An act for the relief of the estate of George Ehret, Jr.;

S. 2594. An act authorizing the President of the United States to summon Sam Alexander before an Army retiring board, and for other purposes;

S. 2624. An act for the relief of Emmett Lee Payne;

S. 2629. An act to authorize an exchange of lands between the city of San Diego, Calif., and the United States;

S. 2739. An act for the relief of certain employees of the Federal Emergency Administration of Public Works and the National Resources Committee;

S. 2876. An act for the relief of Mark H. Doty;

S. 2883. An act for the relief of George H. Lowe, Jr.;

S. 2948. An act for the relief of A. J. Moses and Gladys Moses, a minor;

S. 2994. An act for the relief of Mrs. Morgan R. Butler;

S. 3005. An act to confer jurisdiction on the Court of Claims to hear and determine the claim of A. C. Messler Co.;

S. 3031. An act for the relief of the Lima Locomotive Works, Inc.;

S. 3034. An act for the relief of Faye B. Millie;

S. 3079. An act for the relief of George W. Breckenridge;

S. 3142. An act for the relief of Lt. Comdr. Robert R. Blaisdell and Lt. Edward W. Hawkes (retired), Supply Corps, United States Navy;

S. 3227. An act for the relief of Mr. and Mrs. Chester A. Smith;

S. 3263. An act for the relief of the State of Georgia;

S. 3415. An act to purchase private lands within the Shoshone (Wind River) Indian Reservation;

S. 3426. An act to authorize an appropriation for repayment to the Middle Rio Grande Conservancy District, a subdivision of the State of New Mexico, of the share of the said district's construction and operation and maintenance costs applicable to certain properties owned by the United States, situate in Bernalillo County, N. Mex., within the exterior boundaries of the district; to authorize the Secretary of the Interior to contract with said district for future operation and maintenance charges against said lands; to authorize appropriation for extra construction work performed by said district for the special benefit of certain Pueblo Indian lands and to authorize appropriation for construction expenditures benefiting certain acquired lands of Pueblo Indians of the State of New Mexico;

S. 3446. An act for the relief of Richard K. Gould;

S. 3470. An act for the relief of Lewis M. Foster;

S. 3490. An act for the relief of Benjamin H. Faith;

S. 3512. An act for the relief of Elizabeth Cory;

S. 3534. An act for the relief of Christ Rieber;

S. 3561. An act for the relief of certain individuals in connection with the construction, operation, and maintenance of the Fort Hall Indian irrigration project, Idaho;

S. 3573. An act for the relief of William J. Pitochelli;

S. 3587. An act for the relief of Mr. and Mrs. P. F. Nixon, parents of Herschel Lee Nixon, deceased minor son;

S. 3597. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Natchez, Miss., and for other purposes;

S. 3611. An act to further extend the times for commencing and completing the construction of a bridge across the Missouri River between the towns of Decatur, Nebr., and Onawa, Iowa;

S. 3719. An act for the relief of Manuel L. Clay;

S. 3739. An act for the relief of Alpha T. Johnson;

S. 3758. An act for the relief of Emily Gertrude Toby;

S. 3845. An act to create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics;

S. 3867. An act authorizing the North Dakota State Highway Department and the Department of Highways of the State of Minnesota to construct, maintain, and operate a free highway bridge across the Red River;

S. 3892. An act creating the City of Dubuque Bridge Commission and authorizing said commission and its successors to purchase and/or construct, maintain, and operate a bridge or bridges across the Mississippi River at or near Dubuque, Iowa, and East Dubuque, Ill.;

S. 3898. An act to extend the times for commencing and completing the construction of a bridge across the Piscataqua River at or near Portsmouth, N. H.;

S. 3907. An act to further extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Garrison, N. Dak.;

S. 3917. An act authorizing the President to present gold medals to Mrs. Richard Aldrich and posthumously to Anna Bouligny;

S. 3940. An act authorizing the Comptroller General of the United States to adjust and settle the claim of Oscar L. Mather;

S. 3990. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Miami, Mo.;

S. 4027. An act providing that excess-land provisions of Federal reclamation laws shall not apply to certain lands that will receive a supplemental water supply from the Colorado-Big Thompson project;

S. 4050. An act to repeal section 2 of the act of June 16, 1936, authorizing the appointment of an additional district judge for the eastern district of Pennsylvania;

S. 4076. An act to amend the Federal Crop Insurance Act;

S. 4090. An act to provide for the care and treatment of juvenile delinquents;

S. 4126. An act to amend the act authorizing the construction of a bridge at South Sioux City, Nebr.;

S. 4144. An act to amend section 1 of an act entitled "An act granting the consent of Congress to the county of Pierce, a legal subdivision of the State of Washington, to construct, maintain, and operate a toll bridge across Puget Sound, State of Washington, at or near a point commonly known as 'The Narrows,' " and to extend the times for commencing and completing the construction of such bridge; and

S. J. Res. 264. Joint resolution providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. TYDINGS:

A bill (S. 4177) to provide for the erection of a monument in Baltimore, Md., in honor of Gen. Casimir Pulaski; to the Committee on the Library.

A bill (S. 4178) to give double credit for civil-service retirement purposes for certain periods of service in the military or naval forces of the United States outside the continental United States; to the Committee on Civil Service.

By Mr. McKELLAR:

A bill (S. 4179) to amend section 239 of the act of June 8, 1872 (17 Stat. 312; U. S. C., title 39, sec. 500); to the Committee on Post Offices and Post Roads.

By Mr. HAYDEN:

A bill (S. 4180) to authorize Federal cooperation in restoring and developing the potential productivity of natural grasslands and other ranges in the States and Territories, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. OVERTON:

A joint resolution (S. J. Res. 312) to authorize the Secretary of War to lend War Department equipment for use at the 1938 National Eucharistic Congress to be held in New Orleans, La., from October 17 to October 20, 1938; ordered to lie on the table.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. POPE submitted an amendment intended to be proposed by him to House bill 10851, the second deficiency appropriation bill, 1938, which was ordered to lie on the table and to be printed, as follows:

On page 90, line 9, to strike out the period and insert a semicolon and the following: "and not to exceed $4,000 for the operation and maintenance of a fish hatchery in Shoshone County, Idaho, to be donated to the United States by the Shoshone County Sportsmen's Association, of Wallace, county of Shoshone, Idaho."

WITHDRAWAL OF MOTIONS FOR RECONSIDERATION

Mr. KING. Mr. President, I desire to withdraw my motions to reconsider the votes by which House bill 733, for the relief of George E. Titter, and House bill 736, for the relief of Mallery Toy, were ordered to a third reading, and passed.

The VICE PRESIDENT. Without objection, the motions to reconsider are withdrawn.

EXTENSION OF CIVIL SERVICE TO POSTMASTERS

Mr. O'MAHONEY. Mr. President, considerable interest has been expressed by the public in the House bill 1531, passed a day or two ago, extending the civil service to certain postmasters. I ask unanimous consent that there may be printed as a Senate document the conference report which I filed on behalf of the conferees on June 7, 1938, together with a brief explanation of it, and various Executive orders which have been issued from time to time respecting the appointment of postmasters.

The VICE PRESIDENT. Without objection, it is so ordered.

PERMISSION TO PRINT CERTAIN MATTERS IN APPENDIX OF RECORD

Mr. BARKLEY. Mr. President, in the rush of the closing hours of Congress, in order to prevent the exclusion from the RECORD of something that justly is entitled to be incorporated, I ask that I may be given permission to have printed in the Appendix a summary of the enacted laws and record votes thereon, memoranda from the executive departments and agencies of the Government, and speeches and editorials and articles to be printed as part of my remarks.

The VICE PRESIDENT. Without objection, the leave to print in the RECORD, requested by the Senator from Kentucky, is granted.

POLITICS IN 1938—ADDRESS BY SENATOR BULKLEY

[Mr. HATCH asked and obtained leave to have printed in the RECORD a radio address delivered on June 13, 1938, by Senator BULKLEY, on the subject Politics in 1938, which appears in the Appendix.]

RECAPTURE OF AMERICAN TRADE

[Mr. GIBSON asked and obtained leave to have printed in the RECORD an article published in the Washington Star on June 13, 1938, regarding the recapture of American trade, which appears in the Appendix.]

COTTON RESEARCH LABORATORY IN TEXAS

[Mr. CONNALLY asked and obtained leave to have printed in the RECORD an outline of argument before the Department of Agriculture officials at Washington May 13, 1938, by Victor H. Schoeffelmayer, agricultural editor of the Dallas News, advocating the location of the million-dollar cotton research laboratory in Texas, which appears in the Appendix.]

THE FALLACY OF THE RECIPROCAL TRADE AGREEMENT POLICY—ADDRESS BY WILLIAM L. MONRO

[Mr. DAVIS asked and obtained leave to have printed in the RECORD an address on the subject of The Fallacy of the Reciprocal Trade Agreement Policy, delivered by William L. Monro, president of the American Tariff League, before the Hungry Club of Pittsburgh, Pa., May 23, 1938.

HYDRO YARDSTICK SYSTEMS—ARTICLE BY JUDSON KING

[Mr. NORRIS asked and obtained leave to have printed in the RECORD an article by Judson King, director of the National Popular Government League, on the subject Shall Municipalities and Rurals Join Hydro Yardstick Systems?

ECONOMIC SIGNIFICANCE OF THE UNDISTRIBUTED-PROFITS TAX

[Mr. HILL asked and obtained leave to have printed in the RECORD an article by James G. Smith published in the American Economic Review for June 1938 on the subject Economic Significance of the Undistributed-Profits Tax, which appears in the Appendix.]

UNITED STATES SAVINGS BONDS

[Mr. MINTON asked and obtained leave to have printed in the RECORD a statement regarding United States Savings bonds, which appears in the Appendix.]

AMENDMENT OF CIVIL SERVICE CLASSIFICATION ACT—STATEMENT BY NATIONAL ASSOCIATION OF FEDERAL MECHANICS

[Mr. MCKELLAR asked and obtained leave to have printed in the RECORD a statement by the National Association of Federal Mechanics, entitled "Statement of Reasons to Make S. 3683 a Law," which appears in the Appendix.]

SOCIAL SECURITY ACT—EXEMPTION OF FARM COOPERATIVE ASSOCIATIONS

[Mr. ANDREWS asked and obtained leave to have printed in the RECORD a letter addressed to him by John S. Taylor, Jr., president of the Citrus City Growers' Association of Largo, Fla., under date of June 10, 1938, which appears in the Appendix.]

UNEMPLOYMENT INSURANCE SYSTEM AND RAILROAD EMPLOYEES—STATEMENT BY CHARLES M. HAY

[Mr. CLARK asked and obtained leave to have printed in the RECORD a statement by Charles M. Hay, counsel for the Railway Labor Executives' Association regarding unemployment insurance for railroad employees.

AGRICULTURAL SITUATION IN WASHINGTON 1932–37

[Mr. BONE asked and obtained leave to have printed in the RECORD a summary of the agricultural situation in the State of Washington from 1932–37.

RESPONSIBILITIES OF PRESENT-DAY BANKING—ADDRESS BY MARSHALL R. DIGGS

[Mr. SHEPPARD asked and obtained leave to have printed in the RECORD an address delivered by Marshall R. Diggs, Acting Comptroller of the Currency, before the Texas Bankers' Association, at Fort Worth, Tex., on Tuesday, May 17, 1938.

"BUSINESS AND GOVERNMENT"—EDITORIALS FROM FORTUNE MAGAZINE

[Mr. MURRAY asked and obtained leave to have printed in the RECORD editorials on the subject of Business and Government, published in Fortune Magazine for March, April, May, and July, 1938.

"THE DISTANT HORIZON"—ADDRESS BY COL. O. R. M'GUIRE

[Mr. OVERTON asked and obtained leave to have printed in the RECORD a commencement day address delivered by Col. O. R. McGuire at the Louisiana State University on May 30, 1938, on the subject, The Distant Horizon.

CITIZENSHIP AND PASSPORTS

[Mr. ANDREWS asked and obtained leave to have printed in the RECORD a broadcast on the subject of Citizenship and Passports on Sunday, May 15, 1938.

PERMISSION TO PRINT SPEECHES IN APPENDIX

Mr. DUFFY. Mr. President, I ask unanimous consent that there may be printed in the Appendix of the RECORD at a later date a speech to be delivered tomorrow, Thursday, June 16, by the junior Senator from Utah [Mr. THOMAS] at Boston.

I make a similar request as to a speech to be delivered on the 25th of June by Postmaster General Farley.

The VICE PRESIDENT. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and permission is granted.

NAVAL AND MARINE CORPS RESERVE—CONFERENCE REPORT

The VICE PRESIDENT. When the Senate took a recess this morning the Senator from Wyoming [Mr. O'MAHONEY] had the floor. The Chair feels that he should now recognize that Senator.

Mr. WALSH. Mr. President, will the Senator from Wyoming yield to me for a moment?

Mr. O'MAHONEY. I shall be glad to yield to the Senator from Massachusetts.

Mr. WALSH. Is the Senator willing to entertain, through the Chair, a unanimous-consent request to lay aside the pending conference report for the consideration of another conference report, dealing with the Naval Reserve?

Mr. O'MAHONEY. I yield for that purpose, provided I shall not lose the floor.

Mr. WALSH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R.

10594) to provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corp Reserve, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, and 20.

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be stricken out by the Senate amendment, insert the following: ", but shall be paid in advance $20 per annum"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: "*Provided further*, That for those performing aerial flights in the capacity of pilots duly prescribed as a part of their training, the pay and the pay limits prescribed by this section shall be increased by 50 percentum for any quarter during which not less than four hours of such flying has been performed: *And provided further*, That no officer shall receive an increase of pay by reason of the performance of aerial flights, greater than the increase for such reason that may, under the provisions of this section, be paid to reserve officers of the grade of captain in the Naval Reserve or colonel in the Marine Corps Reserve"; and the Senate agree to the same.

DAVID I. WALSH,
PETER G. GERRY,
HIRAM JOHNSON,
Managers on the part of the Senate.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,
Managers on the part of the House.

The report was agreed to.

AMENDMENT OF PERISHABLE AGRICULTURAL COMMODITIES ACT

Mr. JOHNSON of California. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I yield to the Senator from California.

Mr. JOHNSON of California. I ask unanimous consent that a House bill which was reported from the Committee on Agriculture and Forestry this morning, and to which there is no objection, may be considered and acted upon.

The VICE PRESIDENT. The Senator from California asks unanimous consent for the present consideration of the bill, which the clerk will state by title.

The CHIEF CLERK. A bill (H. R. 10785) to amend the Perishable Agricultural Commodities Act, 1930, as amended.

Mr. BARKLEY. Mr. President, I do not intend to object to this request, but there are a large number of Senators, and I am among them, who have small routine matters on their desks; and, in view of the exigency of the situation, I think the pending business and the deficiency bill ought not to be interrupted to take up these matters. I shall not object to this request, but after this I feel that I shall have to object.

I have no objection to the request of the Senator from California.

The VICE PRESIDENT. The Chair is under some sort of a misapprehension. The Chair understood the rules of the Senate to be that when a Senator asked unanimous consent for the consideration of a bill, the Senate could undoubtedly give it. He is informed by the Parliamentarian that it is against the rules of the Senate for this bill to be considered by unanimous consent; that it must be taken out of the hands of some committee.

Mr. JOHNSON of California. Mr. President, the Committee on Agriculture and Forestry has reported the bill.

The VICE PRESIDENT. The Chair merely wanted to make that statement. The Chair believes, regardless of the rules of the Senate, that the United States Senate may give unanimous consent for the consideration, engrossment, third reading, and passage of a bill without regard to whether or not it has ever been to a committee. The Chair thinks that by giving unanimous consent the rules of the Senate are changed, and the Senate may do anything it wishes to do.

Is there objection to the present consideration of the bill referred to by the Senator from California?

There being no objection, the bill (H. R. 10785) to amend the Perishable Agricultural Commodities Act, 1930, as amended, was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That section 7 (a) of the Perishable Agricultural Commodities Act, 1930, as amended, is further amended by changing the semicolon at the end thereof to a period and adding the folowing language: "If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum;".

Mr. BARKLEY. Mr. President, I feel that I must object to any further unanimous-consent requests until the pending business shall have been disposed of. It is not fair to other Senators to have exceptions made.

The VICE PRESIDENT. The Senator from Kentucky will have that opportunity as long as the present occupant of the Chair is presiding.

AUTHORIZATION OF FLOOD-CONTROL PROJECTS—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10618) entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes."

Mr. O'MAHONEY. Mr. President, last night, at a late hour, after the conference report upon the flood-control bill was brought before the Senate, and while the distinguished and able Senator from Louisiana [Mr. OVERTON] was explaining the report, I rose to ask a simple question. Although I was on my feet for considerably more than an hour, and members of the committee which had charge of the bill were also upon their feet on the floor of the Senate, I was altogether unable to obtain an answer to the question. It is a perfectly simple question, and one to which it seems to me there should be no hesitation whatever in giving a reply.

As was suggested last night, I am not concerned in filibustering against the consideration of this measure. I believe in flood control. I believe in the development of public power. I think the development of power sites upon the rivers and streams of the country is of tremendous importance to the people, and no word of mine will ever be used to prevent the accomplishment of that purpose; but I call the attention of the Senate to the fact that when the act of June 22, 1936, was passed, it explained an explicit provision that whenever the Secretary of War sought to acquire land in one State for the benefit of another, the consent of the State within which the land was to be acquired must be obtained.

That is a perfectly clear proposition. If lands in Kentucky are to be condemned for the benefit of some other State lower on the stream, under the act which is now being repealed, the consent of Kentucky must be obtained.

The conference report which has been brought in to us contains this sentence in the revised section 2:

> Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other act, the Secretary of War is hereby authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control—
>
> And so forth.
>
> Notwithstanding any restrictions, limitations, or requirements of prior consent provided by any other act.

Mr. President, I wish the distinguished Senator from Louisiana [Mr. OVERTON] or the distinguished Senator from Kentucky [Mr. BARKLEY], the majority leader, would tell the Senate what other acts are being repealed by that provision. In the few moments I have had to give consideration to the matter, I have been able to find one. I quoted it here last night. Let me quote it again this morning. It is the provision of the act of June 22, 1936:

Provided further, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of War with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said projects.

Will the Senator from Louisiana indicate to me why that apparently wise provision of law for the protection of States upstream is now to be withdrawn?

The Senator from Louisiana sits mute in his seat. Is there no explanation for it?

Mr. OVERTON. Mr. President, I answered that query four or five times, according to my recollection, last evening. I do not think it is necessary for me to repeat what I have said.

Mr. O'MAHONEY. I wish the Senator would point out the place in the RECORD in which he answered it once.

Mr. OVERTON. I respectfully suggest that the Senator from Wyoming make his own research of the RECORD and not call upon me to officiate as his clerk.

Mr. O'MAHONEY. Mr. President, the answer of the Senator is practically the same answer as was given last night. We wander all around the central question which is involved. The Senator from Kentucky indicated last night, during the progress of the discussion, that the Senate and the House of Representatives would remain in session until this bill passed, regardless of this question.

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

Mr. O'MAHONEY. I very gladly yield to the Senator from Minnesota.

Mr. LUNDEEN. Mr. President, the press, through its financial pages, is telling us a great deal about the railroads, and the impending wage cut, and about possible strikes.

The effort that is now being made by the railroads to reduce the wages of the employees should be opposed by every progressive in the land.

Only recently the railroads of this country were granted an increase in freight and passenger rates by the Interstate Commerce Commission, which placed an added burden on the backs of the farmers and consumers of this country.

It is conservatively estimated that this raise in rates will bring into the treasury of the railroads $270,000,000 annually.

Having obtained this raise, they now propose to cut the wages of every railroad worker in the country, practically one-sixth, and reduce the purchasing power of these men and women by more than one quarter of a billion dollars.

BETRAYAL OF LABOR-FARMER

To do this would not only be a rank betrayal of labor, but would place an added burden on the farmer and the producer. With one hand they would place a burden upon the farmer and the producer, and with the other hand they would take away from the railroad workers their purchasing power, and, thereby, place a double burden upon the farmer and the producer.

The financial condition of the railroads is not due to high wages. It is due to mismanagement. It is due to financial juggling, and the payment of huge bonuses and commissions to the bankers and brokers of the East.

This is no time to reduce the purchasing power of the workers of America, and not only the workers, but also every industry should stand back of President Roosevelt in his effort to increase purchasing power and to prevent a Nation-wide attempt to reduce the wages of the workers and reduce their scale of living.

Our Government has just sponsored a $4,500,000,000 spending program, and the purpose of it is to increase buying power, not to decrease it.

It comes with poor grace on the part of the railroads at a time like this, to seek to decrease the buying power of their employees and workers.

HIDING BEHIND THE LIFE-INSURANCE COMPANIES

It is time that the public ascertained the facts regarding this fight to cut the wages of the railroad workers. A well-organized propaganda has been carried on in this country that if these railroads do not obtain increased rates and reduced wages they will be unable to pay the interest on their bonds; that the life-insurance companies of this country will be faced with bankruptcy. This is not a fact, and the people of this country ought to realize it. In the first place, with proper management the railroad companies can meet their interest rates. In the second place, if the railroad bonds should be entirely defaulted, it would not seriously affect the condition of the life-insurance companies of this country. The railroads of this country are in their present condition because of the financial juggling, mismanagement, and rank dishonesty.

Only 11 percent of the assets of the 33 largest life-insurance companies of this country are represented by railroad bonds.

If every bond held by the insurance companies were defaulted, which is not at all possible, the intrinsic value of the policies of every policyholder in this country would not be seriously affected.

I desire to include in my remarks the following news release issued by Alfred M. Best Co., Inc., insurance publishers and reporters, of New York City:

Because life-insurance companies are known to be large holders of railroad bonds, and the railroads in general have been having an unfortunate time of it recently, many unfounded rumors have been going the rounds as to the effect that railroad difficulties might have upon life-insurance company assets and policyholders.

The real facts are almost startlingly favorable to the life-insurance companies. To compile them we have taken the statements of 33 of the largest companies, omitting several Canadian institutions whose holdings in United States railroad bonds are of no relative importance.

Approximately 97 percent of the United States life-company assets are represented in our survey, with presumably proportionate figures on other items. This survey developed the following facts, all taken from the sworn annual statements of these companies as of December 31, 1937, and here is the point:

First. Only 11 percent of assets are represented by railroad bonds;

Second. The group of life companies carried their railroad bonds at an average price of 84.6—stated to be amortized value;

Third. The market value as of the same date was 80.7;

Fourth. The depreciation in dollars to put railroad bonds at market was $123,000,000; surplus was $1,167,000,000; but

Fifth. If the entire bond portfolio was placed at market, the companies would show a gain in surplus of $109,000,000.

The reason for this is that the amortized values used by the companies in their statements considerably undervalue extremely high-grade bonds such as Governments, of which the companies hold a large volume; other bonds have for various reasons been written down and are not carried at amortized values in general but at figures substantially lower, sometimes under market.

FACTS AND FIGURES

The "convention market" value required by the National Association of Insurance Commissioners and reported by the companies in their statements (but not used for statement purposes) are true market values for railroads and all other active bonds; they are arbitrary values only for the smaller and local municipals which do not have a real market, and these do not affect our figures. In other words, the true excess of market values overamortized on high-grade issues considerably exceeds the deficit in the rail group, which is not large because the companies have already written the bonds down very substantially, or bought them at low prices.

These figures compare with the total surplus to policyholders of the group of 33 companies of $1,167,000,000 as of the same date. Total figures upon which the above facts are based are as follows:

Assets	$24,351,000,000
All bonds (amortized statement value)	12,626,000,000
All bonds—Market (convention)	12,735,000,000
Railroad bonds (par value)	3,177,000,000
Railroad bonds (amortized-statement value)	2,686,000,000
Railroad bonds (market value)	2,563,000,000
Percent railroad amortized to par	84.6
Percent railroad market to par	80.7
Differences—All rails to market	123,000,000
Differences—All bonds to market	109,000,000
Surplus	1,167,000,000

[At this point Mr. LUNDEEN yielded to Mr. THOMAS of Utah to present the conference report on Senate bill 2475, the wage and hour bill, the proceedings and debate on which appear in the RECORD at the conclusion of Mr. LUNDEEN's remarks.]

INTERSTATE COMMERCE COMMITTEE—SENATOR WHEELER AND THE RAILWAYS

Mr. LUNDEEN. Mr. President, the statement of the Senator from Montana [Mr. WHEELER], chairman of the Interstate Commerce Committee of the United States Senate, at the hearings on the investigation of railroads and holding companies, clearly shows that financial juggling of the railroads and bankers has brought about the condition which today plagues the railroads of this country. I quote:

Today's testimony has made clear to me one of the most astounding facts in all the history of high financing. Here is the Missouri Pacific, one of the largest corporations in the United States. Its books are falsified. It files false financial statements with the Interstate Commerce Commission, and it issues false financial statements to the investing public. It kept this up year after year. Its falsification goes so far that the corporation creates fictitious bank deposits of millions of dollars. Every dime, every nickel, and every cent of that fake special deposit at Guaranty Trust Co. of New York is fictitious. If a small-business man or an ordinary man obtaining a small personal loan at a bank did such a thing as this the banking community itself would see to it that he was promptly sent to the penitentiary for falsification of his accounts; and if this sort of thing were practiced generally, or if it could be practiced generally, the entire credit structure upon which business is done in this country would be completely broken down.

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

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Montana?

Mr. LUNDEEN. I do.

Mr. WHEELER. I call the attention of the Senator to the fact that the president of the Missouri Pacific and the treasurer of the Missouri Pacific did not really know that they were keeping a false set of books. The books were so manipulated by the holding company that the way in which the money was being used was not even known to the president or the treasurer of the company. They so testified upon the witness stand, showing how a holding company may manipulate the funds of an operating company without even the president of the operating company knowing it.

Mr. LUNDEEN. I thank the able Senator for his statement in that connection, and I have no doubt as to its correctness. I desire to say to the distinguished Senator from Montana that he has contributed more than I could hope to contribute to the discussion of the railroad question, and I hope in the future he will lead the way still further on that subject.

I desire to read into the RECORD an article which appeared in the June issue of the Railroad Trainman. It is a statement by A. F. Whitney, the able president of the Railroad Trainmen. Mr. Whitney has justly earned for himself the title of a courageous and sincere champion of the men of the railway service. The statement is as follows:

TRAINMEN WILL FIGHT WAGE CUTS

At a press conference on May 12, 1938, I issued the following statement on the proposed wage cut:

The chairmen of the general committees, Brotherhood of Railroad Trainmen, advise us that their respective managements today served notices of the managements' desire to reduce basic rates of pay 15 percent, effective July 1, 1938.

The railroads now propose to return the Nation to the dismal days of 1932 and 1933. When the railroad employees accepted a 10-percent pay-roll reduction in 1932, the carriers solemnly promised that this deduction would last for a period of only 1 year, and that it would not only restore national prosperity but world prosperity also. We all know now that the 10-percent deduction lasted for 38 months and that the depression deepened following this reduction in mass purchasing power.

While business complains about Government spending, it continues to follow a deflationary policy of reducing mass purchasing power, thus making Government spending more imperative if starvation is to be avoided in this land of plenty. The President is striving to bring about recovery. The railroads are now attempting to launch a national program of wage cuts. Today the railroads are getting more for their wage dollar than ever before. The wage cut proposed by the carriers only accentuates the spread between what the worker receives and what he gives. This taking from labor's income to profit capital when labor is constantly giving more in proportion to the wages it receives, results in wealth concentration and the destruction of purchasing power, making deflation and economic depression inevitable.

The railroads have menaced the country with a constant barrage of propaganda designed to discredit their employees. They have bought progressive social and safety legislation. They have threatened wage cuts and in 1932, when the Nation sorely needed mass purchasing power, they secured a pay-roll reduction of 10 percent, which netted the coupon clippers $400,000,000. During the past year, the railroads have received increases in their freight tariffs. They saved millions of dollars annually as a result of the 1937 amendments to the Railroad Retirement Act. They have sent tens of thousands of their employees into the breadlines.

The statement appearing in today's press relating the difficulties confronting the railroads is misleading. The average monthly wage of trainmen represented by the Brotherhood of Railroad Trainmen was $144 in 1936, and beginning October 1, 1937, $11.44 was added, which brought the trainman's monthly compensation up to $155.44. From this he is obliged to pay away-from-home expenses amounting to about $35 per month. A reduction, as proposed by the carriers, of 15 percent would reduce the trainman's monthly compensation to $132 per month, and when his away-from-home expenses are paid he would have less than $100 per month from which he must maintain his home, educate his family, pay his retirement tax, and maintain his insurance, and so forth.

The public fully understands that whatever financial difficulties the railways find themselves in at this time are due to overcapitalization, the payment of high interest rates on bonded indebtedness, the unnecessary squandering of millions of dollars in advertising and propaganda calculated to deceive the public and oppress their employees, the purchasing of corporation securities at unwarranted prices, and the spending of unnecessary millions in building large warehouses and passenger terminals in many of the larger cities for the purpose of chiseling business from their competitors. The Interstate Commerce Commission has been obliged to hear numerous complaints against carriers that have given millions of dollars to big business in the way of free service and refunds that have been held by the Commission to constitute rebates in violation of the law.

By following an improvident financial policy of refinancing at higher interest rates, instead of making reasonable efforts to liquidate their indebtedness, the railroads have permitted themselves to be robbed by the large financial institutions to which they have paid fabulous sums in commissions. Last, but not least, the railroads have adopted a selfish antisocial philosophy of getting the utmost possible for their wage dollar, through the use of larger equipment, longer trains, and other means by which profits are increased by adding to the burdens and responsibilities of employees and resulting in less frequent and less flexible service to the public.

This constant antagonism of the railroads toward the public welfare, their harsh criticism of governmental agencies, such as their attempt to beat down the living standards of American railway workers and precipitate a destructive wage-cutting program at a time when the Nation is struggling for economic recovery, leaves the people with but one alternative: The Federal Government must step in, put a halter upon this manhandling of the public and railway employees, and take the railroads over and operate them.

We wish to serve notice upon the railroads that train and yard men represented by the Brotherhood of Railroad Trainmen will not accept a wage cut.

The moguls of finance who control the railroads are either blind to the fact that our economic system will not function without a broad distribution of purchasing power, or they are deliberately trying to create a situation whereby they can ruin and rule.

Not content with concentrating most of the wealth of the country in their own hands, they would take away what little there is left in the pockets of the working people. We need not mince words. Their every action, especially the threatened railway wage cut, points to an attempt to impose upon the American people a system of industrial fascism and social feudalism.

"Our company," said a prominent Cleveland manufacturer, "won't spend another cent in the United States as long as the New Deal runs things. * * * If I were a young man starting out in life, I'd leave this country and start in Australia."

I believe men like that should be taken in hand by legislation.

The sit-down strike of capital is not only an evidence of the unwillingness of big business to cooperate with Government in a period of severe economic crisis but it is a cool scheme to derail the American people, destroy their Government, their labor organizations, and their democracy.

Assistant Attorney General Robert H. Jackson, speaking before the American Political Science Association in Philadelphia, Pa., on December 29, 1937, stated very plainly: "The blunt truth is that today we have in command of big business the same bourbons who were in command of the defeat of 1929, and who since then have learned nothing and forgotten nothing."

He said further: "I know too much about big business to attack labor for its struggle to get a decent wage or to blame it for this recession. Labor has had nowhere near the percentage advance that big business has given to its own darlings. Labor would be happy, I

am sure, to get increases only in the same proportion and at the same time as managers of big business increase their own salaries."

Wealth concentration in this land of potential plenty has contributed in no small degree to the current economic difficulties. What can we expect in the way of a just distribution of the Nation's yearly output if "during the golden 1920's, when presumably all Americans were beginning to figure in the destinies of our corporate life, the real participants consisted of not more than 1,150,000 persons, who among them owned 94.3 percent of the worth of our corporation"? In 1929, the peak year of prosperity, over 42 percent of American families received less than $1,500 income, whereas but twenty-three one-hundredths of 1 percent of all families received $50,000 or over per family. In that same year 71.2 percent of America's families received an annual income of less than $2,500, which is the amount estimated by a Department of Agriculture official as the minimum health, comfort, and decency standard for a family.

Since their incomes are more than enough to provide their families with all the comforts of life, our generals of finance and our captains of industry are little concerned about health and comforts for the millions of less fortunate American families. A number of companies last year reported profits higher than those prevailing in the boom years of 1929 or 1928. Corporate profits for the first quarter of 1938 exceeded expectations. The coupon-clippers, in short, have not been knocking on Harry Hopkins' door asking for certification to the W. P. A.

Instead, by throwing their switches, these invisible rulers of America are derailing millions of workers and are bringing back into prominence the bread line, the soup kitchen, the Hooverville, with all the attendant features of social degradation.

One of the spokesmen for business, Col. Leonard P. Ayres, statistician and vice president of the Cleveland Trust Co., asserts that business recovery is doubtful until radical remedies are adopted for the Nation's railroads.

Yet it is proposed that we adjourn and go home without doing anything about the railroads.

He proposes to cut the railway wage bill by decreasing the number of employees and, of course, by wage reductions. Business recovery to him obviously means only an upturn in profits. It does not mean employment for millions now denied the right to work. It does not mean bread and milk for thousands of undernourished families. It does not mean school for the youth. It does not mean the right to live for the majority of the American people. Such is the antisocial philosophy of our economic "experts," the Charlie McCarthys of Wall Street.

We agree with Colonel Ayres that "radical remedies" are the order of the day, but we must have constructive remedies that will serve the welfare of all the people and not those which will feed the profit-cravings of the few.

I want Senators to consider that there are 15,000,000 men in the United States today out of work, men who need jobs, and it is proposed now to throw other hundreds of thousands of men out of their jobs upon the great railway systems and into the bread lines. I am opposing adjournment until something is done for these men.

The American people must outlaw the industrial and financial sit-down strike, now manifesting itself as an offensive against railway labor and the rest of the Nation's working population. The fight ahead of us will be desperate, because the greedy money changers know no reason. Every railroad worker, every member of organized labor, and every friend of labor who desires to protect his home and his fireside should go into this battle with a determination to crush every influence that might reduce his purchasing power and his living standards.

Again we emphasize: If capital insists on continuing its sit-down and spreading ever wider the gap between extreme wealth and extreme poverty, the people have no choice but to take over our transportation plant and run it in the interest of the public and the employees.

Many of the railroads have not only been extravagant during the past but have fallen victims to the Wall Street magpies and vultures.

The present attempt to reduce wages is as brazen as a daylight holdup.

A FEW GREAT SYSTEMS OF PRIVATELY OWNED RAILROAD MONOPOLIES OR GOVERNMENT OWNERSHIP

Mr. President, I wish to say to Senators within the sound of my voice that we may possibly have to contemplate a special session unless some action is taken at this time. We may find a situation in the not distant future where there will be a clash between the great railway magnates and the millions who work upon the railroads, that they will come to grips, and that we must take sides with the common man, not with the presidents of the railroads, with the great bondholders and stockholders whose wealth is great and whose dividends and profits are large.

The time will come when we will no longer smile at the wage of Eugene Grace and Buck, his vice president of the Bethlehem Steel, $224,000 greater in one year than the salary of the President of the United States; the salary of the Vice President; the salaries of all the Justices of the Supreme Court, the salaries of all the 53 Governors of our States and Territories; the salaries of all the Cabinet members, and the salaries of the 96 Senators of the United States combined; $224,000 more in salaries than all of them put together.

GOVERNMENT OWNERSHIP OF RAILROADS EVENTUALLY—WHY NOT NOW?

Mr. President, when that condition obtains in the United States it is up to us to pass fundamental, basic legislation. We cannot pass little plaster legislation any longer, giving a little here and making a little loan there. We must either consolidate the railroad systems into great private monopolies, a few of them, which will mean the crushing out of the railroad men and their wages in the great privately owned systems, or we must take them over into Government ownership, into the ownership of the people of the United States.

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

Mr. LUNDEEN. I yield.

Mr. CLARK. Since the Senator referred to Mr. Grace, of the Bethlehem Steel Co. and the Bethlehem Shipbuilding Co., and the salaries and bonuses of officials received by that company during the war, I wonder whether the Senator has had occasion to see the decision of the District Court of the United States for the Eastern District of Pennsylvania recently rendered in the case of United States of America against the Bethlehem Steel Corporation, in equity, and the Bethlehem Shipbuilding Company, Ltd., against the U. S. Shipping Board and the Emergency Fleet Corporation?

WARTIME PROFITEERS

Those cases grew out of a contract made between the Emergency Fleet Corporation at the most necessitous period of the war, by which the Bethlehem Shipbuilding Corporation built for the Shipping Board and the Emergency Fleet Corporation under a cost-plus contract, which the court found was extorting money from this Government-owned corporation by the necessities of the war, for the construction of 66 vessels, to be used during the period of the war, at a cost of some $120,000,000, from which the Bethlehem Shipbuilding Co. has already received the extortionate profit, on a cost-plus basis, without putting up a dime of its own money, of $20,000,000, and is now suing the Government of the United States for in excess of $5,000,000 more, and that claim for $5,000,000 more was upheld by the Federal Court for the Eastern District of Pennsylvania a few days ago. But in upholding it and awarding judgment for the $5,000,000 in excess, the court used these words:

This is a charge of actual fraud perpetrated by deception. The master has found against this charge of actual fraud and under all the evidence he would not have found otherwise. The managers for the contractor—

That is, the Bethlehem Shipbuilding Co.—

The managers for the contractor adopted the famous Rob Roy distinction, who admitted he was a robber but stoutly proclaimed that he was no thief. The contractor boldly and openly fixed the figures in the estimated cost so high as to give them the promise of large bonus profits. The managers for the Fleet Corporation knew that the estimate was high and why it was made high and so protested it. The reply of the contractor's managers was, "We will take the contract with this promise of bonus profits incorporated in it, but not otherwise. You take it or leave it."

The court proceeds:

Whatever wrong there was in this may have been the wrong in a daylight robbery, but there was no element of deception in it.

Then it awarded judgment. Some of these days the Congress of the United States will be called on to appropriate the money to pay that judgment for the additional extortionate profits demanded by that company.

Mr. LUNDEEN. Mr. President, I wonder whether at that time, when that action is sought, we will receive in taxation any money from the $10,000,000 that was given as a bonus to Eugene Grace during the war. When I make these statements I am not making them in any spirit of hostility toward these men of money and millions; they are just proceeding

according to the methods and customs usual in this country, and they are fine gentlemen, of course. The interest of the common man is greater than that of any group of selfish individuals looking out for themselves alone. Mr. A. F. Whitney, able president of the Brotherhood of Railroad Trainmen, in his statement which I have just had the honor to read to the Senate, referred to a Cleveland manufacturer who said if he were younger he would be tempted to move to Australia, and just because the President is advocating some New Deal measures. I think the railroads would be better off if some of them did move. I think the railroad systems could be operated without some of the magnates who are in them. I think there would still be men with sufficient brains to run the railroad systems.

THE RAILWAY SITUATION IN THE COUNTRY DEMANDS ACTION

I certainly hope, and I appeal to the progressive and liberal Senators—I presume we all put ourselves in that class—to remain on the job in Washington and let us do something about the railway situation in the country. Let us not permit this matter to slide along into a battle between the railroads and their employees over wage cuts, which are now in the offing—cuts in wages amounting to $250,000,000.

Senators, I ask, when wages are cut down by $250,000,000, will that contribute to prosperity in America? If the question is one of votes or anything like that, I think Senators would gain favor with the public if they were to stay on the job in Washington and handle the railroad situation rather than to campaign at home. We are now in a campaign for the railroad men and for the real majority of Americans. Ours is a government by majority, after all.

Mr. President, I appreciate the indulgence of the Senate. At present I have no desire to occupy a long period of time. I know that Senators are restless and want to get home. However, I think the railroad question transcends our own personal interests. It is greater than the fortunes of any one of us or all of us. After all, we were sent here by the millions who are out there on the prairies, and the farms, and toiling in the factories and upon the railroads, and we must not forget them.

Public utilities owned and operated by foreign governments

Country	Specific utilities				
Albania	Post.	Telegraph.	Telephone.		
Argentine Republic	do.	do.		Railroads (in part).	
Australia:					
1. Commonwealth	do.	do.	Telephone.	do.	
2. States:					
New South Wales.				Railroad and street cars.	
Victoria					
Queensland					
South Australia.					
Western Australia.					
Tasmania					
Austria	Post.	Telegraph.	Telephone.	Railroad.	
Belgium	do.	do.	do.	do.	Merchant marine.
Bolivia	do.	do.			
Brazil	do.	do.	Telephone.	Railroad.	
Bulgaria	do.	do.	do.	do.	
Canada:					
1. Dominion	do.	do.		do.	
2. Provinces:					
Manitoba					Hydroelectric power.
Nova Scotia					
Ontario					
New Brunswick.					
Saskatchewan					
Quebec					Electricity.
Chile	Post.	Telegraph.		Railroads (in part).	
China	do.				
Colombia	do.	Telegraph.		Railroads.	
Czechoslovakia	do.	do.	Telephone.	do.	
Denmark	do.	do.		do.	
Egypt	do.		Telephone.	do.	
Estonia	do.	Telegraph.	do.	do.	
Finland	do.	do.	do.	do.	
France	do.	do.	do.	Railroads (in part).	
Germany	do.	do.	do.	Railroads.	
Great Britain	do.	do.	do.		
Greece	do.	do.	do.	Railroads.	
Haiti		do.			

Public utilities owned and operated by foreign governments—Con.

County	Specific utilities				
Hungary	Post.	Telegraph.	Telephone.	Railroads.	
India	do.	do.		do.	
Irish Free State	do.	do.	Telephone.		
Italy	do.	do.	do.	Railroads.	
Japan	do.	do.	do.	Railroads (in part).	
Latvia	do.	do.	do.	Railroads.	
Lithuania	do.	do.	do.	do.	
Luxemburg	do.	do.	do.		
Mexico	do.	Telegraph (in part).	Telephone (in part).	Railroads.	
Netherlands	do.	Telegraph.	Telephone.		
New Zealand	do.	do.	do.	Railroads.	
Norway	do.	do.	do.	do.	
Peru				Railroads (in part).	
Poland	Post.	Telegraph.	Telephone.	Railroads.	
Portugal	do.	do.	Telephone (in part)	Railroads (in part).	
Rumania	do.	do.	Telephone.	Railroads.	
Russia	do.	do.	do.	do.	Hydroelectric power, rivers and canals, gas, electricity, etc.[1]
Salvador	do.	do.	do.		
Siam	do.			Railroads.	
South Africa	do.	Telegraph.	Telephone.	do.	
Spain	do.	do.			
Sweden	do.	do.	Telephone.	Railroads.	Hydroelectric power and canals.
Switzerland	do.	do.	do.	do.	
Turkey	do.	do.	do.	do.	
Uruguay	do.	do.	do.		
Venezuela	do.	do.	do.		
Yugoslavia	do.	do.	do.	Railroads.	

[1] Constitution of the Union of Soviet Socialist Republics, arts. 4–12.

Sources: League of Nations, memorandum on public finance (1922–26); League of Nations, Economic Intelligence Service, public finance, 1928–35; Statesman's Yearbook, 1936; Official Yearbook of the Commonwealth of Australia, 1935; Canada Yearbook, 1936; Financial and Economic Annual of Japan, 1934; New Zealand Official Yearbook, 1934.

RAILWAYS GO CRASHING TO DOOM AND DISASTER

That our American railroads are now in a desperate, financial plight has been known for some time. They have been compelled to sharply reduce their expenditure on roadbeds, maintenance in general, cars and equipment; $42,104,234 was spent in April 1937, on maintenance-of-way and structures such as rails, crossties, ballasts, bridges, tunnels, buildings on right-of-way, signal apparatus, and labor. April 1938 shows a 21-percent reduction down to only $33,149,544 expended.

ECONOMY AND RETRENCHMENT ON MAINTENANCE MEAN TRAGEDY AND DEATH

When roadbeds deteriorate and rolling stock is neglected there can be but one final answer—wrecks, injuries, and death. We must not economize. We must not neglect maintenance-of-way. We must maintain all major railway safety factors.

MORE THAN A QUARTER OF A MILLION RAILROAD EMPLOYEES LAID OFF DURING THE LAST YEAR

Employment on class I railways was 1,174,434 on July 15, 1937. On May 15, 1938, the number had fallen to 904,897—a reduction of more than a quarter of a million—269,537—in the number of men employed by American class I railways. Two-thirds of those laid off were employed on maintenance-of-way, structures, and equipment, and it is now well known that the number of railroad workers is the lowest in 40 years.

A TERRIBLE RAILWAY DISASTER CLAIMED MORE THAN 40 LIVES

Just within the last few days a terrible railway disaster claimed more than 40 lives and a large number injured. It will be claimed, of course, that it was an act of God and storm and weather. But, perhaps, if there had been more maintenance-of-way men—men to report the condition of roadbeds and bridges and the stages of swollen streams—I dare say this accident never would have happened.

I warn the American public that if we persist in economy of maintenance there will be other disasters in which precious American lives will be lost and others maimed, injured, and crippled.

DEPRESSION-RECESSION, PANIC OF 1937

A great business slump struck last year, and we have a gage to that slump in the fact that car loadings in the first 23 weeks of 1938 were 25 percent less than for the same period in 1937. More than 30 percent of all the railways of America are in receivership or trusteeship. These bankrupt and wrecked roads now, still maintaining a huge salary roll for their millionaire railway magnates, insolently and arrogantly demand a $250,000,000 slash in the wages of the men who maintain the roadbeds, keep the trains moving, and load and unload the great trains that roll east and west and north and south through this mighty Nation.

Not only do these financial overlords demand a sum approaching $300,000,000 in higher rates from the farmers, producers, and consumers of America, but on top of that they pile their demand for more than a quarter of a million dollars cut in the wages of that splendid personnel—the railroad brotherhoods and railway labor in general.

WE MUST CHOOSE THIS DAY WHOM WE WILL SERVE

I want Minnesota and America to know that I take my stand with the men and with the railway employees, with the railway brotherhoods, and the railway labor in general. I will fight now and in the future and continuously against these drastic cuts, huge increased rates, and other fallacies and policies which will once more put our entire railway system through the wringer and dump them in the lap of "Uncle Sam" for another period of rehabilitation. Then we may expect further demands from the private owners that they may be permitted to wreck and ruin the roads once more as they did in wartime and after wartime in order that their huge salaries, bonuses, dividends, profits, and other renumerations may continue without pause and delay while they live in a superworld of luxury and comfort.

FIFTY-SIX RAILROADS OWE THE GOVERNMENT NEARLY $400,000,000—WHY NOT TAKE THEM OVER?

We know from recently published figures that 56 railroads now owe the Reconstruction Finance Corporation nearly $400,000,000—to be exact, $381,733,211. Any plan or plot which may advance loans to the roads in order that the men and equipment may be further exploited and any plaster legislation to recondition the roads at the expense of the Government is not a proposal or legislation in the interest of the American public and should be denounced and exposed at this time as a fallacy not to be countenanced.

WE ARE MOVING INTO A GREAT RAILWAY CRISIS

We are in a great railway crisis and the moment has arrived when the railways of America must be taken over by the Government to be owned, controlled, and operated by the United States of America as they are operated by the governments of almost every nation in the world, as the telegraphs and telephones are operated by almost every government in the world, and as the post and post offices are operated by all civilized governments. Any measure short of that will fail. Any measure failing that will renew the burdens upon the American taxpayers, will increase the drain upon the Federal Treasury and cost our railway employees billions in wage cuts and lower standards of living; and will bring misery, poverty, destitution, and hunger to those who are permanently laid off.

NOW IS THE TIME FOR ACTION

This is the time for action. Other nations have led the way. We know that the Post Office system is owned and operated by the Federal Government most efficiently and has given generations of splendid service, and it is the greatest business in all the world. That is Government ownership.

If the stockholders and investors in American railroads do not desire to be completely frozen out and find themselves in bankruptcy, let them give their support to Government ownership. It is their only salvation, and it is the only real solution of the railway problem.

GOVERNMENT OWNERSHIP OF RAILWAYS NOW BEFORE THE SENATE

On May 12, 1938, on the floor of the Senate, I warned our people that a crisis was approaching. I inserted a complete text of a Government-ownership bill which has the support of able men throughout this Nation—a bill which I introduced in the House of Representatives some years ago and which I have now reintroduced in the Senate—a bill which will stand the test of time, and which will require but few, if any, amendments.

I gave facts, figures, and statistics showing just what happened during the wartime—the break-down of the railroads under private ownership. I warned how the Government was compelled to come to the rescue of the roads. I showed how the railroads then again demanded the return of the railroads to private owners. I reminded the people, and at that time I predicted another wreck; and that the wreck did come, and that we have now arrived at another and a greater crisis.

WE MUST NOT ADJOURN NOW—OUR WORK IS UNFINISHED

I am now sounding the warning again as I did on June 15, 1938, when I pleaded with the Congress not to adjourn because our work here is unfinished; because we have 15,000,000 unemployed; because hunger, malnutrition stalk through the land; because of the railroad crisis; because of the money question which has not been solved; because social security is yet in its insecurity stage; because our aged are still without hope. Election or no election, I begged and pleaded with the Members of the House and Senate to remain here on the job; but we are adjourning. We are going home, and we are traveling home on bankrupt roads, on dangerous equipment which will become more dangerous in the near future.

WE ARE FACING A GREAT RAILWAY WAGE CUT

We are faced with a great railway wage cut in July of $250,000,000. Hundreds of thousands of our finest mechanics, trainmen, and workers are now wandering the streets of this Nation seeking employment or finding a dole on W. P. A.

This was not the future visioned by Washington, Jefferson, Jackson, and Lincoln. They saw in the morning light of this Nation's history a grander and more glorious day. Let us advance toward the east with real solutions and get down to basic fundamentals instead of hasty, half-baked, plaster legislation. For that is the only solution in this hour.

Mr. O'MAHONEY. There is much virtue in what the Senator says. Already rumors are circulating through this Chamber and through the House of Representatives that we may be called into extraordinary session in November to consider problems which we now know are confronting us and which remain unanswered. But that was not the point to which I was addressing myself. I was calling attention to the fact that the majority leader last night declared that no adjournment resolution would be brought in for action by the Senate or the House until this bill had been disposed of.

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

Mr. O'MAHONEY. I yield to the Senator.

Mr. BARKLEY. That statement was in response to an inquiry from the Senator from Idaho as to whether any time had been fixed for adjournment.

Mr. O'MAHONEY. The Senator is right about that.

Mr. BARKLEY. I stated that no time had been fixed and that there would not be a concurrent resolution presented in either House until——

Mr. O'MAHONEY. Until this measure had been disposed of.

Mr. BARKLEY. Yes. I might have said the same thing as to relief legislation.

Mr. O'MAHONEY. Oh, yes.

Mr. BARKLEY. And the deficiency bill.

Mr. O'MAHONEY. Certainly.

Mr. BARKLEY. Or any other bill about which there might be an inquiry.

Mr. O'MAHONEY. Certainly. What I desired to point out to the Senator from Kentucky was that the particular provision to which I have been directing attention can be restored to this bill by the conferees within an hour; but it is

the apparent intention of the leadership not to permit the restoration of that protective clause. I now ask, Why? I propound this very simply question and can get no answer to it: Why do representatives of the sovereign States in this body refuse to say why they are taking away from the States they represent the protection given by the law?

Mr. BARKLEY. I will answer that question in my own time if I deem it necessary to answer it. I do not care to answer it in the Senator's time. I may discuss this matter myself in my own time.

Mr. O'MAHONEY. If the Senator would only say that he would discuss it in his own time, I would quit.

Mr. BARKLEY. That is a great inducement for me to say that I will discuss it. [Laughter.]

Mr. O'MAHONEY. I know it is.

Mr. BARKLEY. At the same time, I do not want to deprive the Senate of the pleasure of listening to the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President——

Mr. BARKLEY. I am not trying to deal facetiously with the Senator, but the Senator has asked a specific question, as to why we are not willing that this matter shall go back to conference, and that the language to which he refers shall be restored. I can tell the Senator why.

In the first place, as I stated last night, the Senate considered this matter carefully and seriously. It was considered by the Committee on Commerce. The Senator from Missouri [Mr. CLARK] offered practically the same amendment in the Committee on Commerce, and it was voted down by a majority of only one after serious and careful consideration. I offered it on the floor of the Senate, it was adopted after discussion, practically without opposition, it went to conference, the conferees have agreed to it, and the House has agreed to the conference report.

There is nothing new about this matter of waiving the right of the States to give their consent before the Government buys property involved in dams and reservoirs, because all over the country for years and years the Federal Government has acquired the title to property.

Mr. O'MAHONEY. Does the Senator contend that this is a waiver by the States?

Mr. BARKLEY. No; I do not contend that it is a waiver.

Mr. O'MAHONEY. I understood the Senator to say that.

Mr. BARKLEY. I contend that it is not necessary for the States to waive, because the Government has for many years acquired the title to property where it was engaged in its own activities—the Senator from Louisiana last night referred to post-office buildings all over the country—and the consent of the States has not been necessary to enable the Government to acquire property of that kind. In all the States involved in the Tennessee Valley operations the Government of the United States has purchased, it has condemned, it has acquired property, countless lawsuits have been instituted in order to acquire property where the parties could not agree upon the price, without the consent of the States.

We are proposing a thing I have favored from the very beginning of flood-control legislation, that the Government shall incur the entire expense not only of the flood-control device, but of the purchase of the necessary lands, the easements, and the rights-of-way. The States and the communities, as the Senator knows, in all the valleys where floods have devastated vast regions, have asked that the Federal Government assume the whole responsibility of the flood-control situation. They have come here with their petitions and have represented—what I know in many cases to be true—that they are unable to make the necessary local contributions required by the act of 1936.

If the Government of the United States is to be asked, as it is asked in this bill, to undertake the entire obligation, as I believe it to be a national obligation not only to build the flood walls, the reservoirs, the dikes, and whatever may be necessary to protect the people, and pay the entire cost out of the United States Treasury, including the purchase of lands, easements, and rights-of-way, and including the relocation of streets and highways, and utilities and railroads, and other things made necessary, certainly the local communities cannot complain if the Government of the United States insists that title to the property be vested in the Government of the United States.

Mr. O'MAHONEY. Of course they could not complain; I agree with the Senator on that point 100 percent. But that is not what I am talking about.

Mr. MALONEY. Mr. President, will the Senator yield to me there?

Mr. O'MAHONEY. I am very glad to yield.

Mr. MALONEY. I should like to point out to the Senator and to the majority leader that, while the leader says that the States and the municipalities have come to the Federal Government asking for a 100-percent contribution, we in New England feel that this controversy is created as the result of our flood-control situation, and we in New England did not come to the Federal Government asking for a 100-percent contribution. We have been opposed to it. We feel that it is dangerous to throw off the self-restraint of some local contribution, and thereby permit States and municipalities with no restraint whatsoever to ask for projects of great magnitude which might not be economically feasible. So much for the statement that the States have come here asking for full 100-percent contribution.

I am not so familiar with the Tennessee Valley situation as I might be, but I remember this——

Mr. O'MAHONEY. The Senator recalls that in the case of the Tennessee Valley Authority there was a special act.

Mr. MALONEY. That is covered in a special act but let me point out in that connection that when we were considering the Tennessee Valley measure in the Seventy-third Congress, if my memory does not fail me, there was not then the great willingness to go along. As I recall, the States of the South, before they would go along with the Tennessee Valley Authority, insisted that there be written into the law a provision that a percentage of the gross income of the Tennessee Valley operation be given to certain States in the South for the losses they contended they incurred through captured and condemned land.

Mr. O'MAHONEY. I thank the Senator for that contribution. There is no provision of that kind in this measure. There is no opportunity presented here by which the States in which the land may now be condemned, without the consent of those States, and taken, may be reimbursed, from the development of power or anything else.

Mr. MALONEY. Will the Senator yield to me again?

Mr. O'MAHONEY. I yield.

Mr. MALONEY. I should like to refresh the recollection of Members of the Senate. Flood control is a very serious thing in New England. My State has suffered millions upon millions of dollars of loss as a result of the late floods. We came to the Federal Government for cooperation. We felt, and we were so advised, that the proper way of handling the situation was by way of interstate compact, and the States of New Hampshire, Vermont, Massachusetts, and Connecticut, in cooperation with Army engineers, who were the responsible authorities in the matter of flood control, sat down and worked day and night and Sundays, always with the Army engineers present, to compose a compact which would meet the needs of the Federal Government and the States.

We still believe that the Army engineers approved that compact. We still believe that it was written in accordance with the then existing law. We made arrangements to provide the necessary moneys to carry out our work. But, as the very able and distinguished Senator from Massachusetts [Mr. WALSH] pointed out yesterday, because there appeared to be one or two instances where there was a possibility of the creation of power, the Federal Government injected itself into the consideration again, and said, in effect: "We repudiate our approval of these compacts. You cannot go on excepting as we dictate and direct."

If the Senator will yield to me just a moment more, I should like to make my own position clear. The Senator from Wyoming last night spoke of the indestructible States. I realize, as he does, and as he has so often said, that in this age of inventive genius, with rapidly changing conditions, so different from the time pointed out last night by the Sen-

ator from Vermont, when power was not dreamed of, when Ethan Allen shook his fists in the faces of those from the valley, sovereign rights are not what they used to be. The sovereign rights of States are approaching death and, probably, as the Senator from Wyoming said last night, that is necessary.

But there is a proper way to bring all this about. We can keep faith with the founders. We can do this thing in a constitutional way. New England today, and for the last six months, has not changed its mind. My Governor pleads with me today to oppose the so-called Barkley amendment to this proposal. My State does not want to commit a rape upon the States of New Hampshire and Vermont, because while we are not personally affected by this contribution, insofar as our individual State is concerned, we do have an appreciation, as does the Senator from Wyoming, that not only in this instance, but in other instances, we are entering a dangerous field.

The Senator from Wyoming last night hinted at the fact that there was on the calendar of the Senate a bill or bills to make contributions for Federal education, and while Senators have said that that did not mean Federal control, they cannot be consistent and vote for the pending proposal and fail to maintain, as they have maintained on the floor of the Senate, that where the purse goes so goes the power. They cannot do that in this instance and repudiate that contention when made with respect to the educational system.

Mr. President, what does that mean? It means that after the adoption of the pending conference report, if the Federal Government shall at a later time contribute money for education in the States, if the Congress keeps faith with itself, Federal control shall follow those contributions, and that the Government shall take over the education in the States.

Where do we go from there? We go to a complete centralization of government, without a chance for the people to be heard, as the Senator from Wyoming pointed out last night. There are some of us who are willing to enter upon a new field insofar as power is concerned. We have demonstrated by our votes and our actions that we want to be progressive in this respect. But there are some of us who believe that the people have a right to be heard; that we are, as the Senator from Wyoming pointed out, representatives of what are still sovereign States. I think it is a sad thing for the Senate at this late time, in the confusion, the excitement, and the desire to get away, to surrender, as we do if we agree to the conference report as written, the rights of the States of New England and the other States of the Union.

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

Mr. O'MAHONEY. I yield.

Mr. BARKLEY. Commenting on the statement of the Senator from Connecticut with respect to the so-called Harrison education bill, and the expression of the fear that that might involve taking over the educational institutions by the Federal Government, I will say that I certainly would be opposed to any such policy on the part of the Federal Government. I wanted to point out that that has not followed with reference to the matter of Federal contributions to the construction of highways throughout the country. For 22 years the Federal Government has been contributing to the States for the construction of highways, in cooperation always with the State highway departments, and every highway that is constructed by Federal aid in any State is a highway the construction or improvement of which is initiated by the State highway department. Every employee on that highway is employed by the State highway department, and the Federal Government does not undertake to initiate as a part of its road program a single road anywhere, except through the cooperation of the State highway department, and after its own initiation of the work.

Mr. O'MAHONEY. Mr. President, the Senator has just put his finger upon the question. He has given the answer in his own words. In that case there is consent. Here the opportunity for consent is withdrawn. Why is that done? There is not a single Federal highway constructed by the use of Federal-aid funds in any State in the Union without the complete consent of the State within which it is built. But in this instance it is proposed to build the reservoirs, to condemn the lands, to use the waters, without the consent of the State.

Mr. BARKLEY. And in the highway program to which I have referred the law requires that the State shall match every dollar put up by the Federal Government, but I dare say that if Congress were to authorize the construction of a highway out of its own funds, to be paid for 100 percent as a national highway, that it would do with respect to that as it is undertaking to do in the present case. It would not require the consent of the State; it would not require matching by the State; it would not require that the State highway departments should cooperate; but if it were a program authorized and paid for entirely by the Federal Government, I dare say that the same policy would apply as we are seeking to have applied when the Federal Government pays the expenses of flood-control projects up to the extent of 100 percent.

Mr. O'MAHONEY. Now the Senator enters into the realm of prophecy.

Mr. MALONEY. I want to applaud the prophecy of the majority leader, because just so surely as night follows day that prediction will come true. If the Federal Government sees any benefit or profit in the inanimate highways of the country, they will be taken over just so surely as the educational system of this country will be taken over if we adopt this practice and policy today. It represents a change from two years ago. Then we had an entirely different policy in the administration. Those who would change it now by 100-percent contributions and Federal condemnations, two years ago took an entirely opposite view. There were some Senators on the floor and in the Commerce Committee as well who sincerely and earnestly believed then that a 100-percent Federal contribution was proper, because they recognized this as a national possibility. But those who would change it now were opposed then. So I maintain that the majority leader is absolutely right. We will give Federal Government control over highways if it at all appears that they are important to the Central Government.

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

Mr. O'MAHONEY. I yield.

Mr. POPE. I wish to make a brief statement to the Senator with reference to what seems to be the same situation in my State, and in other Western States, and then see what the distinction is in the mind of the Senator. When Arrow Rock Dam was built, it was built for reclamation purposes. There was no consent obtained from the State, through the State legislature, or in any other way. When the Black Canyon Dam was built, where power was created and is now being furnished to the various irrigation districts, there was no consent. And the rights-of-way are now being procured for the building of ditches through my State, as between the Federal Government and individuals, without any consent being obtained from the State. I cannot understand the departure which the Senator is talking about.

Mr. O'MAHONEY. There is no departure, as the Senator very well knows. He is talking now about the reclamation law.

Mr. POPE. Yes; and power development in connection with it.

Mr. O'MAHONEY. That law specifically reserves the water rights to the States. It would not have passed the Senate and the House of Representatives if that reservation had not been made. It has been made. Last night I was reading in the Senate the provision in the Water Power Act to which the Senator has just now referred, section 27 of the Federal Power Act of June 10, 1920:

> Nothing herein contained shall be construed as affecting, or intending to affect, or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein.

In every single one of these acts there was a reservation to the State of the State's power, the State's authority, the

State's right. There was a reservation to that effect in the act of 1936, an act not yet 2 years old.

What I am emphasizing now, the question that I am now propounding is, Why is this change of policy being adopted? No one has yet said one word in explanation of the fact that the Senator from Kentucky is now asking us to withdraw from the State of Idaho the protection which the State of Idaho now has against the construction in that State, for the benefit of States lower down the stream, of dams and reservoirs, without the consent of the State of Idaho.

Mr. POPE. Mr. President, will the Senator yield to me further?

Mr. O'MAHONEY. Yes; I yield.

Mr. POPE. I think the Senator is confusing two things. First, the matter of obtaining rights-of-way, dam sites, and whatever easements are necessary for the construction of these works. The other is the right of States to control the appropriation and distribution of water. I think that it would be unconstitutional for the Federal Government to attempt to control the appropriation and distribution of water. But that is not the question involved here.

I do not think the Congress has the power to control the appropriation and distribution of water; but the power of appropriating lands for reservoirs, ditch rights, and that sort of thing has been exercised for a long time under the reclamation law by the Federal Government without State interference. Not long ago the attorney general of my State rendered an opinion on the matter, so far as the State was concerned, that the Federal Government did have a right to locate sites within the State for dam purposes, and to build ditches and acquire rights-of-way without interference or consent of the State.

I think the Senator is confusing two things. One is the right of the State to appropriate and distribute water. The other is the right of the Federal Government, in carrying out its purposes, to acquire the necessary easements and rights-of-way.

Mr. O'MAHONEY. The Senator may think there is a confusion. However, let me remind him that within the past 2 months the Bureau of Reclamation, with the cooperation and assistance of the Department of Justice, filed in the Supreme Court of the United States a pleading in which it was asserted that the Federal Government has complete ownership of all the water in all the streams in the public-land States.

Mr. POPE. The Senator certainly does not think that contention is valid, does he?

Mr. O'MAHONEY. The contention was made. I am saying to the Senator that if western Senators stand upon the floor and permit legislation of this kind to be enacted, it will form another cumulative step in the steady undermining of the power of the States to control their own waters, their own lands, and their own rights.

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

Mr. O'MAHONEY. I yield.

Mr. WALSH. If in the Reclamation Act the right is reserved to the States to control, distribute, and use the waters in the States which have arid land that needs to have water spread over it for fertilization purposes, why should not the States which use the water for other purposes have reserved to them the right for such uses, and the right to control the distribution of the water? How can one justify the control and use of water for one purpose in one State, and deny it for another purpose in another State? That is the issue, is it not?

Mr. O'MAHONEY. It seems so to me, Mr. President.

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

Mr. O'MAHONEY. I yield.

Mr. WHEELER. I must confess that I am somewhat confused. With reference to the Fort Peck Dam in my State, the Federal Government, under the authority of the Army engineers, built the Fort Peck Dam. The Federal Government condemned the property and built the dam. The Federal Government owns the basin, for which the property was condemned.

Mr. O'MAHONEY. Was the property condemned?

Mr. WHEELER. Yes; the property was condemned. The Government tried to buy the land, but it could not be bought, and the Government condemned it. The Government now plans to build a small power plant—at least I hope it does—and that plant will be under the control of the Federal Government. I am sure the same thing took place with reference to Bonneville, with reference to Grand Coulee, and with reference to the dam in Arizona. I may be wrong about it, but I do not see any difference.

Mr. WALSH. Are those projects under a general act, or are they under special acts?

Mr. WHEELER. I think they are under special acts.

Mr. WALSH. The projects to which the Senator refers were constructed under special acts; and all parties had an opportunity to be heard. The States were represented when the Congress passed upon a subject which dealt with the building of dams for power purposes. In the present instance we have a general act, labeled a Flood Control Act, which involves a general law on the subject, without any knowledge or consent of the States, and without a hearing being given the States.

Mr. WHEELER. I think in each of the cases to which I have referred there was a special act.

Mr. WALSH. So far as I am concerned—and I think I speak the sentiments of some other Senators who take the same position—I have no objection whatever to a special act dealing with the taking of waters for power purposes by the Federal Government. What I am objecting to is a general flood-control law which places the power in the Federal Government, without the States knowing it, to use the waters and to take fee title in the lands where dams and reservoirs are built without the knowledge and consent of the States.

Mr. WHEELER. The same thing is being done with reference to the dams which are being built. The only difference is that the dams are built under specific acts of Congress appropriating money for specific purposes.

Mr. WALSH. Exactly.

Mr. WHEELER. The representatives of the States in Congress have something to say on the question as to whether or not the States desire such dams to be built.

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

Mr. O'MAHONEY. I yield.

Mr. OVERTON. I think the Senator from Montana and the Senator from Massachusetts are both in error with reference to the law under which authority was granted to the United States for the construction of the dams referred to. It is my understanding that the United States Government proceeded under the rivers and harbors act, and under general law, and that there was no specific act authorizing the construction of the dams.

Mr. WHEELER. Yes; there was.

Mr. OVERTON. I may be in error about it.

Mr. WHEELER. The Federal Government may have proceeded under the general law, but the Federal Government came to Congress and asked for a specific appropriation. I know that was done with respect to Fort Peck.

Mr. OVERTON. I have before me the River and Harbor Act——

Mr. POPE. Mr. President, will the Senator yield at this point?

Mr. OVERTON. I have before me the River and Harbor Act which authorized the construction of the Bonneville Dam, the Fort Peck Dam, and others. That act was approved August 30, 1935.

Mr. WHEELER. I think the Senator is correct.

Mr. OVERTON. The act is Public, No. 409, Seventy-fourth Congress, H. R. 6732, entitled "An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes."

Mr. WHEELER. I think the Senator is correct. The money to build the Fort Peck Dam was taken out of the general appropriation of public-works money. A certain amount was set aside for the building of the Fort Peck Dam. After the money was allotted the Federal Government bought certain lands; and in cases where it could not buy the lands or agree with the parties, the lands were condemned.

Mr. OVERTON. But the project was authorized by general law.

Mr. WHEELER. That is correct.

Mr. O'MAHONEY. Mr. President, in connection with what the Senator from Montana has said, let me add that in every instance which he has mentioned the State within which the construction took place was benefited. What we are concerned about is the condition which arises when the structure is built in one State for the benefit of another State. The law as it stands today protects the State within which the construction is carried on. That protection is now sought to be withdrawn.

Mr. WHEELER. Let me say that the Senator is incorrect with reference to the Fort Peck Dam, because that was distinctly a dam built in Montana, not for preventing floods in Montana, but for preventing floods lower down on the Missouri River. As a matter of fact, the project was not looked upon at any time as a Montana project. It was looked upon, and distinctly stated by the President of the United States to be part of a national program of flood control, and the dam was built in Montana because that happened to be the particular place where it was most appropriate to build it.

Mr. O'MAHONEY. Were not some Montana lands benefited by it?

Mr. WHEELER. Thus far no lands in Montana have been benefited.

Mr. O'MAHONEY. But they will be benefited?

Mr. WHEELER. We are in hope that they will be benefited.

Mr. O'MAHONEY. Of course, there was a special act.

Mr. WHEELER. No; there was no special act with reference to the Fort Peck Dam.

Mr. O'MAHONEY. Was it under the N. I. R. A.?

Mr. WHEELER. The money was allotted by the President of the United States. Some $60,000,000 or $70,000,000 was set aside out of the Public Works funds for the purpose of building the dam. Such was the situation in that particular case, and I think the Senator will find the same situation in the case of the Bonneville Dam.

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

Mr. O'MAHONEY. I yield.

Mr. POPE. I wish to refer particularly to the statement made by the Senator from Massachusetts [Mr. WALSH] that these dams were constructed under special acts. All the dams to which I referred a few minutes ago were constructed under the general Reclamation Act, which was a law of general application throughout the country.

Mr. O'MAHONEY. That act is a special act within the meaning of the Senator from Massachusetts and myself.

Mr. WALSH. The special acts contained the reservations to the States to which reference has been made, for the control and distribution of benefits arising from the building of reclamation projects.

Mr. POPE. Does the Senator refer to the general Reclamation Act?

Mr. WALSH. Yes.

Mr. POPE. I think the Senator is mistaken.

Mr. WALSH. The language has been quoted, showing the reservation to the States.

Mr. POPE. I should have no objection whatever to a reservation to the effect that the Federal Government should have no power over the appropriation and distribution of water. As a matter of fact, I think the Federal Government would have no constitutional right to interfere with that matter. However, in the matter of obtaining sites, constructing the dams, and constructing ditches, as I attempted to point out a few minutes ago, it seems to me there is a vast difference. It seems to me the Senator from Wyoming, who is familiar with reclamation projects in his State, should realize that, because we have been operating in that way for a great many years without any dissatisfaction.

Mr. O'MAHONEY. Let me say to the Senator from Idaho that we wander away from the point of the debate into all sorts of side issues. The present question is, Why should we now, in the conference report, sacrifice the protection which has been given to the States in this particular type of case? Why should we not say that the law as it now stands shall be maintained and that whenever a structure is to be built in one State for the benefit of another the consent of the State in which it rises shall be granted before condemnation proceedings shall be undertaken? Can the Senator give any reason why that principle should now be abandoned?

I have been speaking here all morning without having any Senator present an answer to that question. The only thing I am interested in is the protection of the States. I do not want to occupy the floor; I do not want to delay the consideration of this measure, but I should like to have somebody competent to answer the question state why this measure is brought in at this time, taking away that protection? Can the Senator give the answer?

Mr. POPE. I have not studied the subject especially. It seems to me, though, that the answer the Senator from Louisiana [Mr. OVERTON] made last night is an adequate answer.

Mr. HALE. Mr. President, will the Senator yield to permit me to read a telegram from the Governor of my State?

Mr. O'MAHONEY. I am very glad to yield to the Senator from Maine.

Mr. HALE. I have received this morning this telegram from the Governor of my State:

AUGUSTA, MAINE, *June 14, 1938.*

Senator FREDERICK HALE,
Senate Office Building, Washington, D. C.:

Understand Senate amendment to flood-control bill would give to Federal Government title to water resources of States without their consent and open way to Federal ownership and control of all natural resources. Am advised that amendments are now in conference committee. If this is correct, I believe the position of Maine would be unalterably opposed. Could you so advise Senator COPELAND?

LEWIS O. BARROWS, *Governor.*

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

Mr. O'MAHONEY. I yield to the Senator from Rhode Island.

Mr. GERRY. Was not Boulder Dam constructed under a special compact?

Mr. O'MAHONEY. It was.

Mr. GERRY. Is not that compact an example of States having conflicting rights? The legislation was very carefully considered and there was a great deal of debate for a year or two until a compromise was reached. That is my recollection.

Mr. O'MAHONEY. The Senator is quite right. The entire theory was that where the use of an interstate stream becomes a matter of concern to several States and to the United States there shall be a compact among such States. The Colorado River compact is well known. It was debated upon the floor of the Senate for years, as I recall. It was an agreement among the States through which the Colorado River flows to which the Federal Government gave its consent for the adjudication of the water rights. That was the theory. The Senator from Connecticut [Mr. MALONEY] was speaking only a few moments ago about a similar theory in New England, but the compact there did not reach full fruition, as I understand.

Mr. WALSH. It is now pending, but is objected to by the Federal Power Commission.

Mr. O'MAHONEY. The Senator from Massachusetts tells me that there is a compact between New England States now pending in Congress, which is objected to by the Federal Power Commission. But our whole concept of the relationship between the States and the Federal Government was one of mutual consent and agreement. Here it is proposed to overthrow that theory. I ask, Why?

Mr. OVERTON rose.

Mr. O'MAHONEY. I yield to the Senator from Louisiana.

Mr. OVERTON. With reference to the Boulder Dam, it is my recollection that the State of Arizona enacted a statute prohibiting the construction of the dam until the plans and specifications were submitted to and approved by

some authority of the State of Arizona. The United States Government undertook to proceed with the construction of the dam without obtaining the approval of the State of Arizona notwithstanding the statute requiring its approval. Litigation resulted, and the case went up to the United States Supreme Court. According to my understanding, the Supreme Court held that the United States did not have to obtain the consent of the State of Arizona. That is the case of the State of Arizona against California. Those who are more familiar with that legislation than am I, and with the jurisprudence connected with it, can correct me if I am in error. But the point is that the Supreme Court in that case held that it was not necessary for the United States to submit its plans to the State of Arizona notwithstanding the requirement of a statute of the State of Arizona that the construction should not be proceeded with until the plans had been submitted and agreed to by the Engineering Department of the State of Arizona.

Mr. O'MAHONEY. Mr. President, I am not at all familiar with the condition in New England. I am not interested at all in the power phases of this bill, because I believe in the development of public power. I am concerned only in making sure that the adoption of the pending conference report, containing the clause to which I have made objection, will not operate to deprive the Western States of their control over their waters and resources. I am fearful that this is merely another step in the steady progress of the suppression of State authority and State control over the resources within the boundaries of the respective States. We have seen that move advance step by step. We have seen all the property within the public domain taken over by the Federal Government, to be operated from Washington, whereas once it was controlled by the States. The original theory of the public domain was that that land was held by the Federal Government in trust for the benefit of the States in which it lay, to be distributed among the people of the respective States as they were settled.

We saw the forest reservations created by Executive order years ago, now almost a generation ago. Thousands upon thousands of acres of land upon which a tree had never grown were withdrawn from the operation of the public-land laws and placed within the boundaries of national forests.

We have seen the homestead law set aside. We have seen whatever remains of the public domain taken over under the Taylor Grazing Act, to be administered from Washington. Not all of them, but many western Senators, gave their consent. I personally gave my consent to the Taylor Grazing Act and supported it upon the floor of the Senate. But what I am pointing out to the Members of this body is that gradually, step by step, the sovereignty of the States is being overthrown. This is another step in that steady progress; and the pity of it, it seems to me, is that the act is being committed in that body which, under the Constitution, is supposed to be the representative body of the States. It is constituted of two Members from each State. Why? Because the framers of the Constitution felt that it was necessary for the protection of the sovereignty of the States that there should be equal representation in the Senate. It was in this body that originated the proposal to which I am addressing my remarks.

Mr. SHIPSTEAD. Mr. President——

Mr. O'MAHONEY. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. That was the original intention, but that has been now perverted. Since we have had the formation of political parties a man is now expected to represent his party instead of his State. That is a perversion of the American system of government injected by alien influences and the foreign feeling that a party and its leadership is supreme, ignoring the Constitution, ignoring the rights of the States, ignoring the very foundation of the Constitution.

Mr. O'MAHONEY. Well, Mr. President, one could talk for an hour or more upon that question. Parties developed immediately after the Constitution was ratified; I do not believe we are ever going to get away from them, and I doubt whether we should do so. But that is neither here nor there.

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

Mr. O'MAHONEY. I am very glad to yield to the Senator from Massachusetts.

Mr. WALSH. I should like to call the Senator's attention to a letter I have received from the director of the State Water Commission of the State of Connecticut which confirms what the Senator has repeatedly said, that in all acts dealing with the use and control of water there have been reservations for the protection of the States. This letter states:

> Subsection (b) of section 22 of the Federal Power Act places upon the F. P. C. the duty of causing an immediate investigation of the proposed construction of such dams as we have under consideration——

Referring to the New England dams—

> and the act further states, if the Commission finds that interstate or foreign commerce would not be affected by the construction of the dam, then "permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws."
>
> However, the absence of power potentialities at a flood-control reservoir even though located on a nonnavigable stream does not remove the opposition of the administration through the F. P. C. The Commission takes the position that if any Federal money is used in construction of a flood-control reservoir that reservoir automatically becomes a Government dam as defined in subsection 10 of section 3 of the Federal Power Act as amended. It therefore follows that, if this position is sustained, the F. P. C. automatically assumes control over such a reservoir and would be required to assess benefits to every user of water on the stream and to collect an annual charge therefor.

This would seem to indicate that even under the Power Act the survey must be made, the State must be informed of the project, and the project and the development must be carried on under State laws.

Mr. O'MAHONEY. Mr. President, I cannot conclude these remarks without once more calling attention to the provision of the conference report to which I am making objection. It is to be found in section 2, appearing on page 2 of the report:

> Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other act—

Let me say here that the authors of that phrase knew exactly what they intended to accomplish. They sought to set aside the effect of other acts of Congress. I have asked them over and over and over again to specify what acts they desired to set aside, and why, without having received any reply—

> Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other act, the Secretary of War is hereby authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way—

And so forth—a direction to the Secretary of War to proceed.

The particular provision which I have been able to find, from a very brief survey of the laws, which is being set aside by the conference report, reads as follows. It is from section 3 of the act of June 22, 1936:

> *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of War, with the consent of the State wherein the same are located, may acquire the necessary lands, easements, and rights-of-way.

"With the consent of the State!" Here we have a change of policy which fundamentally affects the rights of every State represented in this body.

It seems to me to be clear beyond any possibility of argument that the conference report should be sent back to the conferees to be revised so as to maintain the protection written into the law only 2 years ago, and when the question is presented to the Senate I hope the Senate will reject the conference report.

CLAIMS OF CHOCTAW INDIANS OF MISSISSIPPI

The VICE PRESIDENT. The Chair lays before the Senate a message from the House, returning to the Senate, in compliance with its request, House bill 1478, with the amendment

of the House thereto, and calls the attention of the Senator from Texas to it.

Mr. CONNALLY. Mr. President, I ask unanimous consent that the Senate rescind its former action, disagreeing to the amendment of the House, requesting a conference, and appointing conferees.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CONNALLY. I ask that the Chair lay the House amendment before the Senate.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1478) conferring jurisdiction on the Court of Claims to hear and determine the claims of the Choctaw Indians of the State of Mississippi, which was, on page 5, line 12, to strike out "James E. Arnold" and insert "J. A. Riddell."

Mr. CONNALLY. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

A. C. WILLIAMS—CONFERENCE REPORT

Mr. BURKE. Mr. President, my attention is called to the fact that there is on the desk a conference report received from the House on the A. C. Williams claim. The Senator from New Mexico [Mr. HATCH] calls my attention to the matter, and would like to have it called up.

Mr. BARKLEY. Mr. President, a parliamentary inquiry. This conference report, of course, like the one now under consideration, is privileged.

The VICE PRESIDENT. Certainly.

Mr. BARKLEY. It has no privilege over the one we are now considering.

The VICE PRESIDENT. None whatever; but it may be taken up by unanimous consent.

Mr. BARKLEY. Is there any urgent reason why it should be adopted at this time?

Mr. BURKE. There is none. I made the suggestion only at the request of the Senator from New Mexico, as I happened to be on the conference committee.

The VICE PRESIDENT. Is there objection to the request of the Senator from Nebraska? The Chair hears none.

Mr. BURKE. I therefore submit the conference report.

The legislative clerk read the report, as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1043) for the relief of A. C. Williams, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:
>
> That the House recede from its amendment numbered 1.
>
> That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.
>
> JOSIAH W. BAILEY,
> EDWARD R. BURKE,
> ARTHUR CAPPER,
> *Managers on the part of the Senate.*
>
> AMBROSE J. KENNEDY,
> ROBERT RAMSPECK,
> FRANK CARLSON,
> *Managers on the part of the House.*

The report was agreed to.

AUTHORIZATION OF FLOOD-CONTROL PROJECTS—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10618) entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes."

Mr. BURKE. Mr. President, I desire to address myself now to the pending matter.

Mr. GLASS. Mr. President——

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

Mr. GLASS. May I have the privilege of inviting the Senator's attention to a constitutional provision which vitally relates to this very question, and which seems absolutely to confirm my statement that the Federal Government may not condemn a foot of ground in any State without the consent of the State?

I know that it is true from the fact that when the Shenandoah Valley Park was established in Virginia, the Federal Government could not condemn any of the land there; and the State legislature—the State having subscribed a million dollars toward it, and private contributors having subscribed a million dollars—had to order the condemnation, after which it turned the park over to the National Government. Today the roadway known as the Skyline Drive is being constructed under the same conditions; and I have been informed by the Interior Department that certain sections of it cannot be begun until the State itself shall condemn the right-of-way and turn it over to the Federal Government.

I should like the Senator, however, to explain to me, at least, the meaning of this part of the Constitution relating to the subject. After saying that the Congress shall exercise exclusive legislation in all cases affecting the District of Columbia, the Congress is empowered—

> To exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

In other words, the Government may not acquire lands for forts or magazines or arsenals or dockyards or other needful buildings without the consent of the State in which they are located. I have said here, because I was so informed by the Treasury Department, that the Government may not acquire a site for a public building unless the State law permits it to be done. I should like the Senator from Nebraska to explain that provision of the Constitution.

Mr. BURKE. Mr. President, I am sure the Senate would be much more interested in the explanation of the Senator from Virginia, and would profit much more greatly therefrom, than in any explanation I could offer; but it seems to me that provision of the Constitution speaks for itself. Any fifth-grade schoolboy would understand that when the framers of the Constitution said that the Federal Government could go into the States and acquire property only on certain conditions, one of them being the consent of the State, they meant exactly what they said, and that the pending provision, if it becomes a law and is challenged in the courts, ought to be thrown out as not coming within the provisions of the Constitution. The possibility that that might be done, however, would of course be no justification for the approval of the measure by the Senate in the first instance.

Mr. O'MAHONEY. Mr. President——

Mr. BURKE. Mr. President, I had intended to speak at some little length on this subject; but the matter has been so very fully covered by the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Massachusetts [Mr. WALSH], the Senator from Connecticut [Mr. MALONEY], and others, that I shall be very brief; and I now very gladly yield to the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I ask the Senator to yield in order that I may read into the RECORD the provision of the Reclamation Act—which is the act of June 17, 1902—which protects the rights of the several States. This is section 8 of the act of June 17, 1902, now cited as section 383 of title 43, United States Code:

> Nothing in this chapter shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this chapter, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof.

The Bureau of Reclamation has always operated under that provision, and I am informed that with respect to every project which was undertaken by reason of the emergency appropriation, the original N. I. R. A., the Bureau has strictly observed that law. Every contract under these

emergency reclamation projects which was entered into by the Bureau of Reclamation took recognition of that law. But it is proposed now that we withdraw all and every protection, so far as the construction of projects in one State for the benefit of another is concerned.

Mr. BURKE. Mr. President, I was very much interested in the interchange which took place between the Senator from Kentucky [Mr. BARKLEY] and the Senator from Wyoming [Mr. O'MAHONEY], in reference to Federal contributions to highway construction. The Senator from Kentucky said:

> There is no need to fear that if we give this power to the Federal Government there will be any reaching out after control in the States, because we have had for twenty-odd years a highway program, and the Bureau of Public Roads goes into no State until the State asks that it come; it condemns no property; it does not have anything to do with the construction of any road, without the consent and approval of the State.

And he offered that as a precedent to show that we have nothing to fear from this proposal.

The Senator from Wyoming called his attention to the fact that that was the very point at issue, the question we now have before us, namely, that it is proposed to authorize the Federal Government to go into the States and take possession of dam sites and reservoir sites and other things, specifically having stricken from the law the provision that the State must give its consent. By bringing up that analogy, the Senator from Wyoming pointed out that the Senator from Kentucky had really given away his case. So the Senator from Kentucky then came back with the defense:

> But in the road case the Federal Government requires a 50-percent contribution from the States, and here we have provided for a 100-percent contribution from the Federal Government itself.

So, Mr. President, the question is brought down to the simple point that we are asked, as representatives of the sovereign States, to accept what amounts to a bribe of the remaining 50 percent of the contribution of the cost, and, in exchange for that bribe, to give up all the rights the States have in these matters, all the rights they possess and exercise under the road-building program, and turn the entire matter over to the Federal Government.

Mr. President, I think it might be worth while, since this highway question has been brought up, to consider the proposal which was made, with some approval, certainly, from very high sources in the Government recently, when we were considering the matter of building superhighways. It was then proposed that as a part of that program the Federal Government should not only acquire the land for four or five or more superhighways to run across the continent from east to west and from north to south, but should acquire also a very considerable strip of land on either side of the highways, to be owned by the Federal Government, on which buildings could be erected and businesses operated, or the properties leased; or if as a result of the construction of the highways, property values should increase, the Federal Government would be in the land-selling business, and out of the profit made from the sale of the land would partly pay the cost of the superhighways.

It is not the law, of course, and we hope never will be the law, but some of those who are now very urgently in favor of the pending measure, both within and without the legislative department of the Government, urge that seriously as a proper function of the Federal Government.

What I had intended to say on this matter, and what I am largely not going to say because it would be very general in nature, has to do with what is left of the matter of State rights. I was prompted to say anything at all by a casual remark made yesterday by the senior Senator from Idaho [Mr. BORAH] calling attention to the fact that almost immediately after we take action upon the pending proposal, which completely abandons every principle to which Thomas Jefferson adhered, almost immediately after we take action upon this matter, with the statement confidently made by those who favor it that there are sufficient votes to carry it, we will then pass in another measure to the consideration of approving an appropriation of $500,000 to start the building of a great shrine to Thomas Jefferson in the District of Columbia. Thus we will honor in one breath the memory of a great man who enunciated principles of lasting worth to this country, after having in the breath immediately preceding repudiated completely those principles.

I wish to read just a paragraph or two from a letter written by Thomas Jefferson, with which Senators are all familiar, but the exact words of which may not be in everyone's mind. This is what Thomas Jefferson said:

> I ask for no straining of words against the General Government, nor yet against the States. I believe the States can best govern our home concerns, and the General Government our foreign ones. I wish, therefore, to see maintained that wholesome distribution of power established by the Constitution for the limitation of both; and never to see all offices transferred to Washington, where, further withdrawn from the eyes of the people, they may more secretly be bought and sold as at market.

Jefferson then proceeds in the letter to say:

> The true barriers of our liberty in this country are our State governments * * * 17 distinct States, amalgamated into one as to their foreign concerns, but single and independent as to their internal administration * * * can never be so fascinated by the arts of one man, as to submit voluntarily to his usurpation. Nor can they be constrained to it by any force he can possess.

Mr. President, those 17 States have now grown to 48, and under Jefferson's theory 48 independent States, with full control over all their internal affairs, should be able to preserve for all time the American form of government. But we find a tremendous sweep in the opposite direction, partly justified by changing conditions, but a movement which should have certainly the most careful attention of Congress, and particularly of the United States Senate, whenever it is proposed to further extend the Federal power.

I had hoped, as others had hoped, I know, that the trend might have been checked recently. For instance, there was the decision of the Supreme Court in those cases where the question involved the right of a State to control the offering for sale and the sale within its borders of convict-made goods brought in from other States. The Supreme Court in upholding the acts of Congress said that the moment such goods crossed the State line they could be divested of their interstate character, and subjected wholly to the control of the State, whether in the original package or not. So, many who believe in developing the States thought that here was a chance for the States to reassert some of their power, to regain back some of their strength; and they are moving in that direction. Some have even felt that we had here a very practical answer to the child-labor question. I never shared the view fully that such a holding would take the place of a definite prohibition by the Federal Government, but there was hope in it at least, that since any State, say New York, implemented with this power given to it by the Supreme Court could bar completely from the State goods which did not measure up to the qualifications laid down by the State, as under a proper interpretation of the decision in the convict-made goods case, the State would clearly be entitled to do, the problem might be solved.

But in any event—and this is all I want to say, Mr. President—I think in America today we should in every way possible revitalize our State and local governments. The Federal Government should not ask and should not be permitted to enter into any new fields unless it is absolutely necessary to do so. I see no necessity for it in the present case.

I agree fully with the positions stated by the able Senator from Wyoming, the Senator from Massachusetts, the Senator from Connecticut, and others, that the action proposed to be taken represents a violent departure, which should not be taken, and that as representatives of the sovereign States we should insist that the conference report be recommitted, and be changed in accordance with the previously existing law.

The PRESIDING OFFICER (Mr. HATCH in the chair). The question is on agreeing to the conference report.

Mr. DAVIS. Mr. President, floods have been very costly to Pennsylvania, both in loss of life and property. Pennsylvania is at this time building two flood-control reservoirs on Tionesta Creek and Crooked Creek, at an approximate cost of $5,000,000.

There are in Pennsylvania about 870 storage reservoirs, either built or building, each with a capacity of 1,000,000 gallons or more. The aggregate drainage area about these reservoirs is 10,900 square miles, or an average drainage area for each reservoir of about 12.5 square miles. The total storage is 238,000,000,000 gallons, or an average of about 275,000,000 gallons for each reservoir.

Two reservoirs, Lake Wallenpaupack, in Pike and Wayne Counties, and the Pymatuning Reservoir, in Crawford County, have a combined capacity of 133,000,000,000 gallons, or 56 percent of the total. Lake Wallenpaupack has the greatest capacity, 70,000,000,000 gallons, although its water surface area of 5,560 acres is but slightly more than one-third of that of the Pymatuning Reservoir, which has an area of 16,400 acres and a capacity of 63,000,000,000 gallons. The drainage area about Lake Wallenpaupack is 227 square miles, while that above Pymatuning is 160 square miles. Disregarding these two reservoirs, which have capacities far exceeding those of any others in the State, the average storage per reservoir is about 120,000,000.

Mr. President, there is very good reason to believe that the flood-control bill as reported by the conferees strikes a paralyzing blow at flood control in Pennsylvania.

When Congress passed the Copeland-Wilson Omnibus Act in 1936, laying down the requirement that States or political subdivisions should provide "lands, easements, and rights-of-way" for flood-control projects, there was no State that hastened more rapidly than Pennsylvania to comply.

The Pennsylvania State Legislature passed a flood-control act that met every requirement for cooperation under the Federal statute. An outright appropriation of $4,900,000 for land acquisition was passed by both houses of the legislature without a dissenting vote. Furthermore, the legislature took the first step toward eventual passage of a $50,000,000 flood-control bond issue.

With part of the $4,900,000 State apropriation the Pennsylvania Department of Forests and Waters purchased the sites of two flood-control reservoirs on Tionesta Creek and Crooked Creek, tributaries of the Allegheny River, the main source of the devastating floods that have visited Pittsburgh at an average rate of more than once a year for 80 years.

The Federal Government has started construction of the Tionesta and Crooked Creek Dams. The construction cost of the Tionesta project is about $2,600,000 and at Crooked Creek about $2,200,000. Contracts for these projects were let last winter, and since early spring construction has been proceeding at as rapid a pace as possible. Steam shovels, tractors, bulldozers, and other equipment have been moved on to the sites and are working at top speed, two shifts a day. At Tionesta more than 200 men are at work. About 175 men are employed on the Crooked Creek job.

In compliance with the 1936 act as passed by Congress, the land on which these dams are being built has been bought and paid for by the Commonwealth of Pennsylvania. In the State act authorizing this purchase, there is contained this very significant provision: That all real property involved in dam and reservoir projects in Pennsylvania shall be owned and held in the name of the Commonwealth and "may be leased, sold, or assigned only as the legislature may hereafter provide." Before this act was passed in Harrisburg, it was sent to Washington for comment, and the interested Federal authorities gave assurance that the act was entirely satisfactory.

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

Mr. DAVIS. I yield.

Mr. WALSH. I am informed that there were two flood control dam projects undertaken in Pennsylvania under the act of 1936.

Mr. DAVIS. The Senator was correctly informed.

Mr. WALSH. And that after the projects were undertaken the Federal Power Commission, or some other governmental agency, asked that the Federal Government be given title to the land under the dams and the reservoirs. Is that correct?

Mr. DAVIS. That is my understanding.

Mr. WALSH. The Flood Control Act of 1936 makes no requirement for title. It requires the easements and the rights-of-way for levees, and for other necessary dams for the holding back of the waters, to be given to the Federal Government.

Mr. DAVIS. As I understand, in order that the State of Pennsylvania may give title to the Government it would be necessary to call the legislature into session, as the legislature is the only authority in the State of Pennsylvania which has the power to give title.

Mr. WALSH. In any event, the Senator's State refused to do so, and that held up the projects. The State refused or could not give the title, and the projects were suspended for a time.

Mr. DAVIS. That is correct.

Mr. WALSH. Thereafter the Governor of the State, or some official of the State, as required by the law of 1936, communicated with the Secretary of War to find out if there was any hydroelectric power involved in the construction of these reservoirs and dams. Is that correct?

Mr. DAVIS. Yes. I am coming to that in just a few moments.

Mr. WALSH. And the reply which was received stated that none was involved; and therefore the projects went on.

Mr. DAVIS. That is correct.

Mr. WALSH. What effect the present proposal may have upon the situation in the State of Pennsylvania I do not know. But I assume the work is already in process of completion.

Mr. DAVIS. I shall call that to the attention of the Senate.

In the bill now pending before Congress there is contained this language, in section 2, page 4, lines 9 to 16:

> Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other act, the Secretary of War is hereby authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project with funds heretofore or hereafter appropriated or made available for such projects—

Note the phrase—

> The Secretary of War is hereby authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project with funds heretofore or hereafter appropriated or made available for such projects.

When the Secretary of War, as directed by this act, attempts to acquire the sites of the Tionesta and Crooked Creek Dams he will find that the State of Pennsylvania cannot relinquish title because of the express provision of the State act that the legislature alone can sell, lease, or assign such title. The Pennsylvania Legislature is not now in session and will not be in session until January of 1939. I cannot predict what the legislature's attitude may be, but I think I can say there is no absolute certainty it will willingly relinquish title to this property.

In view of this situation, it seems to me there is only one thing that the Secretary of War can do—that is to stop construction at Tionesta and Crooked Creek. I hope I am wrong; but with the Secretary of War directed to acquire title for the United States and the State of Pennsylvania unable to relinquish title, it appears to me that stoppage of work is the only possible outcome.

This will be a tremendous disappointment to the entire citizenry of western Pennsylvania, who, after 30 years of pleading for flood control, were seeing the start of the first two of nine reservoir projects. It will also be a great disappointment to the men who have been fortunate enough to obtain jobs on these projects.

There is no place in the United States where flood control is more desperately needed than in the great metropolitan Pittsburgh area. Nowhere are the people more anxious for it, and nowhere has action to comply with the 1936 act of Congress been taken more rapidly or more enthusiastically.

It is not fair to these people to penalize them, as the pending flood-control bill most certainly will do.

There are other reasons why I believe there should be a measure of cooperation between the States and the Federal Government in flood control. One is that eliminating contributions by the States and their subdivisions lets down the bars to unnecessary and unworthy projects in all parts of the country. Another is that States should not be deprived of their sovereign rights of at least partial control of their flowing waters. Another is that local experience, local judgment and knowledge of local conditions, such as can be provided only by local citizens, will be helpful in supplementing the studies of the War Department in planning flood-control projects.

Our main plea against the pending bill, however, is that if it passes work on the two dams now under construction is threatened with immediate stoppage.

For these reasons I am impelled to vote against the adoption of the conference report.

Mr. LODGE. Mr. President, I desire to comment briefly on the able addresses made on this subject by the Senator from Wyoming [Mr. O'MAHONEY] and the Senator from Vermont [Mr. AUSTIN], and particularly the eloquent speech which was made by my colleague the senior Senator from Massachusetts [Mr. WALSH].

I have a very open mind—to put it mildly—on the public-utility question. If I felt that the prevailing law would interfere with progress either along that line or along the line of flood control, my attitude would be different. However, as a representative, in part, of Massachusetts, which has suffered a great deal from floods which arise in Vermont and New Hampshire, I can truthfully say that there has been a disposition on the part of both the people and the governments of Vermont and New Hampshire to take all necessary steps to protect those who live farther down the river against the disaster of floods.

In view of this attitude it seems scarcely gracious or fair for the Congress to take the position which is now contemplated and which to me seems both wanton and unnecessary.

Mr. SCHWARTZ. Mr. President, I desire to make a few observations on the pending question, particularly as it affects Wyoming. I also wish to refer briefly, if I may, to the power of the Congress to do the particular thing which is sought to be done; that is, to build flood-control dams and control water without the consent of the State.

FEDERAL GOVERNMENT HAS IN PAST SECURED CONSENT OF STATES

Before coming to the question of the power of Congress, let me say that at least it has been the policy in the past for the Government, when it goes into a State, to acquire private lands, whether for national parks or for forest reservations, to secure the consent of the State.

I wish to read two provisions, one of which is from the act creating the National Forest Reservation Commission. Very similar provisions will be found in many of the acts creating national forests in other parts of the United States than the West. In the act creating the National Forest Reservation Commission there is a provision in section 516, found on page 129 of title 16 of the United States Code Annotated, which reads as follows:

> The Secretary of Agriculture is authorized to purchase, in the name of the United States, such lands as have been approved for purchase by the National Forest Reservation Commission at the price or prices fixed by said Commission. No deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this section until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.

In the act creating the National Park Service there is found a provision which I shall read. Before reading it, let me say that a preliminary step in the creation of a national park is an investigation as to its desirability. In the act of June 23, 1936, chapter 731, section 1, the following language is found:

> The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to cause the National Park Service to make a comprehensive study, other than on lands under the jurisdiction of the Department of Agriculture, of the public park, parkway, and recreational-area programs of the United States, and of the several States and political subdivisions thereof, and of the lands throughout the United States which are or may be chiefly valuable as such areas, but no such study shall be made in any State without the consent and approval of the State officials, boards, or departments having jurisdiction over such lands and park areas.

BASIS OF STATES' CONSENT FOUND IN CONSTITUTION

Mr. President, there is a reason for such provisions. It is found in article I, section 8, clause 17, of the Constitution, and the decisions of the courts in relation thereto. The first portion of clause 17 has to do with the acquisition of a 10-mile square area for the seat of the National Government. The concluding portion of the clause reads:

> And to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

Without going into the cases, if it is purposed at any time to acquire the title to land within a State, if the purchase is made, and the land is to be used under one of the powers granted to the Federal Government, and become subject to the jurisdiction of the United States, then it is necessary to obtain the consent of the State. But if it is for some purpose for which the Government may make appropriations, but which is not within one of the direct grants, then the Federal Government may acquire the land in its capacity as an ordinary proprietor, and not in its governmental and sovereign capacity. In that case all the jurisdiction of the sovereign State remains. The Federal Government is then a mere proprietor, the same as a citizen of the State.

I wish to read a citation from the case of *Fort Leavenworth Railroad Co.* v. *Lowe* (114 U. S. 531).

> The consent of the States to the purchase of lands within them for the special purposes named is, however, essential under the Constitution, to transfer to the General Government, with the title, of political jurisdiction and dominion.
>
> Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the Government—

Meaning some power granted to the United States in the Constitution—

> is subject to the legislative authority and control of the States equally with the property of private individuals.

The point I make is that if the consent of the State is required for construction of these flood-control dams we would have some opportunity of protecting our water rights and of obtaining the right to use the water for irrigation purposes.

Mr. President, I do not intend, of course, to argue the constitutional question at this time, because it has been ably discussed by the Senator from Vermont [Mr. AUSTIN] and by my colleague the Senator from Wyoming [Mr. O'MAHONEY]. However, I wish to say a few things about what the situation means to the State of Wyoming.

PROVISION THREATENS AGRICULTURAL AND SCENIC INTERESTS OF WYOMING

As I said last night in a question addressed to my colleague, the agricultural life and the agricultural welfare of the State of Wyoming are dependent entirely upon water. Our welfare depends upon our having control of the water and putting it upon the land. The Senator from Vermont cited a case in which it was purposed to build a dam which would flood a certain amount of land which was occupied by a small number of people. If water is taken away from us in Wyoming the result will be not merely to flood the land upon which the reservoir is built but to make a desert out of all the surrounding land, and keep it in a desert condition for all time. Also, under the arbitrary power granted in this bill, it will be possible to flood large areas of land already in cultivation.

As I understand this proposed law, if the Federal Government desired to build a dam for flood control in the Yellowstone National Park and raise the level of the Yellowstone Lake and destroy the scenic beauty of that national and recreational ground, it would be possible to do so. In

the past, as everybody knows, there have been efforts to do that very thing.

There are other areas in our State where, if flood-control dams were built, lands now in cultivation would be flooded—lands which are necessary to our own welfare in our own State. I cannot conceive why Congress should be willing to inflict such damage upon the State of Wyoming for the benefit of lower States.

FLOOD CONTROL PROGRAM SHOULD PERMIT USE OF WATER FOR IRRIGATION

Mr. President, some provision should be made in the proposed statute to safeguard that situation. I would be perfectly willing to see this measure die now and let it come up 6 months later, when a provision could be adopted to the effect that when flood-control dams are built opportunity shall be afforded in connection with them to use water for reclamation and irrigation purposes in the arid States. With such a provision contained in it there would be no objection to this proposed legislation.

In the building of dams in the West, when power is produced in connection with reclamation, it is generally the rule to have two dams—a dam for power and a dam downstream for the accumulation of water used in generating power at the upper dam. If a dam is operating for power the water is running out of the dam day by day and not in particular seasons of the year when needed for reclamation. So we have diversion dams further down to hold the water that flows out of the power dam, and that water is placed on the land. If we could have legislation which would require, as I said a moment ago, that flood-control dams be so constructed as to permit, nevertheless, the use of the water for irrigation, it would serve flood-control purposes just as well as it would without such a provision in it. For that reason I am bound to vote against the conference report.

Mr. President, I wish to say just one or two other things that have not much pertinency, perhaps, but which refer to what has just been been said by another Senator.

The Senator from Nebraska [Mr. BURKE] referred a while ago to proposals from some source in reference to building a National-State highway. A National-State highway has to do with interstate commerce; and I think that the observation made was not well taken, and that we have abundant power to condemn land for a transcontinental National-State highway, and to do it without the consent of the States. But the States' jurisdiction, civil and criminal, would continue over the land taken.

Another observation made was with reference to Mr. Jefferson. I admire Mr. Jefferson as much as does anyone, but Mr. Jefferson lived over a hundred years ago, in an era when entirely different economic conditions prevailed, and when conditions of life were different from those we have today. I am not so much interested, though I have endeavored for many years to become interested, in Jefferson's views and the views of other men who have long since been dead; I am compelled to be more interested in the economic life and welfare of the generation that is living in the United States today. I cannot get away from that view.

BILL SHOULD PROTECT WESTERN FARMERS AND IRRIGATORS

A further suggestion was made a moment ago, that we are increasing the powers of the Government and that we are setting up bureaus and all that sort of thing here in Washington. The extent of the increasing powers of the Government and the extent of the consolidation is always caused by like practices in business. All we are doing is keeping up with modern business practices and economic life in this country. I do not think the Government or anybody in the city of Washington is to be criticized because of that situation.

In conclusion, I wish to say that I want Senators to realize just what this bill will mean to the arid and semiarid States of the West. I want them to realize just what they are doing to that section of the United States. I want them to ask themselves whether they think it is necessary to bring about such a situation as will inflict that sort of injury upon us in order to bring about the construction of these dams at this time and under the terms of the pending bill. I think a bill providing for the construction of flood-control dams can be brought forward in the next Congress which will serve the same purpose and be so worded as to protect the farmers and the irrigators and the agricultural population generally in the West. That will mean protecting us all, because all the rest of us live off the farmers, the stock raisers, and like producers.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. SCHWARTZ. I yield.

Mr. O'MAHONEY. Does not the Senator agree that the conferees in half an hour could write into the bill the same provision that now is in the act of June 22, 1936, and bring it back here and have it pass without objection?

Mr. SCHWARTZ. I think they could do that, and, if that were done, I think there would be no objection in this body to the adoption of the report.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Calloway, one of its reading clerks, announced that the House had passed without amendment the following joint resolutions of the Senate:

S. J. Res. 298. Joint resolution to create a joint congressional committee to investigate the adequacy and use of the phosphate resources of the United States; and

S. J. Res. 300. Joint resolution to create a temporary national economic committee.

The message also announced that the House had passed a bill (H. R. 10605) to authorize the appropriation of funds for the development of rotary-wing and other aircraft, in which it requested the concurrence of the Senate.

AUTHORIZATION OF FLOOD-CONTROL PROJECTS—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10618) entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes."

Mr. GIBSON. Mr. President, in connection with the consideration of the pending conference report, and as throwing additional light on the question in controversy, I ask to have read at the desk a telegram from the Governor of South Dakota, which is addressed to the Senator from New York [Mr. COPELAND].

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

PIERRE, S. DAK., *June 13, 1938.*

Senator ROYAL S. COPELAND,
Washington, D. C.:

South Dakota is opposed to Senate amendments to flood-control bill, which would give Federal Government title to water resources of States without their consent, and open way to Federal ownership and control to all natural resources. Understand these amendments are now in conference committee, and I urge you to use your influence against their adoption. Copies of this wire being furnished to Senators BULOW and HITCHCOCK.

LESLIE JENSEN, *Governor.*

Mr. WALSH. Mr. President, I know how anxious we all are to adjourn the present session and return to our homes. I would not trespass further upon the time of the Senate were it not for the fact that a very serious situation exists in the section of the country which, in part, I have the honor to represent. We have now experienced a delay of 2 years in the initiation of flood-control projects designed to prevent a repetition of the suffering, the losses, and the damages caused by the disastrous flood of a few years ago. So, if any apology is necessary for my taking the time of the Senate, let me state that I do so because of the importance of appropriate action to relieve the apprehensions of the people of the several States of New England who have experienced the dire and serious consequences of floods.

Mr. President, in order to understand this problem, it will be necessary to recite chronologically the steps that

have been taken that have led up to the far-reaching alterations in Federal flood-control policy embodied in the bill in the form it now comes to the Senate from the conference committee.

The first act of Congress dealing with a national policy of flood control was in 1936. The act then passed provided that the States should provide the rights-of-way, the easements, and the lands necessary for any flood-control project to be undertaken and constructed by the Federal Government at the cost of the Government. The act of 1936 made no distinction between levees and dikes and reservoirs or dams. There was a provision in the act that when two or more States were affected by proposed flood-control projects such States could enter into compacts with each other if they were willing to comply with the terms of that law.

After the enactment of that Federal statute, the States of Connecticut, Massachusetts, New Hampshire, and Vermont entered into a compact in conformity with section 4 of that law; and entered into the compact after consultation, as has been well said by the junior Senator from Connecticut [Mr. MALONEY], with the Secretary of War and the engineers of the War Department and with the approval of all the then existing Government agencies with which the States were required to confer. Thereafter the compact was signed and sealed and sent to the Congress, and Senators from these New England States jointly introduced it here for the requisite consent of the Congress, where it has been pending ever since.

In that compact, which is the bottom of the issue here today, at the request of the States of Vermont and New Hampshire, who derive no direct benefit whatever from flood-control dams and reservoirs in Massachusetts and Connecticut because the latter States are lower down the Connecticut and Merrimack Rivers, the two river flood-control projects involved in the New England compact, there was inserted in the compact language which reserved to the States all hydroelectric power, if any, generated upon the dams and reservoirs in question.

Provision was made in the compact for apportioning between the four States the expense and cost of acquiring the lands and easements and rights-of-way; and share to be borne by Vermont and New Hampshire, which were not going to be direct beneficiaries, was properly made comparatively small.

When these compacts came here approved by the Secretary of War and approved by every agency set up under the act of 1936, we find a protest launched through the Federal Power Commission, and insistence that the Federal Government be given the title to the reservoir lands and the lands under the dams in the areas wherever it was possible that hydroelectric power could be developed. It was insisted that the States, as a condition precedent to congressional ratification of the compact, must eliminate the reservation to themselves of power rights.

That was the beginning of all this trouble. The contested amendments to the present bill never would have been here, we never should have heard of them, except for the demand—and first it was veiled, and hidden, just as it is veiled and hidden in the present compromise bill—that the title to the land under the reservoirs and the title to the land under the dams be vested in the Federal Government.

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

Mr. WALSH. I yield to the Senator from Louisiana.

Mr. ELLENDER. Is it not a fact that under the present law, after a project is undertaken and completed by the Federal Government, the State must maintain it?

Mr. WALSH. I think the Senator is correct.

Mr. ELLENDER. And the particular act which we are now considering provides that the title to land acquired shall vest in the Federal Government, and that the Federal Government must maintain all of the projects which it undertakes, to completion.

Mr. WALSH. There is no doubt that from the standpoint of a State which is willing to give up to the Federal Government its land and its rights-of-way and easements, this law is more generous to the State, because this latest proposal provides for a 100-percent grant or gift from the Federal Government. There is no doubt about that.

Mr. ELLENDER. But is not that the reason why it is necessary or advisable to put the title of the land in the Federal Government, since the Federal Government is to maintain all projects, such as reservoirs, dams, and so forth, after their completion? In other words, why should the States retain title, if the Federal Government is to have the responsibility of constructing and maintaining all projects?

Mr. WALSH. The vice of the present proposal is its compulsion; its taking away from the States of their lands and their water rights without their consent. If there had been any refusal anywhere, at any time, under the Flood Control Act on the part of any State on the upper part of a river to comply with the terms of this law, there might be some justification for the Federal Government's demanding the power of eminent domain which it demands in this bill; but there has been no such case as that. The whole thing developed when these States sought to reserve to themselves the hydroelectric power which it might be possible to generate, which it was remotely possible to generate, in New Hampshire and Vermont. Those States already have dams of their own construction or by their approval. They have built or authorized these dams. They have hydroelectric power on these rivers. They have controlled the water and latent power in these rivers through the years since the beginning of our Government. Now it is proposed that whatever further water power may be there of value and of importance to them shall pass over to the Federal Government without their consent or their being recompensed.

Mr. ELLENDER. But the Federal Government would have to pay for them; would it not?

Mr. WALSH. Yes; but, as I said last night—and I do not care to repeat now what I said then—a water power may be the only valuable asset which a State possesses. We have seen the value of water to the great Middle Western States in the field of irrigation. If water is valuable, and important to the States to control it, for purposes of irrigation, it may be of value for another State to control it for the purpose of generating power for its own inhabitants at a low rate, or as an income to help reduce its taxes.

In some States gold is its principal natural resource, its principal asset; in other States it may be oil; in other States timber, or specially rich and fertile agricultural lands.

I submit that the Federal Government is not entitled to deprive any State of its own natural resources, its own God-given assets, whether they be gold, oil, timber, or water power, the latter being the natural resource of these States.

If the present proposal is valid in law and in good conscience, then the Federal Government with equal propriety may proceed to take to itself all of the other natural resources of our country.

The trouble here is that without consent of a State, without permission of a State, without consultation with a State, the Federal Government reaches in its hand and says, "There is a water power there incident to flood control and we will do with it as we see fit," and proceeds to seize it and generate power, if any power can be developed, without the approval or consent of the State.

Mr. ELLENDER. Under the Federal Power Act, is it not necessary for a State or any political subdivision of a State, or anybody who desires to put in a dam for developing electric power, first to obtain permission from the Federal Government so to act? Is not that the law now? And, if so, what difference does it make whether or not the Federal Government takes title to and owns the land? Has not the Federal Government a decided measure of control under existing laws?

Mr. WALSH. It is quite true that under the Federal Water Power Act Federal permission must be obtained to construct a water-power dam on a navigable stream—but Federal permission is a very different thing from Federal control and operation of the project as is now proposed.

I have no quarrel with the submission to Congress by the Federal Government and the approval by Congress of any project which deals with power. Let me say here that in the case of 22 dams included in the proposed flood-control projects on the Connecticut and Merrimack Rivers, there is only the possibility of two dams being adaptable to power-development purposes; and for 2 years I personally have sought to have an adjustment made of the power possibilities with respect to these two dams. I asked the Federal authorities to call the Governors of these four New England States to sit down together and talk it over and see if some solution could not be found.

I know the Senator from Wisconsin [Mr. LA FOLLETTE] is suggesting that the Senator from Louisiana not ask me further questions, because he is anxious to have a vote on this matter, and so am I; and I shall not mind if the Senator does not ask me any more questions. I desire to finish my remarks.

Mr. ELLENDER. Will the Senator from Massachusetts permit me to place in the RECORD, in connection with my questions, certain extracts from the Federal Power Act which I have marked and will submit for the RECORD?

Mr. WALSH. They may be inserted in the RECORD following my brief speech.

Mr. ELLENDER. Very well. I ask unanimous consent to insert in the RECORD, following the speech of the Senator from Massachusetts, the extracts to which I have referred.

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

(The matter referred to will be found at the end of Mr. WALSH's speech.)

Mr. WALSH. I recited the 1936 act. I recited the drawing of the compact. I recited why ratification of the compact has been delayed here. I want to discuss now the measure we are now asked to approve.

The flood-control bill of this session as it was reported by the Senate Committee on Commerce made no change whatever in the fundamental policy, no change whatever in the declared national flood-control policy of the 1936 act, except to provide that the Federal Government in the case of flood-control projects that were dams and reservoirs would assume part of the cost of the land easements and rights-of-way, on the basis of 70 percent by the Federal Government and 30 percent by the States.

The amendment now in question, which was added to the bill in the Senate a few days ago and which has been approved in conference, proceeds to change the whole national policy in regard to flood control, and proceeds to place in the Federal Government the title to all dams and reservoirs and the control of all power that may be generated, without any permission or assent by the States, and in return the Federal Government pays 100 percent of the cost.

According to the Senator from New York, if power can be developed in any part of the Hudson River in New York State the Federal Government may come in and take possession of that power and dispose of it as it chooses, without regard to the rights or the opinions or the views of the citizens of the State of New York. The Federal Government, if this amendment becomes law, may even take control of river waters in localities which are entirely within the confines of one State and do not enter into the domain of any interstate relationship.

Is it the thought of the proponents of this new Federal policy whereby the Federal Government is to have exclusive control of every bit of water power everywhere that may hereafter be seized upon by the Federal Government under the cloak of flood control, that the States are not to be trusted in the administration and disposal of the hydroelectric power?

Is it this suspicion that perhaps somewhere some State, if control rests with the States, might be induced to part with its water power unwisely or with partiality to private power interests and that to foreclose such an eventuality the Federal Government must deprive all the States of all control?

This has not been openly avowed but I must confess that I find many indications that such is the motivation of the present plan for exclusive and peremptory Federal control.

Let me say first that in a democracy such as ours has been for 150 years and a union of States sovereign within the domain of their own affairs, the disposition by a State of its own water power is its own affair, so long as it does not infringe on any other State or impede the navigability of navigable streams. It is not the concern of the Federal Government whether the State disposes of its water power wisely or unwisely.

Let me say second that the day may come, and the possibility will always exist, that the Federal Government, in control of all the water power of the Nation, if such comes to pass, may itself deal with it unwisely.

If a sovereign State cannot be trusted, what greater trust can we have in the Federal Government?

Mr. VANDENBERG and Mr. COPELAND addressed the Chair.

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

Mr. WALSH. I yield first to the Senator from Michigan.

Mr. VANDENBERG. Mr. President, I think the Senator may well emphasize one point in this chronology. This amendment never came to the Commerce Committee for a single moment's consideration. The committee which for years has had jurisdiction of flood control, which spent weeks and weeks upon this problem, the committee which is primarily responsible for flood-control principles, never had a single moment's opportunity to discuss or consider this fundamental thing; and I venture the statement to the Senator that if it had had that opportunity, this situation never would have arisen.

Mr. WALSH. I appreciate the Senator's observation. I personally am chagrined that the amendment went through without more extensive consideration and debate in this Chamber.

Apparently it was taken up in the Senate in the absence of many Senators, and it did not have much discussion and was agreed to in a few minutes. The amendment was offered in connection with several other amendments offered by the same Senator, so that I and many other Senators from the eastern section of the country had no foreknowledge and scant opportunity of debating it. That is one reason why we do not think any apology is necessary for debating the subject at some length at this time.

Mr. COPELAND. Mr. President——

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

Mr. COPELAND. As a matter of fact, when the amendment was presented, as chairman of the committee I resisted it with all the energy I possessed. I saw its evil effects, and did what I could to defeat it.

When it came to the conference committee, I presided over the committee but made it clear that I would not sign the report if it contained this offensive amendment, which would destroy the last vestige of States' rights.

I wish to say to the Senator from Massachusetts that in New York State we have always resisted the development of the St. Lawrence River improvement. There will be developed there a tremendous amount of power. My State has taken the position that if that power is developed it will belong to the State of New York, not to the Federal Government. We are forced to contribute about $98,000,000, as I recall, as our share of the development of the St. Lawrence Canal, but always with the understanding on the part of those of us who were studying the matter that the power would be ours; but that will not be so if this amendment shall become law. The power which is developed in the State of New York by that improvement will be under the jurisdiction of the Federal Government; it will be used as the Federal Government desires to have it used.

Mr. WALSH. Under the Federal Water Power Act could not the Federal Power Commission proceed at once to investigate and study these projects, and build, under certain

conditions, after consultation with the States and other conditions, reservoirs and dams under the jurisdiction of the Federal Government?

Mr. COPELAND. There is no doubt of it.

Mr. WALSH. So that what we are doing is, under the name of flood control, giving away rights without the limitations or restrictions in the Federal Water Power Act. Is that correct?

Mr. COPELAND. That is correct.

Mr. WALSH. Let me read something to the Senator, and I want to get his opinion about a comment made by the State water commissioner of Connecticut, because, frankly, I do not understand it. Let me read two sentences which are somewhat involved:

Subsection (b) of section 22 of the Federal Power Act places upon the Federal Power Commission the duty of causing an immediate investigation of the proposed construction of such dams as we have under consideration—

Such as they had under consideration in New England—

and the act further states that, if the Commission finds that interstate or foreign commerce would not be affected by the construction of the dam, then "permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws."

That is the law, is it not? Is there any such condition in this bill?

Mr. COPELAND. There is not.

Mr. WALSH. Of course not. The real query I want to propound is about the question involved in the next statement of the distinguished commissioner of the State of Connecticut. He says:

However, unfortunate as it is for New England, the absence of power potentialities at a flood-control reservoir in New England, even though located on a nonnavigable stream not under the jurisdiction of the Federal Government, does not remove the opposition of the administration as represented by the Federal Power Commission. That Commission takes the position, and has so advised the representatives of the New England States, that if any Federal money is used in the construction of a flood-control reservoir, that reservoir automatically becomes a "Government dam" as defined in subsection (10), section 3, of the Federal Power Act, as amended.

That is the very section to which I referred a moment ago, reserving to the States the right. This is the sentence to which I want to call attention:

It therefore follows that if this position is sustained, the Federal Power Commission automatically assumes control over such a reservoir and, under the terms of the Federal Power Act, subsection (f), section 9, would be required to assess benefits to every user of water on the stream and to collect an annual charge therefor.

What does that language mean?

Mr. COPELAND. Exactly what it says.

Mr. WALSH. This is worse than I had assumed. This is the first time this phase of the question has been brought to my attention. Does the Senator mean to tell me that if this conference report shall be enacted into law the dams will all become Federal, the ownership become Federal, and the power become Federal, that the States will all have their rights taken from them, that the Federal Power Commission can assess benefits to every user of water on a stream, and collect an annual charge therefor?

Mr. COPELAND. The Senator states it exactly as it is.

Mr. WALSH. Without any knowledge or understanding on the part of the people? How can the Federal Government go into a State and, by taking dams and reservoirs and generating power, assess benefits to every user of water on a stream and collect an annual charge therefor?

Mr. COPELAND. I do not think it can. I hope the Supreme Court still has gumption enough to resist it.

Mr. WALSH. Can the Supreme Court stop it?

Mr. COPELAND. I do not know whether it can or not. But there is one thing I wish to say to the Senator. Let us take the State of Vermont as an example. The State of Vermont, as the Senator is well aware from his knowledge of it, is made up of ranges of mountains and beautiful valleys.

Mr. WALSH. Yes; which are assets not only for possible future power development but for tourist travel. It is a place where tourists go because of the beautiful Connecticut River, because of the mountains and valleys and trees and shrubbery. It is appropriately called the Green Mountain State.

Mr. COPELAND. More than that, the support the State has now in the way of taxes from farm lands in those beautiful valleys will be lost to the State. The Federal Power Commission can go into that State, dam up all those streams, flood and destroy the estates of persons where, through five or six generations, one family has had possession of the land, and can take out of taxation all this land and cause the tourist trade to be lost, as the Senator has said.

Mr. WALSH. When I was a young man and went to the legislature in Massachusetts, from an area where a stream of water was diverted and dammed and land taken—note this, it was more than 30 years ago—in order to supply water to the city of Boston, the terms of the legislative act required the city of Boston to pay the taxes for all time upon the lands that were seized. The landowners, of course, were paid, and those small towns are now receiving annually a tax on those lands. The tax was definitely fixed, so that it could not be increased by increased valuations to the city of Boston in the future. It is needless to say that there is no provision for the payment of the taxes in the present proposition.

Mr. COPELAND. Not at all. The Senator is well informed, of course, regarding the compact between the various New England States regarding the control of the waters up there. In the compact it was expressly stated that the power should be reserved to the States respectively. Am I not right about that?

Mr. WALSH. The compact reserves to the States any hydroelectric power which might be susceptible of development at the dams and reservoirs. No one has suggested that the prospective power in the case of these particular projects is of large amount. No plan has been brought forward by either the States or the Federal Government for the production of hydroelectric power as an incident to these projects. The Army engineers believe the cost of the development of hydroelectric power would be perhaps prohibitive. The power in this instance is entirely potential, and the question of its control entirely a matter of principle.

Mr. COPELAND. There is not a thing left. The Senator had hoped the compact would be agreed to by the Congress, but it was not, and now it does not make any difference about the compact; it is out of the window. When those dams and reservoirs are built the title will vest in the Federal Government, and the States of New England will have nothing to say whatever about the development of the power.

Mr. WALSH. This condition has been extended to Pennsylvania, and it will be extended to New York and to many other States.

Let me make an inquiry of the Senator. What a tragedy it is that this problem cannot be settled. What a pity that this matter cannot be settled, as it could be in 5 minutes, by letting all the dams and reservoirs that have no power involved in them come under the flood-control law, and when there are dams and reservoirs on which there may be developed hydroelectric power, let them come under the Federal Water Power Act. That would end the whole controversy.

Mr. LEWIS. Mr. President, will the Senator from Massachusetts permit me to make an inquiry of the Senator from New York?

Mr. WALSH. Certainly. First, however, I should like to ask to have printed in the RECORD the letter from the director of the State Water Commission of Connecticut, from which I have read.

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

(In advancing the views set forth in this letter, the writer is expressing only his personal opinions.)

STATE WATER COMMISSION,
STATE OF CONNECTICUT,
HARTFORD, *June 7, 1938.*

Hon. DAVID I. WALSH,
United States Senate, Senate Office Building, Washington, D. C.

DEAR SIR: As a member of the Connecticut Flood Control Commission, I have been much interested in newspaper reports of the

plan you have recently outlined for securing early construction of flood-control reservoirs in New England. Through the courtesy of Mr. Dudley Harmon, of the New England Council, I have received a copy of the full text of your very clear analysis of the situation.

You suggest "that the officials of the States who signed the compact proceed to have the Secretary of War determine just what dams and reservoirs have hydroelectric possibilities. If he determines there are none, then it seems to me the flood-control problem is largely settled"; and again: "If, under this provision (sec. 3. Omnibus Flood Control Act of 1936), the Secretary of War decides that no hydroelectric power question is involved in the construction of dams and reservoirs, all the flood-control projects recommended by the Army engineers could be undertaken."

The authors of the compact had held the same view of this matter; that is, it was their belief that, in the absence of economically feasible power potentialities, the Federal Government would have no desire to take title to flood-control reservoir sites.

There are apparently two principal objections by the administration to the compacts as they now stand: (1) That the compacts violate the long-established power policy of the Federal Government; and (2) that the compacts did not provide that title to the reservoir sites shall be surrendered to the Federal Government.

As to the question of the Federal power policy and its violation by the compacts, it is difficult to understand what is referred to. The Federal Power Commission, which sets up this contention, has never, as far as the writer knows, explained in what way the Federal policy has been violated. Certainly anyone who has studied the Federal law even superficially will realize that the Federal Power Act was primarily an act to improve navigation and that power was a secondary consideration. Moreover, the Federal Power Commission is limited in its administration of this act to navigable waters and such tributaries as, if dammed, would have an effect on navigability of the waters concerned. Apparently the Federal Power Commission is now attempting to extend its control to include streams not now under Federal jurisdiction.

Yet while this controversy has been going on, the Federal Power Commission, in passing on a declaration of intention by the State of New Hampshire to construct a power dam on the Connecticut River at Pittsburg, has notified the State that, as the dam would not affect the navigable part of the river, the Federal Power Commission has no jurisdiction. There are some 63 private hydroelectric power companies in the Connecticut River watershed, and as far as I can learn all have been constructed without the necessity of securing a license from the Federal Power Commission.

The proposed flood-control reservoirs in the Connecticut River Valley are all located on intrastate, nonnavigable streams which are not now under the jurisdiction of the Central Government. The compacts, as you know, were written to provide only flood control, and in order to limit the authority of the commission set up by the compacts to flood control, it was specified that each State would retain such other rights as it now has over its streams, including future development of power. The Federal Power Commission now contends that it alone has authority over development of power on these nonnavigable New England streams. It is interesting to note that, as recently as April of this year, a Federal court in western Virginia, in the so-called Appalachian Electric Power case, held that the damming of a certain stream by the power company was not a matter which concerned the Federal Power Commission, inasmuch as it was a nonnavigable stream. The court decided that the company could go ahead and build its dam without any license from the Federal Power Commission.

The representatives of the New England States had thought that the action taken by the Federal Government in the case of the Tionesta and Crooked Creek flood-control reservoirs in Pennsylvania would serve to establish a precedent which would be applicable in the case of the New England reservoirs. These two particular reservoirs were a part of an authorized program of nine flood-control reservoirs to be constructed in Pennsylvania. As work was about to be begun on the two named Pennsylvania was notified that the project must be suspended until the State had delivered to the Federal Government title to the lands involved. This action Pennsylvania vigorously protested. Federal engineers were asked to determine whether or not there were power potentialities at these reservoir sites. Upon a negative report being made, the objection of the administration to the construction of the reservoirs was withdrawn and work proceeded without the surrender of title by Pennsylvania. It had seemed to us in New England that if that policy were a proper one for Pennsylvania, it might very properly and logically be applied to New England. Consequently, the Council of New England Governors addressed a letter to both the Secretary of War and to the Federal Power Commission asking to be advised if there were power potentialities at the New England sites. The Secretary of War replied by referring to Document 412, which contains such information on this question of power as the Corps of Engineers had at that time secured.

The Federal Power Commission, however, notified the Council of Governors that it had no data on this question of power potentialities except such as were contained in the reports published by the Army engineers. The letter further stated that the Congress had made no funds available to the Power Commission for securing information of this kind, and it was added that the local engineers of New England should be well advised as to power possibilities. At the same time that the Power Commission was notifying the New England Governors that it had no data as to power potentialities at the New England reservoir sites, it was publicly taking the position that approval of the compacts would violate the long-established power policy of the Federal Government.

Since that time, August 1937, the Engineer Corps of the Army has made a further report to the Secretary of War, which is published in Document 455. This document, which is further supported by statements made before the House Flood Control Committee on April 5, 1938, makes it clear that power exists at only 3 of the 20 proposed reservoir sites, and in these cases in negligible amounts. As far as the Secretary of War is concerned, therefore, he has made it perfectly clear that, to all intents and purposes, there are no power potentialities at the Connecticut River sites. The Federal Power Commission, however, admits that it has no information regarding power possibilities at the Connecticut River sites, but that it opposes approval of the compacts because some Federal policy not defined would be violated.

No later than Sunday of this week, Mr. Oswald Ryan, counsel for the Federal Power Commission, stated in a public address at Holyoke, Mass., that the Federal Power Commission has no interest in a purely flood-control reservoir if there is no power involved. If the Federal Power Commission would now carry out the intent of the Federal Power Act and determine to its satisfaction whether the proposed New England dams have or have not power potentialities, real progress in the solution of this question would be made. Subsection (b) of section 22 of the Federal Power Act places upon the Federal Power Commission the duty of causing an immediate investigation of the proposed construction of such dams as we have under consideration, and the act further states that, if the Commission finds that interstate or foreign commerce would not be affected by the construction of the dam, then permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

However, unfortunate as it is for New England, the absence of power potentialities at a flood-control reservoir in New England, even though located on a nonnavigable stream not under the jurisdiction of the Federal Government, does not remove the opposition of the administration as represented by the Federal Power Commission. That Commission takes the position, and has so advised the representatives of the New England States, that if any Federal money is used in the construction of a flood-control reservoir that reservoir automatically becomes a "Government dam" as defined in subsection (10), section 3, of the Federal Power Act as amended. It therefore follows that if this position is sustained the Federal Power Commission automatically assumes control over such a reservoir and under the terms of the Federal Power Act (subsec. (f), sec. 9) would be required to assess benefits to every user of water on the stream and to collect an annual charge therefor.

As to the question of title, as the Omnibus Flood Control Act itself is silent on this point, it becomes a matter of interpretation. The Attorney General and the Federal Power Commission both hold that the act by implication requires surrender of title to reservoir sites to the Federal Government. Precedent, on the other hand, indicates that the Congress had no such thought in mind in framing the act. This view of the matter is supported by the fact that the Flood Control Committee of the House and the Commerce Committee of the Senate have both approved the compacts as written. As the House committee took this stand after hearing, Chairman McNinch, of the Federal Power Commission, argued vigorously for surrender of title to sites by the benefited localities, it would seem, therefore, to be a fair inference that the Congress, as represented by these two committees, shared the view held by the Secretary of War, the various Governors, and the State legislatures concerned, viz, that the Congress did not intend in writing the Omnibus Flood Control Act to require surrender of title to reservoir sites.

I am in wholehearted agreement with those who hold that if this power question could be properly considered and disposed of there should be no obstacle in the way of approval of the compacts and of immediately proceeding with construction work. While the Secretary of War has, after an exhaustive study of this matter, arrived at the conclusion that power potentialities are nonexistent or negligible, no decision has yet been secured from the Federal Power Commission. It is possible that if the Congress saw fit to require that the Federal Power Commission should proceed in accordance with the Federal Power Act to determine whether or not construction of these dams would interfere with commerce between the States and foreign countries, the barrier to progress would be removed.

Very truly yours,

S. H. WADHAMS, *Director.*

Mr. LEWIS. Mr. President, I propound an inquiry to both the Senator from New York and the Senator from Massachusetts. If they are convinced that the States under any law now prevailing may have their property taken, or the property within their sovereign precincts taken, and still they must pay the expenses in the way of taxes, what will my able friend say to the proposition of turning over these powers to a foreign government, and yet provide that the American Government shall pay the expenses of the foreign undertaking? What does the Senator from New York say as to the right of the Federal Government to deal

with a foreign government in the form of a treaty of surrender by the United States to accomplish favors and benefits at expense of the United States.

Mr. COPELAND. Of course, it would be presumptuous in me to discuss a legal question with the eminent lawyer, the Senator from Illinois, but I cannot conceive it possible that the Federal Government, through an amendment inserted on the floor of the Senate without consideration by anyone, may take over the water power which now is vested in a State and which under the so-called Copeland Act, the act of 1936, was intended to be left in the States. But under the pending measure that is all out of the window; the Federal Government will have exclusive control over the matter of power and the distribution of any hydroelectric current which may be developed.

Mr. LEWIS. I am referring to the proposed St. Lawrence treaty, which, it is intimated, this Government is on the eve of offering to the Senate, and which would take over the power and control over water, and yet charge the expense of the construction to our Government.

Mr. COPELAND. Of course, when we get all through with it, the Federal Government will own the power.

Mr. WALSH. Let me conclude by asking the Senator another question. Is it not the conclusion of all this that when the Federal Government undertakes to use a dam or reservoir under the flood-control law for power purposes, all rights of the States are gone, they are not consulted, they are not considered, and they have nothing to say about it?

When the Federal Government, under Federal power law, proceeds to build dams and reservoirs in the States, there are certain requirements protecting the States. Is that not true?

Mr. COPELAND. That is correct. But under the amendment under consideration the last vestige of States' rights will be destroyed.

Mr. WALSH. There is no question about that. I protest the adoption of this conference report for the reason expressed.

(During the delivery of Mr. WALSH's speech, Mr. ELLENDER asked and obtained leave to have the following parts of the United States Code incorporated in the RECORD at the close of the speech:)

[From title 16, U. S. C.]

* * * * * * *

797. General powers of Commission: The Commission is hereby authorized and empowered—

Investigations and data; statements as to investment of licenses in projects; access to projects, maps, etc.: (a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this chapter.

In order to aid the Commission in determining the net investment of a licensee in any project, the licensee shall, upon oath, within a reasonable period of time, to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission, in such detail as the Commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition, or betterment, and the price paid for water rights, rights-of-way, lands, or interest in lands. The Commission shall deposit one of said statements with the Secretary of the Treasury. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

Cooperation with executive departments; information and aid furnished Commission: (b) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several Departments and agencies of the National Government are authorized and directed, upon the request of the Commission, to furnish such records, papers, and information in their possession as may be requested by the Commission, and temporarily to detail to the Commission such officers or experts as may be necessary in such investigations.

Publication of information, etc.; reports to Congress: (c) To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the first Monday in December of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this chapter, and in each case the parties thereto, the terms prescribed, and the moneys received, if any, on account thereof.

Issue of licenses for construction, etc., of dams, conduits, reservoirs, etc: (d) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State, or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of power across, along, from, or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided,* That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the Department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation:

Provided further, That after March 3, 1921, no permit, license, lease, or authorization for dams, conduits, reservoirs, powerhouses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power, within the limits as constituted, March 3, 1921, of any national park or national monument shall be granted or made without specific authority of Congress:

Provided further, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting the navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: *Provided further,* That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until 2 years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further,* That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (e) of this section, notice shall be given and published as required by the proviso of said subsection.

Preliminary permits; notice of application: (e) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 802 of this chapter: *Provided, however,* That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application for 8 weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

Rules and regulations for accounts of licensees; false entries in accounts or statements in reports; punishment: (f) To prescribe rules and regulations for the establishment of a system of accounts and for the maintenance thereof by licensees hereunder; to examine all books and accounts of such licensees at any time; to require them to submit at such time or times as the Commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment and reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacements of the project works, and as to depreciation of the project works and as to production, transmission, use and sale of power, also to require any licensee to make adequate provision for currently determining said costs and other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the Commission may require. Any person who, for the pupose of deceiving, makes or causes to be made any false entry in the books or the accounts of such licensee, and any person who, for the purpose of deceiving, makes or causes to be made any false statement or report in response to a request or order or direction from the Commission for the statements and report herein referred to shall, upon conviction, be fined not more than $2,000 or imprisoned not more than 5 years, or both.

Hearings; depositions; witnesses; production of documentary evidence; administration of oaths; fees and mileage of wit-

nesses: (g) To hold hearings and to order testimony to be taken by deposition at any designated place in connection with the application for any permit or license, or the regulation of rates, service, or securities, or the making of any investigation, as provided in this chapter, and to require by subpena, signed by any member of the Commission, the attendance and testimony of witnesses, and the production of documentary evidence from any place in the United States, and in case of disobedience to a subpena the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any member, expert, or examiner of the Commission may, when duly designated by the Commission for such purposes, administer oaths and affirmations, examine witnesses and receive evidence. Depositions may be taken before any person designated by the Commission or by its executive secretary and empowered to administer oaths, shall be reduced to writing by such person or under his direction, and subscribed by the deponent. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Necessary powers not enumerated; rules and regulations: (h) To perform any and all acts, to make such rules and regulations, and to issue such orders not inconsistent with this chapter as may be necessary and proper for the purpose of carrying out the provisions of this chapter (June 10, 1920, ch. 285, sec. 4, 41 Stat. 1065; Mar. 3, 1921, ch. 129, 41 Stat. 1253).

817. Projects not affecting navigable waters; necessity for Federal license: Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined in this chapter as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, may in their discretion file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not proceed with such construction until it shall have applied for and shall have received a license under the provisions of this chapter. If the Commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws (June 10, 1920, ch. 285, sec, 23, 41 Stat. 1075).

Mr. BORAH. Mr. President, I wish to ask for information a question of the Senator from New York. I notice on the bottom of page 4 of the conference report the following:

The Government of the United States acknowledges the right of the States of Oklahoma and Texas to continue to exercise all existing proprietary or other rights of supervision of and jurisdiction over the waters of all tributaries of Red River within their borders above Denison Dam site and above said dam, if and when constructed, in the same manner and to the same extent as is now or may hereafter be provided by the laws of said States, respectively, and all of said laws as they now exist or as same may be hereafter amended or enacted.

Why was that provision included?

Mr. COPELAND. I believe that is the Denison Dam amendment. I ask the Senator from Oklahoma [Mr. LEE] if that is correct?

Mr. LEE. That is correct.

Mr. COPELAND. That is the Denison Dam amendment.

Mr. BORAH. That provision preserves the rights of the two States in full, does it not?

Mr. COPELAND. I should say that that amendment was placed in the bill on the floor of the Senate, and I dare say it is due to an inadvertence that the omnibus amendment did not include that also. But I suppose because of the language, "regardless of other restrictions," and so forth, contained in the amendment of the Senator from Kentucky, that the Denison Dam will fall under the same penalty. But certain rights were expressly reserved in the Thomas-Lee amendment. I cannot tell what the significance of the amendment is, because it was not studied by the committee.

Mr. BORAH. Does not the amendment conflict with the theory of the other portions of the bill?

Mr. COPELAND. Absolutely. And, of course, last night I tried to get the Chair to rule that the amendment of the Senator from Kentucky should be disposed of on a point of order. The Chair did not rule just as I wanted him to rule. But there is a conflict there just as there is a conflict in the original language of the bill. A bill came from the House to the Senate which provided for a 70–30 distribution of cost, which contained a reservation with respect to the right to hold title to the land. The Barkley amendment, however, disposes of that, and the Chair last night held that the point of order did not lie against the amendment. However, I may say to the Senator from Idaho that the language referred to creates a conflict, exactly as there is a conflict in the original language of the bill.

Mr. BORAH. It seems to me that that language states a sound proposition.

Mr. COPELAND. Of course.

Mr. BORAH. And if it were a little broader I should be in favor of the whole thing.

Mr. COPELAND. That is, if it could be broadened to cover the entire country the Senator would be in favor of it?

Mr. BORAH. I would be. The amendment further provides:

All such rights are hereby saved and reserved for and to the said States and the people and the municipalities thereof, and the impounding of any such waters for any and all beneficial uses by said States or under their authority may be as freely done after the passage hereof as the same may now be done.

It is clear from that language that it was contemplated that the States which are not covered by this language would be deprived of the very things which are there reserved.

Mr. COPELAND. The Senator is right.

Mr. OVERTON. That matter was taken up in the conference committee. The opinion of the conferees was that it was something like the old lady's axle grease—if it does not do any good it will not do any harm. [Laughter.] It was not necessary that such a provision should be inserted, because those rights are reserved anyway to the States. But the Senate had adopted the amendment, and the House conferees concurred in the amendment.

Mr. BORAH. I think the amendment states a perfectly sound proposition. I have no objection to the amendment. I am calling attention to the fact that it is in conflict with the whole theory of the other portion which we are discussing.

Mr. OVERTON. Whether the amendment was inserted or not, those rights would have been reserved to the States. And also with reference to any other project in this bill, there is no necessity for having any express provision to that effect.

Mr. MALONEY. Mr. President, I am not going to delay the Senate long, because earlier today I discussed the proposal now under consideration, and the particular part of it with which I am concerned from a special selfish interest has been discussed by the Senator from Massachusetts [Mr. WALSH].

I do not know what the consequences to flood control may be if the conference report shall be rejected. I have been hopeful that we could get a flood-control bill. I supposed when I rose just a moment ago that the majority leader was in the Chamber, and I had hope that he might acquiesce in a thought which I have, that would permit us to expedite consideration of the proposal, and probably erase the confusion and the objections. If the majority leader returns during the course of my very brief remarks, I shall submit my suggestion to him.

I wish briefly to refer to the inquiry of the Senator from Idaho [Mr. BORAH] concerning the amendment offered, I believe, by the Senator from Oklahoma, which appears on page 5 of the report, and refers to the States of Oklahoma and Texas. The Senator from Idaho said that he approved of the amendment, that he thought it was sound, and I presume that the conferees assumed that the amendment was sound. I am satisfied that the majority leader, and others who are especially concerned with respect to this proposal, believe that it is a sound amendment, and I believe it to be sound.

I should like to point out to the Senate that all we ask is the same identical amendment for the other 46 States of the Union. We believe that Oklahoma and Texas are entitled to this protection, but we also believe that New Hampshire and Vermont—States with which we in the New England States are more particularly concerned—should have the same protection under this conference report. If there is any Senator who disputes that contention, who has the slightest idea that the suggestion is unfair, I should like to have him now tell me or the Senate about it.

Mr. President, the majority leader [Mr. BARKLEY] has returned to the Chamber. If I may have his attention for a moment I shall respectfully submit a suggestion to him. I have a great admiration for him, and I know how much concerned he is with the conference report, how anxious he is to see it adopted, and how determined he is, from his viewpoint, that it be fair. I am wondering if he agrees with me. I should like to go back a moment to say that what I am suggesting is prompted by something which the Senator from Kentucky said last night. The Senator from Wyoming [Mr. O'MAHONEY] has suggested repeatedly that it was his hope that the bill would be recommitted to the conferees. I assume that the Senator from Wyoming is concerned with the flood-control bill, as we all are. If I remember correctly, he was advised by the majority leader, who offered the amendment which created the controversy, that there was no possibility of sending the bill back to conference; that it had to be voted up or down. Am I correct about that?

Mr. BARKLEY. The suggestion of the Senator from Wyoming was that the Senator from Louisiana and I agree—of course, it would have to be done by unanimous consent, and any Senator could object—but the suggestion was directed to the Senator from Louisiana and to me, that by unanimous consent the conference report be sent back to the committee. I suggested that I would not agree to that procedure, and I did not think the Senator from Louisiana would agree to it, and while I could not speak for any other Senators, that I could not agree that by unanimous consent the conference report be sent back to the committee. I do not see any reason, I will say to my friend from Connecticut, why this conference report should be recommitted to the committee.

The matter which is in dispute was presented in the Senate, not in a hurry, not in a rush, not in a jam. It was presented in the Senate after the committee had considered, and by a very narrow margin of one vote had declined to put in the bill the amendment offered by the Senator from Missouri, which I presented. The amendment was considered by the Senate. It was put in the bill. It was considered by the conferees of the House and the Senate. The conference report has been agreed to by the House. Other conference reports are voted upon as a whole. There is no reason why the report before us should not be voted upon as a whole.

Last night I suggested that so far as I was concerned—and I thought I spoke the sentiments of the Senator from Louisiana [Mr. OVERTON]—unless the Senate voted down the conference report, there was no way by which the bill could be sent back to conference. I still feel the same way about it. I myself cannot enter into an agreement, and I would not consent that the bill go back to conference, because, for many reasons, it is extremely doubtful whether there would be a conference report, and whether we should obtain any flood-control legislation at this session.

There is nothing unusual about the proposal. I appreciate the feeling of the Senators from New England. A compact has been entered into which has been on the calendar for a year or two and which has not been ratified. It has not been ratified for the very reason that it reserves to the locality the title to the property and the control of whatever power may be generated. That is the reason why the Senate has not ratified the compact among the States. Whether the Senate is right or wrong about that is not for me to say. However, there has been serious objection and there is serious objection to the ratification of the compact by Congress. Congress has not committed itself merely by authorizing the compact to be entered into. It did not commit itself to agree to whatever compact might be entered into. Because the compact contains provisions which are unsatisfactory to the Senate, it has not been ratified.

After the two Houses of Congress have given the consideration which has been given to the conference report and to flood-control legislation, I do not feel that the bill ought to be sent back to conference at this time, either by unanimous consent or by a vote of the Senate, because, in my judgment, such a course would jeopardize any flood-control legislation at this session.

Mr. MALONEY. Mr. President, in a few moments I shall submit in concrete form a unanimous-consent request. I have no desire to embarrass anyone, but I wish the issue to be clear-cut.

At this time I should like to take exception to the opinions and views of the majority leader insofar as the New England compact is concerned. He has said that because some power control is reserved therein, the Senate and the Congress have refused to ratify the compact. That statement is not entirely accurate.

The Senate has never had an opportunity to consider the compact, and I am firmly satisfied that if the compact should come before the Senate for fair debate and consideration, the Senate and the Congress would ratify the compact. Under our rules, there is a provision to the effect that an objection by one Senator may prevent consideration. I have no fault to find with a Senator who disagrees with the provision of our compact concerning power. However, I am very sorry the Senate did not have an opportunity to consider the compact and to vote upon it, because of its great importance to New England.

I should like to lay at rest one other ghost. This question is a burning issue in New England, Mr. President. The power companies are not involved. An effort has been made repeatedly by certain persons in New England to give the impression that the power right is reserved for the benefit of power interests. I should like to say parenthetically that I am sorry reference was made to power in the compact, because really no power is involved. However, an effort has been made to create the impression that the power right is reserved for the power interests. That is not true, and those who have read the compact know that it is not true. An effort is made in the compact to reserve the power rights, if there be any, to the States and to the people of New England—to all the people of New England.

I make the request for unanimous consent at this time because I believe every Senator desires to preserve and protect the rights of the States. I make it as well because I firmly believe that if the conferees feel as I think they feel about the protection of States' rights, they could agree upon the proposal in 10 minutes. I know it would have to go back to the House, but I think the conferees could bring it back to the House and obtain approval.

The suggestion for which I ask unanimous consent is that the bill be recommitted to the conferees with the instruction, if the Senate rules permit, that the conferees insert in the bill, in line 13, on page 4—if that is the proper place—or at such other place in the bill as may be technically proper, the words "subject to approval by the individual States." That is what the conferees did for Texas and Oklahoma.

Every Senator maintains that he desires to protect the rights of the States. The suggested procedure is very simple. The proposal can be acted upon by both Houses and the conferees within half an hour. The course suggested would not in any way suspend flood-control operations or activities.

We have heard discussion about Grand Coulee, Bonneville, and the T. V. A. Of course, the communities involved desired the procedure which was followed. They would not be hampered by any such language as is suggested. There was a desire for a yardstick, and cheap power, perhaps, through the creation of the great projects to which reference has been made. The language I have suggested would not impede those projects. It would give protection at the

moment to such States as New Hampshire and Vermont, and, as the Senator from Massachusetts [Mr. WALSH] has pointed out, it would give protection to all the other States at a later time. It would afford to other States the protection already given by the bill to Oklahoma and Texas.

I have no desire to participate in any delay; but I wish briefly to reiterate what I said this morning, because very few Senators were in the Chamber at that time.

I am fearful of what the bill by itself would do. Let me remind Senators that every time we have some such controversial proposal or bill before the Senate, we are told what the Congress did last year, the year before, or ten years ago. The Senators on the floor this morning, in the colloquy with the Senator from Wyoming [Mr. O'MAHONEY] and others, said, "We did this and that under bills passed a short time ago." Let me warn Senators that the argument made today in behalf of the bill will be used for a complete desecration of States' rights when Congress again convenes. We have been advised, with reference to one bill, that a very militant effort will be made to pass the so-called Harrison-Fletcher bill, providing contributions to the States for education. We have been told by the author of the bill, supported by the distinguished leader, that the Federal control of education would be objected to. However, the Senators who are now supporting the bill have pointed to the precedents of the past. We cannot, without very great difficulty, override those precedents. The power follows the purse. When an effort is made to reach out for Federal control of education in New England and other sections, the argument will be made on the floor of the Senate that the flood-control bill is a precedent.

Let me cite a hideous example of what is possible under the provisions of the bill. The Senator from Idaho pointed out one particular provision of the bill which exempts the States of Texas and Oklahoma. In other words, we would be legislating for all but those two States. I wonder if an effort might not be made later, when Federal control of education is sought, to write a bill excluding six States, or legislating for six States, or for one State. If it is possible to write a law for one section of the country and exempt another section of the country, let me now warn Senators that the day may come when a bill will be passed discriminating against certain sections of the country in the field of education, in the field of industry, or in some other important field.

I am not fearful of the changes we make. I am fearful of a change being made without giving the people an opportunity to be heard. As I pointed out this morning, the States still possess their sovereignty. However, I pointed out that they are approaching death.

Mr. President, every Senator knows that the sovereign States as such are marching to their graves under the system of centralization. We shall give our blessing to that procedure if we adopt the conference report as it is.

I do not want to stop flood control. I am as much concerned with the control of terrible floods as is any man in this Chamber, because my own neighborhood has felt the effect of floods. I do not know that the rejection of the conference report would prevent flood-control work. I seriously doubt that it would. However, I do not wish to take a chance. I want the flood-control bill to pass. That is why in a few moments I shall submit a unanimous-consent request to the Senate. I cannot see why any Senator, in fairness, knowing the very limited time which would be required for consideration in conference, should offer an objection.

Before I submit the unanimous-consent request let me emphasize a statement which I made this morning with reference to certain things pointed out by Senators who are concerned with the subject under consideration.

It has been said that no objection was made in connection with the Tennessee Valley Authority. I remember that controversy in the Seventy-third Congress. I voted for the T. V. A. However, when that bill went to conference, if my memory serves me correctly, a provision was inserted in the bill by southern Senators and Members of the House that a percentage of the gross income—not profit but gross income—of that project would be paid to certain Southern States. That was their way of preserving their State rights. It was a limited view, as I see it. They maintained that they were getting great, almost unlimited benefits, from the Tennessee Valley project, but they were not satisfied to surrender the properties and the land, because they maintained there was a loss of taxes and that they should have from the proceeds of the venture a percentage of the gross income.

In New England, Mr. President, we do not want any money; we do not ask any share of the profits. Do not let it be said that there has been no flood control during the past few years because the States cannot operate. We are ready to build our dams and reservoirs now. We have made provision to get the money under the direction of the Federal Government and the policy of the present administration.

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

The PRESIDING OFFICER (Mr. DUFFY in the chair). Does the Senator from Connecticut yield to the Senator from Louisiana?

Mr. MALONEY. I yield.

Mr. OVERTON. This bill authorizes the construction of certain projects for flood-control purposes. The projects as authorized do not encompass their use for the development of power. They may be used for power, but before they can be used for power the projects authorized by the pending bill will have to be modified. There will have to be further authorization by Congress, further appropriations, before they can be utilized for power.

It is true that the bill contemplates, under certain circumstances, the installation of penstocks in the dams and reservoirs, but the installation of penstocks does not convert the reservoir into a power dam. Before a reservoir can be converted into a power dam the project must be modified and authorization therefor obtained from Congress. Therefore, Congress will have the opportunity to pass upon any one of these projects as to whether or not it shall be utilized for power, with the exception of one or two projects that are specifically authorized by this bill for power purposes, as, for instance, the Denison Dam in Texas on the Red River.

Mr. MALONEY. Mr. President, I am not concerned with power as such. I have no desire to burn incense to my liberalism, but I will not be labeled conservative. I voted for the power projects. I voted for the T. V. A.; I voted for the death-sentence provision of the Utilities Act; I believe in rigid regulation; I believe in public ownership if the people want it. I begged the Senator from Nebraska [Mr. NORRIS] to reconsider his decision not to run for election to the Senate upon the expiration of his last term. I am concerned with having men in the Senate who will do something about the power issue. That, however, is not really involved in this controversy. What is involved is a definite question of State rights that will be so terrifically far reaching, if we establish this precedent, that it cannot, in my opinion, be undone.

We are going through a terrible revolution in this country, Mr. President, but I think we will survive, because this is a stalwart Nation and ours are a sturdy people. If, however, the Congress of the United States, in a hurried manner and without careful thought, is going to establish such a precedent as is now proposed, the sin will be on us.

I am not going to delay the Senate longer; but I am going to point out a very simple and quick way by which we could adopt the conference report, get flood control, and not give power to the power interests but retain it in the people of the sovereign States. My way of doing that is to ask unanimous consent that this bill be recommitted to the conferees, with the request, or instructions, if that be permissible, that there be inserted in line 13 on page 4, after the name "United States", or at such other place as may be more appropriate in the bill, the words "subject to approval by the individual States."

Mr. LA FOLLETTE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request proposed by the Senator from Connecticut.

Mr. WALSH. Mr. President, will the Senator from Connecticut yield for a question which I desire to ask the distinguished leader?

Mr. MALONEY. I yield.

Mr. WALSH. Mr. President, if the conference report were approved would the Senator from Kentucky be willing to lend his aid and assistance to having a joint resolution passed that would provide, in brief, that all projects that are solely flood control shall be placed under the flood-control law, but that in a flood-control area when projects involving the building of dams and reservoirs to generate hydroelectric power are constructed, such projects shall be under the Federal Power Commission?

Mr. BARKLEY. Mr. President, I do not feel like committing myself to a joint resolution until I see exactly what it is. I would not be willing, however, to aid in the passage of any joint resolution that would nullify the provisions of the conference report.

Mr. WALSH. It has been pointed out, perhaps in the absence of the Senator this morning—and it seems to me to be very vital—that in the case of a power project under the Flood Control Act the States are less protected and their rights less secure than under the Federal Power Act. That is the chief difference. It would not in any way interfere with the Federal Government's right to take property by eminent domain and build a power project, but in the doing of that the provisions of the Federal Power Act would apply, and to all other projects the Federal Flood Control Act would apply.

Mr. BARKLEY. In all these matters the difficulty is that we cannot now know what projects, either authorized in the pending bill or in any other bill, may contain power possibilities. I myself do not see the reason for the very earnest fears which I realize the Senator from Massachusetts and the Senator from Connecticut entertain with respect to the question of State rights.

I was brought up in a school of thought that believed in and advocated every possible protection of the States, and I still adhere to that theory. But we are now living in an age when commerce and communication and transportation and all the things that have united the country have made it necessary for us to modify, to some extent, the theory of the division of power and authority between the National Government and the States.

Mr. WALSH. I think we all realize that.

Mr. BARKLEY. The bill which is under consideration today involves one of the most vital questions in that realm of legislative action. We are only in the infancy of it; we are only at the beginning of it, and it is my belief that, whatever power possibilities reside in the navigable streams of the United States they are the property of the people, all the people, and that they cannot be circumscribed by geographical boundaries or metes and bounds as a tract of land would be surveyed.

Mr. WALSH. If the conference report shall be adopted, all our contentions, all our claims, all the State rights for which we have contended are gone; we will have to abide by the law. I put this proposition to the Senator: Here is a flood-control project on a river requiring several dams and reservoirs which are all, as everybody admits without dispute, purely flood-control projects. Two or three of them are possibly remote hydroelectric power projects. What can be the objection to having the possible power projects put under the Federal power law and the other solely flood-control projects remain under the present flood-control law?

Mr. BARKLEY. Mr. President, my answer to that is, because we cannot now foresee what projects contain power possibilities.

Mr. WALSH. Of course, there would have to be a decision made by the Federal Power Commission.

Mr. BARKLEY. The pending proposed law and any other law Congress passes is always subject to modification. There is no emergency that requires, it seems to me, the passage of a joint resolution in part to modify or repeal the bill on which we are about to vote, before Congress can meet again and pass probably another general law on the subject—if that is an answer to the Senator's question.

Mr. WALSH. I wish the Senator would give the suggestion serious consideration, because, whatever happens under this proposed law, however disappointed we may be and however disturbed we may be over the sacrifice of what we believe to be inherent State rights, at least, if hydroelectric power is to be developed, we ought not to add any different conditions other than those which are found in the present law.

Mr. BARKLEY. Of course I will give it serious consideration; I will give any proposal or suggestion of the Senator from Massachusetts, for whom I have the highest admiration and in whom I have the greatest confidence on any subject, my serious consideration.

Mr. WALSH. I thank the Senator.

Mr. BARKLEY. But I do not feel at this time like committing myself to the suggestion which the Senator has made.

Mr. WALSH. I can readily understand the Senator's position, and, perhaps, it is presumptuous to make at this time the suggestion on the floor, but it has been developed in the debate this morning—and it was somewhat of a revelation to many—that a power project on a flood-control stream takes away from the State rights that it has under the general power law.

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

Mr. WALSH. I shall be happy to yield.

Mr. NORRIS. If the Senator will permit me, I should like to refer not only to what the Senator from Massachusetts himself has said, but also to what the Senator from Connecticut [Mr. MALONEY] has said. I did not hear all of the Senator's remarks, but I heard part of them; and I got the gist of what he is driving at and what the Senator from Massachusetts is driving at.

As I see the matter, Senators, there ought to be no disagreement about this subject. As the Senator from Louisiana [Mr. OVERTON] has so well said, with the exception of two or three instances in which power is ready for development, this bill does not provide for the development of power. Before power may be developed in the dams which are to be built under this bill, with the exceptions I have noted, additional legislation by Congress will be required.

The Senator from Connecticut referred specifically to what seems to me—although I may be wrong about it—to be a key to his objection; namely, that when we passed the T. V. A. Act we incorporated in it a provision, which is now in the law, providing for the payment of a certain percentage of the gross income after deducting governmental expenses, and so forth, which was in reality to be paid in lieu of taxes. The Senator said that provision was put in the bill in the House by southern Representatives, in conjunction with some Senators. The facts are, I should like to say to the Senator from Connecticut—and I think this statement applies also to what the Senator from Massachusetts has said—that that provision was in the bill when it was originally introduced in the Senate, the bill which was passed. It was not in a prior bill. A great many bills on the subject were introduced here; but I myself drew the bill, after consultation with a great many other Senators. Whether the particular provision to which the Senator refers is good or bad, I was its author. It was introduced as a part of the bill, and provided for payment of an income from gross receipts after deducting the use of power by the Government, and it applied to all the other dams which were to be constructed.

Mr. WALSH. Did it apply to the States where lands would be flooded?

Mr. NORRIS. Where dams were built.

Mr. WALSH. That was a highly commendable provision. Let me say to the Senator that in my own State—and I think the same policy is true in many parts of the country—it has now become a general policy, where ponds or streams

are dammed far away from large cities where the water is diverted to be utilized for drinking purposes, that every one of the acts requires the payment of taxes to the small communities whose lands are taken, and also, if hydroelectric power is developed, there is a right on the part of the community to have the first claim on as much of the power as it can use in its community.

Mr. NORRIS. I will say to the Senator that the provision, for instance, in connection with the construction of the Norris Dam in Tennessee, is that there shall be paid to the State of Tennessee 5 percent of the gross receipts from the sale of power. The same kind of provision applied to Wilson Dam, with the possibility of increasing it if building the Norris Dam increased the power which could be developed at Wilson Dam, more than 300 miles away; and that increase has now taken place. There has been a great increase. It was estimated that the power would be doubled, and I understand it has nearly reached that figure now, as well as the authorities can ascertain. The same provision applied also to all other dams that were to be constructed.

I believed in that theory. I am not one who believes that we ought to take away the taxing power and injure the States which have to collect money by taxes.

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

Mr. WALSH. Everybody who knows the Senator from Nebraska would expect him to have that viewpoint.

Mr. NORRIS. I will say to the Senators that the law provides that when any State is aggrieved, and feels that the amount provided for is not sufficient, or is too much, complaint may be made before the Tennessee Valley Authority, and they are to have a hearing on the subject, and they may readjust the rates if in the future they find that the rates as they now exist are not fair.

Suppose we agree to this conference report, and then we come to the time when we decide that at some places power shall be developed. It seems to me that that is the time when we ought to incorporate in the bill a provision similar to the one we incorporated in the T. V. A. Act.

Mr. WALSH. The difficulty is that Vermont and New Hampshire, which themselves receive no benefit from the flood-control legislation, want it done now. They want their rights defined and I think they are entitled to it.

Mr. NORRIS. It seems to me the difficulty in those cases could be met, if a different provision of law should be required, by providing a different method. This provision applied to the Tennessee Valley Act. I think there has been no objection to it since it has been the law. It is working all right. If we have to modify that provision so as to do justice to all concerned, we ought to modify it when we provide for power. Perhaps we never shall do so. It may be that we shall never provide for it; and, in case we do not, there will not be any income from which to pay anything. I do not think there is any difficulty about that.

I desire to say, too, that if Senators will go back and look at the debates they will find this to be true: When, in the discussion of the bill, the 5-percent provision came up, very serious objection to its payment was made on the floor of the Senate by Senators who are now fighting the conference report. They objected.

They were conscientiously opposed to that method of dealing with the matter. It seemed to me for a while that there was danger that the provision might go out of the bill, although I then defended it on the floor of the Senate as best I could. It remained in the law. So far as I know, it has been perfectly satisfactory. It is open to the consideration of any complaint. It is not static. It may be changed if an injustice is being done. It seems to me that a provision of that kind in a law we should have to pass before we would get any power out of any of these projects ought to meet the objection which is made by the Senator from Massachusetts and by the Senator from Connecticut.

Mr. WALSH. The Senator's statement will be of much assistance if the conference report is adopted and future legislation is sought to protect the States.

Mr. NORRIS. I assure the Senators that if I am here when that kind of a bill is brought before the Senate, if it ever is, I shall be standing with the Senators to try to do justice to any locality or any State which otherwise would suffer an injustice if some compensation were not made. I do not want these power properties, if they are developed, to escape taxation, although we cannot put the payment in the form of taxation. The Senator understands that in the case of a Federal activity we should not like very well to say in the law that it should be subject to taxation.

Mr. WALSH. Of course not.

Mr. NORRIS. That would not do. Nobody would ask that.

Mr. WALSH. Of course not.

Mr. NORRIS. But those who were opposed to that kind of a provision argued at considerable length in this Chamber against putting it in; and, so far as I know, the serious objection which was then made to that provision was made by a Senator who is now in the Chamber, and who is opposed to the pending conference report.

Mr. WALSH. I trust it is not any of the Senators who have spoken in opposition to this conference report.

Mr. NORRIS. Oh, no; none that I have heard; and I find no fault with the Senator to whom I refer for objecting to that provision.

Mr. WALSH. I know the Senator does not.

Mr. NORRIS. That is all right. He has a perfect right to do it, and if he succeeds we shall have to abide by the law.

I should like to say to the Senator from Connecticut [Mr. MALONEY] that I think he has an admirable record. I desire to take this occasion to commend the Senator from Connecticut for what he has done and for what he has stood for in the past. I know that at this time he is honestly moved by a feeling which in my opinion is not justified on this occasion. I should not like to have enacted a joint resolution such as the Senator has suggested. We do not know how far it will be in the future until these dams will be constructed, until we shall decide where they shall be constructed. We do not know now which ones are to be utilized for power. Perhaps none of them will be; and the whole matter will be in the hands of Congress, to do with just as they please, when we come to the time when we authorize the generation of electric power from any of the dams which we are now about to build, if we adopt the conference report.

Mr. KING. Mr. President, the bill under consideration repeals important statutes and is an unwarranted attack upon the States. The Federal Government was formed by the States, which parted with some of their authority, in order that jurisdiction over a limited number of activities might be exercised by the National Government. The States were jealous of their power, and they guarded their sovereignty, and whatever grants were made were few in number and specific, and the General Government's authority was limited to the enumerated powers set forth in the Constitution.

The waters within the various States belonged to and were owned by them and their inhabitants. Under their sovereign authority, the streams could be utilized for irrigation, power, and, indeed, for all proper and legitimate purposes which find expression in democratic communities. The provisions of the bill under consideration are not hidden or subtle. They are open and brazen attacks upon the States and are in harmony with the growing demands of Federal bureaus and bureaucratic agencies in the Federal Government that States be reduced to unimportant factors, with their responsibilities and duties transferred to the National Government.

Under the interstate-commerce clause, which has limited implications, many of the bureaus and Federal agencies assume that they and the Federal Government have complete jurisdiction and plenary power over matters that belong exclusively to the States. They would rob the States of their control over their streams, and the utilization of the same, and deny to the inhabitants of the respective States the

right to appropriate waters for beneficial purposes. They would nullify the laws governing water rights, which particularly apply in the Western States, where development has resulted from the diversion of streams and the utilization of the same for agricultural, industrial, and power purposes.

The minority report submitted with the bill under consideration states that section 2 of the bill, which repeals section 3 of the act of June 22, 1936, is a dangerous proposal. Continuing, the report states:

> We believe it threatens every vestige of State control and State's rights. It changes a well-defined policy of cooperation; it has not been studied, and no hearings have been held. It aims at the destruction of the balance of power between the States and the National Government, a proposal which, in our opinion, is contrary to the Federal principle. As we see it, it is not a good thing for America. All local or regional problems should be handled by the States directly concerned, in cooperation with the Federal Government. * * * The amendment we regard as meaning the surrender to the Government of title to our national resources. It eliminates State participation in flood control.

In my opinion, the minority report does not overstate the situation, but, upon the contrary, does not sufficiently indicate the dangerous assault being made upon the States and the evil consequences which will inevitably ensue. The bill under consideration denies the sovereign power of the States and their authority to control their own domestic affairs. It is in harmony with the powerful movement to destroy State lines and to subject the States to the unrestrained authority of the Federal Government. Under its provisions the Federal Government may enter any State and take possession of its water resources; its streams and rivulets; deprive the States of their control over the same and likewise deprive owners of vested property rights therein. Under the guise of flood control it may seize property in one State not for the benefit of such State but ostensibly to benefit another State. It ignores the Constitution of the United States and, as I have indicated, treats the States as territory belonging to and under the absolute control of the Federal Government. It ignores, and indeed defies, State compacts which have been entered into for the benefit of such States, as well as their inhabitants; it prevents States from utilizing streams within their borders for the benefit of their own inhabitants and assumes jurisdiction over the waters within their streams as well as banks and beds of the streams and thus confiscates property not only belonging to individuals but to sovereign States.

The Senator from Massachusetts [Mr. WALSH] stated yesterday in substance that the "issue presented is one which goes to the vitals of State's rights and that the Federal Government had never proposed the taking of property absolutely necessary for dams to control floods without the consent of the State."

Governors from a number of States, upon learning of the provisions of the pending bill, wired protests against the same, declaring in substance that the provisions referred to would be an encroachment of Federal authority upon the rights of the States and give to the Federal Government title to water resources without the consent of the States.

The Constitution grants to the Federal Government authority over all places purchased by the consent of the legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dockyards, and other needful buildings. It does not grant authority to the Federal Government to take possession of the property of individuals and States under the guise of flood control without the consent of the States.

We are now asked to authorize the National Government to seize property within the States without their consent—property which is owned by the States and by their inhabitants. Undoubtedly there are districts within some States that will be benefited by the provisions of this measure. Under existing law such sections are required to make an important contribution to meet the costs incurred in flood control. They are now to be relieved of any contribution, and the entire costs are to be met by the Treasury of the United States. Without adequate hearings, as I have indicated, or proper consideration of the legal and moral questions involved, this bill is to be rushed through the Senate, notwithstanding the protests of Governors and the objections of representatives in Congress.

The Senator from Wyoming [Mr. O'MAHONEY] referred to the provisions of the Water Power Act of 1920, which declares that the act would not in any way affect or interfere with the laws of the various States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein. A moment ago I referred to the fact that this bill not only interferes with the rights of States and denies their jurisdiction over matters essentially within the jurisdiction of the States, but also intereferes with vested rights. As I have indicated, the courts have recognized that there may be vested rights in the water flowing within the banks of streams. They have protected appropriators of waters from invasion, and have over and over again declared that property rights existed in water and in the channels by which it is conveyed to individuals and communities. A similar reservation, as I interpret it, exists in the act of 1936, but in the desire to increase the power of the Federal Government the provisions referred to are ignored and the doctrine is baldly declared that the Federal Government, without constitutional authority, may take over streams and build dams and destroy vested rights of States, individuals, and communities.

The paternalistic and, indeed, socialistic spirit which exists in many of the national organizations and bureaus is not content with the exercise of the authority granted to the Federal Government in the Constitution, but they are so greedy for power—political, industrial, and economic—that they would rob the States and the inhabitants of the States of their rights and convert the Republic into a huge national and bureaucratic machine to be utilized to prevent individual initiative and the development by individuals and groups of the resources of the country. The demands by the Federal Government of the exclusive control of streams and rivers prevents States and local communities from utilizing them for the welfare of the people within the same. The demand is made that not only the waters and the beds and banks of streams should be owned and controlled by the Federal Government, but also that all dams that may be erected shall be the property of the Federal Government. This attitude obviously prevents local communities, counties, States, and individuals from utilizing the natural resources to which they are entitled. It denies cities, counties, and States the right to build dams for the utilization of the waters within their borders or the construction of power plants, and to furnish power and electrical energy to municipalities and to States. The democratic principle of State rights is being destroyed, and the people are compelled to come on bended knees to the Federal Government to beg for the privilege of exercising their rights as individuals and as citizens of communities and States. So determined were the statesmen and patriots who drafted the Constitution of the United States to preserve and protect the States from the aggressions of the Federal Government, which was being created, that they specifically limited its powers, and when there was criticism that the limitations, though they were specific and clear, might be misunderstood, great Democratic leaders demanded that before the Constitution be ratified there should be a clear declaration 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.

The Federal Government has no right to invade the States, to assert jurisdiction over their domain, to annex their territory, or despoil them of their rights. If the Federal Government desires land within a State for governmental purposes, it must obtain the consent of the States whose lands are to be taken and to make due compensation for the same; but the bill before us denies and defies constitutional limitations and seeks to confer arbitrary power and authority upon the Federal Government to acquire, in the name of the United States, title to all lands, easements, and rights-of-way nec-

essary for any dam, reservoir project, or channel improvements or channel rectification projects in flood control, and so forth. Under the guise of flood control, lands of individuals and States will be taken; the control of waters and streams and rivulets will be asserted and exercised by the National Government; State laws providing the method of acquiring the right to the use of water will be disregarded, and in many ways the rights of individuals, communities, and States will be taken from them.

It is clear that the bill under consideration utterly disregards the provisions of the act of 1936 to which I have referred and seeks to relieve communities receiving enormous benefits from the control of streams of the obligation to make any contribution to the costs incurred in securing such protection.

It is obvious that lands which were overflooded for many years—indeed, long before there were white settlers in what is the United States—are now to be drained and protected from flowing waters at the expense of the Federal Government; that individuals who have settled along and upon streams with full knowledge of the possibility and probability of high waters are demanding that they make no contribution whatever to the costs incurred in protecting lands which they have acquired or are attempting to acquire and compel the Federal Government to meet the entire costs incurred in reclaiming and protecting such lands. It is easily understood why there should be great earnestness in urging hundreds of millions of dollars in appropriations for such purposes, and it is easy to understand why some persons are anxious to surrender the rights and authority of sovereign States to exercise control over their own domain and jurisdiction over matters which are clearly within their sovereign authority.

The question involved is more than who shall pay the costs incident to so-called flood control, but the question is posed, What authority has the Federal Government to enter the States without their consent and take possession of lands and streams and rivulets and water and water rights? With the aggressions of the National Government and its assumption of duties and responsibilities belonging exclusively to States and their political subdivisions and individuals, the claim is now being made that the National Government alone has jurisdiction over streams, large and small, navigable and nonnavigable, and that it alone must deal with high waters and so-called floodwaters and exercise exclusive authority over means calculated to minimize dangers that may arise from high or flood waters; and there are those who contend that the Government shall undertake all tasks, anywhere and everywhere within the United States, without the consent of the States or the owners of the waters within the streams or the beds and banks of such streams of controlling the same and meeting all costs resulting from such control. The right of appropriation of water for beneficial use, recognized by the laws of many States, is to be disregarded; riparian rights are to be ignored; dams are to be erected whenever and wherever the National Government determines; and all this, as stated, may be done without the consent of individuals, communities, or States.

For many years it has been the practice, where lands were sought to be obtained by the Forest Service or the Secretary of Agriculture, to obtain consent of the States within which the lands were situated. In the act creating the national forest reserve it was provided that the Secretary of Agriculture, in the purchase of lands, may not take title until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams. We are now ignoring the principle embodied in the statute just referred to; and are, in effect, giving unlimited authority to the Secretary of War to seize lands under the guise of flood control, regardless of the views or wishes of the States in which such lands are situated.

The act creating the National Park Service provides in substance that the Secretary of the Interior, before he may obtain land for a national park, shall not acquire the land without the consent or approval of the State officials, boards, or agencies having jurisdiction over such land.

Concede the right of the Government to acquire land for navigable purposes; it cannot, it seems to me, be contended that the bill under consideration is seeking to obtain lands for navigable purposes or that it proposes to build dams for navigable purposes. Indeed, the record as presented, as I understand it, indicates a purpose to construct power plants; and under the guise of flood control, contemplates the construction of dams in order to develop electrical energy. It is generally conceded that the National Government is expending large sums for the construction of power plants and contemplates the expenditure of further very large sums to construct power plants where the question of navigation is not considered.

Certainly measures may not be constitutional which authorize the Federal Government to enter States and interfere with the streams therein—streams which are not navigable or where the interference therewith is not honestly based upon the thought of utilizing the streams to aid trade and commerce.

In the clase of *Fort Leavenworth Railroad Co.* v. *Lowe* (114 U. S. 531) it is declared that—

> The consent of the States to the purchase of lands within them for the special purposes named is, however, essential, under the Constitution, to transfer to the General Government, with the title, political jurisdiction and dominion. Where lands are acquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them some other way, is simply that of an ordinary proprietor. The property in that case, unless used as a means to carry out the purposes of the Government, is subject to the legislative authority and control of the States equally with the property of private individuals.

I have called attention to the fact that many of the States have laws which control the streams within their borders and determine the uses to which they may be put, and the manner in which a usufruct may be obtained. This bill flouts the States and their laws, and proceeds upon the theory that the National Government is omnipotent, and that the States have no police powers or jurisdiction over the streams within their borders, or the right to determine the uses to which they may be put, or the desires and wishes of the people within the States.

In my opinion, the so-called interstate-commerce clause of the Constitution has not only been perverted but prostituted and utilized to extend the authority of the Federal Government into fields in which it is forbidden to enter. The bill under consideration is not a bill in the interest of navigation and has no valid foundation upon which to rest. Undoubtedly it is contended by the proponents of the bill that it is justified under the interstate-commerce clause of the Constitution.

All States possessed full power of local sovereignty, and could impose such rules and regulations as they saw fit, concerning the streams within their borders. They could abolish, as did many States in the West, the doctrine of riparian rights and adopt the doctrine of use—appropriation—accepting, as I have indicated, the rule which came from Mexico under the Treaty of Guadalupe Hidalgo.

I have referred to the rule which was in force in the territory acquired from Mexico, and to the fact that Congress apparently accepted that rule, and declared in the treaty referred to that—

> Legitimate titles to every description of property, personal and real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May 1846 and in Texas up to the 2d of March 1836.

There were many citizens of Mexico living in the territory ceded to the United States, and they possessed large grants of land, together with rights in and to waterways and streams, of considerable magnitude. Under the treaty, they were entitled to enjoy, with respect to all such property, ample guaranties as to their rights, regardless of their citizenship.

Congress, as I have indicated, in 1866, passed an act which, in effect, abrogated the doctrine of riparian rights in some

States and Territories and recognized the doctrine of appropriation. The statute reads:

> Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same.

That is a broad statute, resting in part upon a treaty, as well as upon natural rights, and constituted a protection to the owners of water and water rights, whether upon navigable or nonnavigable streams, which could not be repealed or destroyed.

The Thirteen Original States were the owners of the streams within their respective borders, and it is my view that the States which were subsequently admitted into the Union were endowed with the same right and authority. The amendment in the bill before us, dealing with the States of Texas and Oklahoma, tends to support that view, because they are exempted from the provisions of this bill. Under the Treaty of Guadalupe Hidalgo, the vast domain ceded to the United States was taken subject to the laws, customs, and regulations which existed under Mexican control.

In this connection, may I remark that the mining laws and regulations which prevailed in Mexico were recognized by the Territories and States which were carved out of the territory ceded to the United States. In 1866 Congress passed an act recognizing the rules and regulations respecting mining operations and the acquisition of title to mining properties; also the right to divert waters and to construct canals upon and over the public domain. The States within the Mexican and other grants enacted laws based upon the rules, customs, and regulations existing in the granted territory at the time of the annexation. Within these States dams have been built by individuals, corporations, and municipalities, and the waters taken from scores, if not hundreds, of streams and applied to beneficial uses. The waters of these streams have been used not only for irrigation but in many instances have been utilized for power purposes and the operation of various industrial plants.

We heard the demand a year or two ago that the United States spend hundreds of millions of dollars for the construction of a canal in Canada. The contention was made that the Federal Government, under its treaty-making power or some inherent or undisclosed power, might enter into agreements with a foreign country, the result of which would be to seriously affect the rights of sovereign States.

Undoubtedly the measure before us denies States their sovereign authority; it denies to them the right to utilize resources within their own borders and to develop industries and commerce from which they would derive revenue. They are to be denied under this bill the authority to construct dams or power plants or to develop industries that would inure to their advantage as well as the advantage of their residents; and, of course, Federal agencies, anxious for more power, are hostile to the assertion by the States of their undoubted rights in utilizing the resources within their borders.

The Senator from Wyoming [Mr. O'MAHONEY] was correct when he stated in substance that the conference report before us gives the Federal Government—if having selected a site, whether for flood control or a power dam—the power to enter any State and take possession of land and condemn it without the consent of the State. And I recall in some of the interruptions that occurred during the debate to which I am alluding that reference was made to the psychological effect of the Federal Government taking jurisdiction over matters which belong to the States—the effect which it has upon the appetite of the National Government for its aggrandizement and the surrender of rights which belong to the States.

The National Government with respect to territory within the boundaries of States, belonging to States and to individuals, occupies a status no different from that possessed by individuals. The Constitution of the United States provides that Congress may exercise "authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." Under this provision the General Government ought not and, some contend, cannot legally interpose objections to States entering into treaties for the purpose of controlling the streams within their boundaries. Certainly that is true of streams not navigable.

As I understand, the provision of the bill under consideration, which is meeting with most serious objection, is justified under the authority under the Constitution to control navigable streams. In my opinion this provision of the Constitution has been misinterpreted and perverted. It has been used in an oppressive and capricious way, and it is in this bill being used for the purpose of depriving States of their authority over waters and streams within their boundaries and in relieving local communities and States of the responsibility to solely, or in cooperation with the Federal Government, adopt measures in the interest of navigation. It is obvious that the measure before us is an unprecedented step looking to the assumption by the Federal Government of absolute control over streams, which in many instances should in part, if not wholly, be controlled by the States and local communities. But so powerful is becoming the Federal Government and so indifferent are many citizens to the duties resting upon the States to deal with local matters and State concerns that the measure under consideration is receiving support and is approved by some who encourage the Federal Government to enter the States and assume responsibilities which belong to them. It is noted, however, that this bill does not measure up to the provisions of the Constitution that require the "consent of the legislatures" for the acquisition. Undoubtedly, as indicated, those supporting this bill assume that whether streams are navigable or not, the Federal Government can take control over them and their tributaries, and acquire title to the beds of streams within the States.

Mr. President, it seems to me that an examination of the 1936 act and the measure before us now will reveal serious conflicts and demonstrate that the present bill seeks to engraft upon the former law not only unjust provisions but provisions which may not be defended from a constitutional standpoint. I appreciate, as I have indicated, that but little attention is being paid these days by many persons, including some in legislative and executive branches of the Government, to the letter and spirit of the Constitution and to the limitations which are imposed upon the Federal Government. Many people refer to the power which is exercised by executive authority in other countries, forgetting entirely that this Republic is not a unitary government but is dual in its nature and in its essence. Criticisms are frequently heard of the centralizing authority in Germany, in Italy, and in other countries, and the oppressive power exercised by those in authority; and yet many of our citizens are now referring to other nations, unitary in form, as examples for us to follow even when it comes to dealing with fundamental questions and those involving the rights of States and individuals.

Mr. President, in my opinion, some provisions of this bill are not only unconstitutional, but they lack that degree of morality which should prevail in legislation relating to the duties and responsibilities of the Federal Government and the States. The bill is a weapon to destroy the sovereignty of States, and to increase, illegally, the power of the National Government, whose authority is constantly being extended and the limitations upon which are being removed.

It was stated a few moments ago by the distinguished Senator from Massachusetts [Mr. WALSH] that the important amendment, which constitutes an important part of the bill before us, "changes the whole national policy in regard to flood control," and places in the Federal Government the title to all dams and reservoirs and the control of all power that may be generated, without any permission or

consent of the States. And in return, the Federal Government pays 100 percent of the cost.

I was greatly impressed by the statement made by the able Senator from Connecticut [Mr. MALONEY] who said only a few minutes ago:

> While the States still possess their sovereignty, I pointed out that they are approaching death.

He further said, as I recall, that—

> Senators know that the sovereign States as such are marching to their graves under the system of centralization. We shall give our blessing to that procedure if we adopt the conference report as it is.

Mr. President, the statements made by these able Senators, as well as the views expressed by the Senator from Wyoming [Mr. O'MAHONEY] and the Senator from Vermont [Mr. AUSTIN] are indicative of the growing evils of centralization, and are prophetic of the future of this Republic if the present recession of genuine democratic spirit is not arrested. In nearly every part of the world democracy is being challenged, and dictators and authoritarian states are seizing power and controlling the destinies of peoples and states.

Mr. President, a number of Senators who have spoken upon the bill have pointed out its defects—indeed, its dangerous provisions. I have indicated that it is an assault upon individuals and States, and an attack upon the foundation of the Republic. There seems to be an utter misconception of the form of our Government; and many public officials as well as many of our citizens ignore the fact that we have a dual form of government, and that the Federal Government is one of limited power. They are wholly indifferent to the limitations placed upon the Federal Government, and often point to other nations and the power which they assume—even nations that are autocratic; and they contend that we should adopt measures and policies by which they are guided. No republic can long exist without a clear conception of the limitations placed upon governmental authority. If the concept prevails that all power rests in the Government, then democracy cannot exist, and dictatorships, with all their evils, will prevail.

We are building up a powerful National Government whose activities transcend limitations placed upon it; it is assuming duties and responsibilities belonging to individuals; and many of our citizens, instead of looking with apprehension upon the growing power of the National Government, are urging a further extension of its authority. And the Communists within our borders, and the Socialists, and those who have no conception of our form of government, join in the loud acclaim for the further extension of the authority of the National Government. Those who are familiar with history, and those who know something about human nature, will appreciate the fact that the ambition for political and governmental authority is never satisfied; that the extension of its boundaries today only increases the demand for further horizons upon the morrow; and that, as a corollary of increased authority by governments, there is a constant demand for increased bureaus and personnel. There will soon be 2,000,000 people or more upon the pay rolls of the Federal Government and each agency that is formed produces further agencies. The fecundity of bureaucracy is not excelled even in the animal kingdom.

The Democratic Party has stood against Federal usurpation and the gravitational Federal forces which sought to draw individuals and States within its power. There are many persons today who contend that there has been a departure from sound democratic principles and that fine philosophy upon which the party rested in the days of Jefferson and for many decades thereafter. They contend that the policies of Jefferson are being forgotten and that States and communities and individuals are losing that spirit indispensable to the preservation of individual liberty and the maintenance of democratic principles. Great Democrats aided in founding the Republic, and in dark and perilous times the Democratic Party has defended democratic principles and aided in preserving the liberties of the people.

It was Madison and other Democrats who formulated important and priceless provisions found in the Constitution of the United States and developed the philosophy and theories of local self-government and individual liberty. I regret that there is being sacrificed some of the ideals and principles bequeathed by great Democrats and that the path of safety is being departed from.

There are those among us who point to the policies of nations without constitutions or the principles of liberty by which this Republic was founded. There are some among us who point to Russia with the absolute power of Stalin, and yet, as I was told when in Russia a number of years ago, the contention was made that it was a democracy. There are those among us who contend that the power of the National Government should be unlimited and that the National Government should engage in socialistic if not communistic activities. It is the view of some persons that a powerful government is desirable and that socialistic or communistic concepts should supersede those principles which are embodied in the Constitution of the United States.

Reference is made to Germany, and not a few in our country are preaching the Nazi philosophy which has developed one of the most despotic governments in existence, under which freedom of the press, of speech, and of religion is denied. Hundreds of thousands of German citizens, who have made important contributions to the growth and progress of the German nation, are being despoiled of their property, robbed of their liberty, and subjected to brutal treatment which finds parallel only in nations of darkness and tyranny. May I say that the treatment accorded the Jews by the Nazi Government, as well as its contempt of the rights of American citizens, would warrant the United States in withdrawing our diplomatic representatives from Berlin.

The same may be said of Japan, whose savage attacks upon China can find parallels only in primitive nations where no regard was had for human life. As Senators know, towns and cities and villages are being destroyed, and savage methods employed to kill and destroy men, women, and children who are far from the field of military operations. Japan's savage and ruthless warfare in China calls for the condemnation of all civilized people; indeed, for the execration of mankind.

We need not go to other nations for precedents to guide this Republic in its political and economic life. This Republic should repudiate the insidious efforts which are being made to change our form of government and to superimpose upon the American people the dangerous and deadly policies which are followed in many countries throughout the world. Unfortunately, there are many Americans who are challenging our form of government. There are Communists and Socialists who are striking at the foundations of the Republic and who are endeavoring to destroy the States as political units and bring the States and their political subdivisions within the exclusive authority of the National Government. In other words, they would strengthen the National Government and give to it unlimited authority and, under the pretense of having a democratic government, convert this Republic into a socialistic or oppressive bureaucratic state.

Mr. President, I regret that Washington has become the Mecca to which many caravans come, not all of which carry wise men. They seek to impose their views upon Congress with respect to this matter, to take away the rights of the States to control their own internal and inherent affairs, and to secure legislation which would give executive and administrative policies authority over the States, their political subdivisions, and the people themselves. Undoubtedly, many foolish and fantastic schemes are suggested. Measures and policies utterly at variance with constitutional government are proposed. Many persons desire the submergence of the States and the assumption by the Federal Government of important and inherent powers possessed by sovereign States and their political subdivisions.

I was interested in the statements made by the Senator from Massachusetts and other Senators from the New England States when they spoke about the authority of sovereign States.

I quoted a few moments ago from a statement made by the Senator from Massachusetts [Mr. WALSH] and the Senator from Connecticut [Mr. MALONEY]. These statements, as well as others which were made from time to time upon the floor of the Senate and elsewhere, should cause the American people to inquire as to the path which they and this Republic are following.

Mr. President, in the light of present conditions, can it be said that we possess the form of government contemplated by the fathers; are not the States being destroyed; are not millions of individuals accepting alien views and clamoring for vital changes in our political and economic life? As I have indicated, there are approximately 2,000,000 persons who are upon the pay rolls of the National Government, and the morale of many millions is being undermined by the false political doctrines which are being taught and the extension of the National Government into fields of private endeavor and control over areas which lie within the boundries of sovereign States.

Professions of devotion to democratic principles and to what some call progressive policies are loudly proclaimed by many who are seeking fundamental changes in the Constitution, as well as in the relation of the States to the Federal Government. The progressivism of some persons is embodied in a doctrine that the Federal Government shall create a multitude of agencies and bureaus to whom shall be committed vast political power. Many of these policies aim at strengthening the Federal Government and transferring to it powers belonging to the States and to individuals.

Many who profess great interest in social questions, education, and economic and industrial problems recommend only one formula, namely, that Congress shall enact more laws extending the jurisdiction and authority of the General Government and the creation of more powerful bureaus and agencies.

Thousands of volumes record the evils and injustices which have resulted and are now resulting from the concentration of governmental authority in the hands of a limited number of persons and in powerful executive organizations. Notwithstanding these lessons, which are open for our instruction, there are those among us who urge policies and measures paralleling, in part, at least, those which have contributed to oppression and the denial of individual liberty. There are too many Americans who are constructing crutches to put under the arms of individuals and too few who are expounding those enduring principles which guided our fathers when they established this Republic.

Our fathers were familiar with the pages of history and the false philosophy which had controlled individuals and governments. They determined to establish in the New World a government which would be devoted to liberty and to the establishment of a truly democratic Republic. They accepted the philosophy of Jefferson, which is comprehensive enough for all time. It is no exaggeration to say that it embodied the ideals of Christianity, which exalted individuals and declared the truth that the state is the servant and not the master of the people.

Mr. President, the spirit of democracy is not an evanescent thing; it may be submerged by crass materialism and brutal forces, but I hope it will survive.

The bill before us is a measure which deprives the States of authority. If the bill shall become law, Mr. President, it will take from the States some of their important functions and it will be a long step in the direction of state socialism and Federal control, not only of power but of lands and homes and property and business. Indeed, in every part of the land today it is claimed that Federal officials are interfering with individuals and legitimate business, projecting themselves into the activities of individuals, with a view of harassing them and affording the Government an excuse for laying its powerful hand upon them. Many people desire the Federal Government to take over the railroads, the important industries of the country, the mines, smelters, automobile industry, and many activities which have furnished employment to millions of people and are now ready and willing, if the heavy hand of the Government is not placed upon them, to increase their activities, expand their business, and furnish employment to millions of people who are now without positions.

Undoubtedly there has been, and is, a profound feeling of apprehension upon the part of thousands of persons engaged in various forms of business. That feeling exists among so-called small-business men, as well as upon the part of persons conducting large business enterprises. I have received communications from persons engaged in small business enterprises who aver that they intend to close down—indeed some have suspended operations—who have attributed their unfortunate condition to heavy taxes and fear as to what the policy of the Government was to be in respect of business concerns. Others complain of labor strikes and the uncertainty as to whether or not labor organizations will impose conditions which cannot be met. I am expressing no opinion as to the justice of these complaints. That there are uncertainties in industrial life among those who are called capitalists, as well as those who are within fields of labor, cannot be denied.

Many plants have closed their doors and hundreds of thousands, indeed, perhaps several millions, have lost their position during the past year. There are Socialists and Communists who have, as I am advised, lent encouragement to this unfortunate situation, and have urged that the Government should take over the factories and plants and all forms of industry. It is well known that in a number of countries where there have been industrial disturbances extreme radicals have seized upon the situation to engage in propaganda favorable to socialism or communism.

Mr. President, undoubtedly there is a growing disregard of our dual form of government. A distinguished Senator said to me a few days ago when I spoke about States' rights, "Oh, the States' rights theory is dead. There are no States' rights." His view was, I assume, that the National Government should control not only the Federal Government but also the States.

May I quote Jefferson? Many Democrats pay lip service to Jefferson, but disavow the letter and spirit of his great teachings—I was about to say his sublime teachings, which contributed so much to the establishment of our Republic. Jefferson said:

> * * * The support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies, I deem one of the essential principles of our Government, and consequently one which ought to shape its administration.

I may quote from Mr. Lincoln before I shall conclude. I remember that a statement made by him was almost a paraphrase of these views expressed by Jefferson in his first inaugural address. If we had the democracy, the republicanism, the Americanism found in the teachings of Jefferson and Lincoln, we would not be in the depression in which we find ourselves today.

Senators will recall the letter which Mr. Jefferson wrote in 1816, in which he asked and answered the question—

> What has destroyed the liberty and the rights of man in every government which has ever existed under the sun?

He answered his own question:

> The generalizing and concentrating all cares and powers into one body, no matter whether of the autocrats of Russia or France or the aristocrats of a Venetian senate.

Certainly there are manifestations in democratic government today which should admonish those who love liberty and justice to guard against those policies which, through concentration of power, have impaired, if not destroyed local governments and individual liberty. Jefferson and other great apostles of liberty have declared that good government is only secured by the distribution of powers; not by consolidation or concentration.

The problem now is to preserve the States against the sweeping and widening power of the Federal Government.

As I stated a moment ago, some Americans are contributing to the demolition of that great temple of justice and liberty established by the founders of this Republic.

Henry Clay declared that we must foster a strong and wholesome State pride. There is too little State pride left. People are running to Congress, to Washington for governmental favors. Mayors come to Washington by the score seeking gratuities and contributions when the States themselves and the local subdivisions should handle problems which they insist the Federal Government shall solve.

Efforts are being made to reduce the States to mere administrative departments, like those of France; and the people are taught to look to the Federal Government to assume responsibilities and duties of sovereign States and to become guardians of the people themselves. There is a weakening of that fine individualism which found expression in the pre-Revolutionary days of the Republic and for decades thereafter.

One columnist said the other day that individualism in this day was an anachronism.

Much of the so-called progressivism has for its object the aggrandizement of the Federal Government and the control by it of the States and the people.

Mr. President, there is real moral insufficiency in any theory of state which impresses upon its members the need of any consistent uniformity of outlook. Perhaps I am a rebel, but I do not believe in standardization, in uniformity. I believe in plurality, in the individuals working out their own salvation under the spirit and genius of democratic institutions, but not under a unitary system which crushes out individualism and destroys the rights of local communities and the States themselves.

Everywhere we find plurality. I know that this is not a satisfactory doctrine these days, and is favored by few, but I am pleading for individualism, for State rights, for local self-government, and when I leave the Senate I hope I will be able to say that I did not forget democracy or betray rights of States and individuals.

Germany points proudly to the complete absence of difference among her citizens. By the power of Hitler's pronunciamentos the people are made to think alike. They are made to think as he would have them think. They are compelled to submit to the unitary form of government, and he is the government.

> Contempt is openly expressed in Germany for a country like the United States, where diversity of opinion—I was about to say exists—where diversity of opinion existed. In Germany today rights have been sacrificed to authority.
>
> We prefer a country where the sovereignty is distributed, where the richness of the corporate lives is insurance against such sterility of outlook as we find in so many countries.
>
> There can be no servility in a state which divides its effective governance. The necessity of balancing interests, the need for combining opinions, results in a wealth of political thought such as no state where the real authority is single can attain.

The price of liberty is exactly divergence of opinion on fundamental questions. The growth of national government, with the consequent strengthening of its sovereign character, leads to increasing centralization.

> The problems which nations will have to solve is to make local life real. Local life requires revivification. An interest in local problems will have to be aroused, not less keen and vivid than the interest in national problems. Unfortunately, local life is being sacrificed to the absorptiveness of a central government, and thus the creativeness and independence of the people are being undermined, if not destroyed.

Mr. President, the creed of this new nationalism is illusory and deadly. Under it the Federal Government is to discharge the duties resting upon the States and local communities and is to take over, as provided by this bill, the streams, rivulets, and rivers within the various States.

In the West, the pioneers who laid the foundation of the great territory wrested from Mexico laid the foundations of Territories and States. The public lands belonged primarily to the Federal Government, but laws were soon passed under which title to public lands might be obtained by individuals. California, Wyoming, Utah, and other Western States announced a policy with reference to water, waterways, and their utilization, which has been written into constitutions and laws, under which Commonwealths have grown from small frontier dominions into powerful sovereign States.

We have recognized the right of the people to own and appropriate water. Only recently the Federal Government, pursuing the unwise, dangerous course announced in the bill, intruded into some litigation with a view—as I am advised—of having the courts declare, contrary to a multitude of decisions, that the Federal Government owns and controls the water within the Western States. If this view should prevail, the Federal Government would nullify the acts of various States and deprive millions of people of vested rights which they have acquired by virtue of appropriation and the use of water upon arid lands upon which they have erected cities, towns, and communities which have given to patriotic citizens of the United States a large measure of prosperity.

Let the Federal Government keep its hands off the States and not interfere with their sovereign rights. What business has the Federal Government to prevent ratification of a treaty among a number of New England States? Why should not the States be permitted to develop the water rights and electric energy within their respective borders and to determine what disposition shall be made of the power and of the use of the water? But, no; we are in the swirling waters of a great maelstrom, and all power must be taken from the States over lands which belong to them and to their citizens, and over the waters which flow within the States, and in many instances beyond the States.

The new nationalism which some demand is to bear the social and industrial burdens and activities discharged under democratic government by individuals and local communities. If we continue the policy the States will soon become mere shells out of which all life has departed. They will be vanishing shadows, reflecting merely the form of once puissant States. The great need of today is an awakening of the States to their duty to exercise all their rightful powers and functions under the Constitution. What is needed today is not mere doctrinaire theorizing about the rights of the States, but the prompt performance by the States of their duties, a recognition of their duties by the Federal Government, and the active and full use of the powers and functions which the States possess toward solving the political and economic questions which must be met.

The question now is not whether the States shall destroy the National Government, but whether the National Government shall be permitted to destroy the States. It was the fear that that question might some time arise—that is, that the Federal Government would become so powerful as to rob the States of their rights—which prompted Samuel Adams and John Hancock in Massachusetts, George Clinton in New York, and Patrick Henry in Virginia to withhold so long their assent to the ratification of the Constitution. They feared the ascendancy of the Federal Government and the elimination of the power, the rights, and the sovereignty of the States.

This Republic was believed by many to be a great experiment, and there are those who believe that failure will be the result of such experiment. It is a problem—and democracy is always called upon to meet and solve problems—to preserve individual liberty and local self-government, particularly among millions of people of different national origins and occupations.

With a homogeneous people, pursuing but few occupations, the difficulty of democracy in maintaining local self-government is not so great, but when there are millions of persons of different nationalities, with a great variety of occupations, the problem of maintaining democratic institutions is greatly increased.

Lovers of liberty throughout the world rested their hopes upon this experiment. Webster declared that it was the last hope of mankind and that it should be proclaimed—

> That if the example of the people of America had become an argument against an experiment of free government, the knell of popular liberty would be sounded throughout the earth.

Political philosophers and historians have declared that democratic government is the most difficult to maintain. Maine, in his Ancient Law, declares that—

> Popular sovereignty is characterized by great fragility and that democracy, of all forms of government, is by far the most difficult—so difficult that it would tax to the utmost all the political sagacity and statesmanship in the world to keep it from misfortune. * * *

The responsibility resting upon the citizens of this Republic is greater than that which devolved upon any people in any age. If democracy fails, if it has those inherent weaknesses which portend its destruction, what hope has this or succeeding generations?

Professor Sumner, of Yale, once said that—

> Democracy has never yet been tried enough to know what it will do, but, with Jacobinism, communism, and social democracy lying in wait rof it on one side, and plutocracy on the other, its promise is not greater than that of the old forms. It remains to be proved that democracy possesses any stability and that it can guarantee rights.

Mr. President, that responsibility rests upon us. Is this great experiment to fail? Is democracy to be swept aside and engulfed in the centralizing forces that are manifesting themselves in all the world? It rests with the people of this Republic to prove the essential goodness and greatness and morality of democracy. The pathway to the uplands where justice reigns is steep and rugged:

> Does the road wind uphill all the way?
> Yes; to the very end;
> Will the day's journey take the whole long day?
> From morn to night, my friend.

That is the message and the mission before us, and the pathway which we are to pursue "from morn to night" until we reach the uplands, where there shall be genuine democracy.

There are those who perceive parallels between this Nation and nations which have perished. They point to the melancholy fate of various nations of the past and the causes of their downfall. Many historians agree that departures from justice and morality were the primary causes; that the aggressions of wealth, the exercise of unjust political authority, not infrequently were the proximate causes of national decadence and destruction. Democracy can survive only where there is devotion and character and a high sense of justice. Democracy is more than an institution—it is a moral, ethical, and spiritual force which must permeate individuals and guide their lives. It demands vigilance—constant and unremitting, and implacable opposition to every form of political usurpation and infringement of individual rights.

The struggle in liberal governments was not only to assert and defend individual rights against the aggressions of the government—and I emphasize this point—but against the assaults of majorities. Some people seem to think that the majority is always right; that it has a commission to do as it pleases; to crush minorities and prevent freedom of speech and liberty in all that the word implies.

Democratic governments must be concerned in the protection of the individual; and one of the dangers in democracies is the tendency of majorities to oppress the individual. John Stuart Mill, in his plea for liberty, expressed fear because of the tyranny of majorities, even in democracies, which he insisted was among the evils against which society is required to be on its guard.

It is asserted by many that our dual form of government is being imperiled. As I have indicated, it was not believed by political philosophers that there could be duality in government. They conceived only a unitary form of government, believing that sovereignty was indivisible they could not conceive that there could be an indestructible union of indestructible States, for which my friend the Senator from Wyoming [Mr. O'MAHONEY] was pleading yesterday, or that the functions appertaining to government could be divided, the national being clothed with limited authority, definite and certain, and charged with the performance of limited and specified duties, and the State or local sovereignty possessing complete authority essential to the execution of vital and important responsibilities placed upon it by the people themselves.

And yet in this bill we are taking away from the States control of millions of acres of land, their water rights, and streams, and rivers, and conferring unlimited power upon the Federal Government over property which belongs to individuals or to the States themselves.

One of the most important problems confronting the American people today is to prevent the absorption of the States by the Federal Government and to make local life real; to revivify the States, and to awaken the deadened spirit, so that it will lead to virile, intelligent, patriotic, and successful self-government. That is the responsibility resting upon the American people today, a responsibility, I regret to say, they are not discharging.

There must be an assertion of sovereignty by the States which will be more than anemic reflexes of the Federal Government. Individuals and States must derive their strength as plants from the soil. The nutrition that will give vitality—mental, intellectual, and political—must come from within the States and not from without.

If the States are compounded into a general mass; if they cease to be sovereign and supreme in their domestic concerns, then our form of government is destroyed. That there are forces at work undermining the States, weakening their authority and destroying their prestige, no one can deny.

Mr. President, it should be as treasonable to attack the sovereignty of the States as it would be to make war upon the Federal Government. Local self-government lies at the very foundation of a free country. It is one of the most precious of our heritages. Quoting from Woodrow Wilson, "it is the school in which independence and liberty were bred." This is not a question of bringing to life a dead States' rights doctrine; it is dealing with a fundamental question of political science.

The maintenance of the dual form of government, the integrity of local self-government, is a great question of political science and was recognized by Macaulay, Gladstone, Maine, and scores of eminent writers, as being the great contribution which has been made to political science and government by the founders of this Republic. But there are some who seem willing to throw away all that they gave to us.

Mr. President, the question of local self-government and the principle of the sovereignty of the States is not a dead issue, though many say so. It is one of the most vital problems in our body politic. If the Democratic Party fails; if it surrenders the rights of the States and abandons democratic principles, there will arise a party to carry the banner of liberty and of democracy handed down to us by the fathers.

The United States cover a vast territory, possessing every variety of soil and climate, and inhabited by millions of people, many of whom come from other lands. They have different physical environments and varied historical conditions. They have different customs, manners, and thoughts. While essentially one people along purely national lines, there are differences, as there should and must be if local government is to survive and individualism is to be preserved. Yet there are some who would standardize everything, regulate every form and activity of life, and accept the concepts of totalitarian states in order that all may be coerced into one view, into one group, into one class which thinks alike, acts alike, and is controlled by the heavy hand of a totalitarian state.

There are those who belong to the "cult of standardization," who seek uniformity of thought and outlook. I like differentiation. I should dislike to have every person agree with me; and I do not want to agree with everybody else. That was the thesis of Herbert Spencer in the great school of philosophy which he gave to the world—differentiation in thought, in customs, in government, so that in this differentiation there would be developed genius, and those fine

qualities of individualism which, after all, are essential to the maintenance of democratic institutions and which insure progress in all fields of life.

Those who belong to the "cult of standardization" would destroy individualism, local community spirit, and sovereign States, and govern the people by a strong centralized authority, functioning at the National Capital, but with its tentacles embracing every State and every community. What is needed today is a renaissance of the spirit of States' rights and local self-government, revolt against Federal usurpation, and a determination to resist the centralizing, centripetal forces which are drawing States within the swirling maelstrom of a powerful national government.

Mr. President, Great Britain pursued a wise course. She has decentralized, while we are weakening sovereign States and centralizing political power in the National Government. While we are undermining our dual form of government and building up a powerful unitary system, Great Britain, as I have stated, is promoting the spirit of local self-government; and as this process of decentralization has developed, the commonwealths of Great Britain have exhibited increased affection for the mother country and have been made stronger by the exercise of governmental authority with which they have been endowed. Who shall say that Great Britain is not stronger by reason of the stronger units of local self-government which she has developed? Canada, Australia, New Zealand, South Africa—they are bound by chains of affection to Great Britain. And by learning the art of democratic government—local self-government—they have made contribution to the democratic forces which exist in various parts of the world.

I should add that India has been given almost complete autonomy; and the Irish question, which for centuries has been a source of trouble, has been settled, and peace rests upon the new Republic of Ireland and the northern section which belongs to the British Commonwealth.

Mr. John M. Harlan, in one of his books, has stated:

> What can be said as to the very opposite tendency which in recent years has been permitted to go unchecked in this continental Republic, covering an area equal to that of Europe except Russia, and with a population soon probably to equal that of Great Britain, Ireland, France, and Germany combined? Fortunate from the very beginning in having separate State governments with clearly defined areas of activity, we have, since the Civil War and especially during the last 20 years, permitted the State governments to become weaker and weaker and our regard for their functions has become less and less. The time has come to reverse that process if along with a national authority strong enough to preserve, promote, and protect us in all our common interests we are to continue to enjoy local self-government.

Under the Constitution we are supposed to have an indestructible Union. The Constitution looks to an indestructible Union composed of indestructible States. Actual abolition of the States constitutionally is impossible. There are, however, forces in operation which seek to reduce the States, as I have stated, to administrative departments like those of France. An increasing tendency is apparent to regard the State as a mere geographical expression rather than as a sovereign State. We are threatened with a revival of federalism—federalism that is more extreme and radical than the leaders of the old Federalist Party ever countenanced. The argument proceeds on the assumption that the States are incompetent to perform their duties, and therefore the Federal Government must step in and assume responsibility for the control of their domestic affairs.

Mr. Burke, that great English philosopher and statesman, speaking of the Revolutionary fathers, commented upon their study of legal principles, which produced, as he said, acute and dexterous minds and gave them mental resources. He referred to their studies of the principles of government and to the fact that they anticipated evils and sought to guard against them. Have we those superb and valuable qualities, I inquire? As I have indicated, a powerful bureaucracy is being established in the United States with almost unlimited power. Nearly 2,000,000 individuals are clothed with Federal authority and constitute a part of the great bureaucracy under which we live. The activities of the Federal Government are being extended into almost every home in the land. Through numberless agencies, bureaus, departments, and instrumentalities it is exercising powers a portion of which it does not possess under the Constitution. Paternalism is growing; and, side by side with it, socialism strides with vigorous step, while bureaucracy marches with triumphant banners throughout the land. The melancholy picture is presented of many of the people shirking domestic and local responsibilities and contributing to the decline of the States by giving support to Federal aggressions and Federal bureaucratic government. The States are being devitalized and local self-government exhibits a depressing form of atrophy. Aggressions of the executive Departments of our Government, and their increasing power, much of which has not been granted under the Constitution, provoke no serious opposition or resentment among the people.

Unfortunately, as I stated a moment ago, the idea of uniformity of thought and conduct and standardization of the lives of the people has become a dogma and an obsession; and to accomplish this result Federal control over individual States is urged with increasing vigor though constitutional limitations upon the Federal Government are disregarded.

Standardization of thought is sought, as well as standardization of schools; and, as stated a few moments ago by the Senator from Connecticut [Mr. MALONEY], suggestions are made to have the National Government control education, control all internal affairs, provide all forms of insurance, control all persons under 18 years of age, perform the police functions of the States, enact criminal statutes covering substantially all offenses defined in criminal codes, furnish financial aid and assistance, together with technical advice not only to agriculturists but to those engaged in most business activities. The individuals, the homes, the local communities, and the States are to be the wards of the Federal Government, which, through bureaus and Federal agencies and hundreds of thousands of Federal employees, is to perform the duties of a benevolent despot or a benignant father.

The Government is to engage in private business, construct and operate a merchant marine, erect power plants, generate electrical energy and sell and distribute the same to the people, and supply money raised by taxation to industries or individuals that may not be prosperous.

A true Federal system provides a check both upon the Central Government and the people themselves. Are we forgetting that this was the contribution made by America to political science?

Democracy is more than a form of government; it is an ideal. Democracy required that the citizens feel a vital interest in their State governments. Democracy in government cannot remain a vital thing unless the individuality and autonomy of local governmental institutions are retained and in which the people can take an interest and have personal contact with the leaders and see the actual results of democracy. Without this Demos becomes distinterested, and a "democracy with a distinterested Demos is probably less fortunate than a despotism with a benevolent despot."

Centralization of authority is always followed by an oppressive bureaucracy. Scores of Federal organizations and bureaus have been created and more are being projected, and these will soon call for hundreds of thousands of additional Federal employees whose compensation will annually exceed $2,000,000,000. Bureaus promulgate numberless rules and regulations which have the force of penal statutes. No citizen may longer know the law because it is in part formulated by Federal bureaus and departmental officials, and not always in harmony with law or constitutional limitations. It has been said that this is no longer a government of law administered by the courts, but a government of bureaus and officeholders. We suffer from administrative law as well as legislative enactments. This movement enlarges national authority and diminishes local self-government and individual liberty.

I referred to Lincoln a few minutes ago. This is what he quoted from the Republican platform upon which he was elected:

> That the maintenance of the rights of the States, and especially the right of such State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend.

I appeal to all Americans to accept the philosophy of Thomas Jefferson and the philosophy of Abraham Lincoln. Those two mighty monuments of intellectual and moral power should be our guide today, and we should prefer their leadership and their philosophy to some of the false views and "isms" which are permeating the land and insidiously attempting to modify constitutional government, if not to destroy it.

The increasing authority asserted by the Federal Government is revealed by an examination of the thousands of laws and regulations which have been enacted and promulgated during recent years. As I recall, more than 20,000 bills were introduced in the last session of Congress but, fortunately for the country, all were not enacted into law. Mr. Lincoln, in his second message to Congress, referred to the more than 5,000 Federal statutes and to their complexity, if not uncertainty, and urged that steps for the codification and rearrangement of the laws be taken. To codify and arrange the thousands of existing statutes and tens of thousands of rules and regulations and administrative proclamations which have the force of law would be a Herculean and almost never-ending task.

Much of the time of some persons in the Federal bureaus and Departments is devoted to devising new laws which it is expected Congress will promptly pass. Many of these measures increase the authority of the Federal Government and create new bureaus and organizations which call for an increased Federal personnel. The power of the Federal Government by many of these measures is augmented, and to that extent the authority of local self-government is diminished. In some instances, theorists and doctrinaires, and persons immature and inexperienced, formulate measures of great important and profound effect upon our social, political, and economic lives.

As stated, Congress is expected promptly to give its approval of these measures; and when this is not done criticism is often leveled against the legislative branch of the Government for failing to ratify such measures. And if, perchance, the courts hold them to be in contravention of the Constitution, then that body is criticized by bureau officials and Federal employees and others who would change our form of government.

Fortunate, indeed, it is that we have a written Constitution. It was drafted, as I have indicated, by men who knew the value of liberty under law and sought a form of government under which the creative genius of the people might find expression and the spirit of individualism might be developed and, at the same time, an enduring and stable government would be maintained. The Constitution contains the words "The people of the United States ordain and establish a Constitution for the United States." It was not a temporary instrument, but was a great fundamental law, ordained and established to meet not only the period in which it was drafted but succeeding generations. Those who laid the foundation of the Republic were not caught by the hysteria prevailing in Europe. They were seeking a government which would protect individual rights and preserve the liberties of all.

Many governments had been established and had perished, but the Constitution was regarded as an enduring monument, while it was based, as DeTocqueville stated, upon a novel theory. He declared that it was a "great discovery in modern political science." As I have stated, it provided a division of sovereignty, or, as has been stated, two sovereignties moving in the same orbit. Under this form of government the people remain citizens of their respective States in all matters reserved to them, and to the States, but they were citizens of the central government in matters relating only to powers delegated to the central authority.

The Constitution was the result of a searching investigation by patriots and men who possessed profound wisdom and knowledge of governments—their rise and fall. They framed a Constitution which contained provision for the maintenance and enforcement of restraints upon the Federal Government, in order to secure and protect individuals and the rights of the States. They provided an independent judiciary, through whose action the limitation of government itself—the rights reserved to the people, even as against the government—could be tested by rules laid down in the fundamental law.

It has been declared that the glory of our system of government was found by the establishment of three independent and coordinate branches which achieve that balance of power, which not only deprived any one branch of the opportunity for tyranny, but made impossible the rearing of the head of tyranny and injustice anywhere, and made this Nation of millions free, and yet restrained by these limitations which make men free. The marvelous arrangements of checks and counterchecks and distribution of power to secure such balance has made the Constitution the greatest instrument ever struck off by the brain and purpose of man. This balance can only be protected if we preserve unimpaired the full vigor and strength of each of the three supports and departments of the Government. To weaken or destroy either is to endanger the whole, and yet we have measures from time to time tending to impair the strength of one or more of these departments, and at the same time striking at the dual form of government which is essential to the maintenance of constitutional government, and the preservation of that balance of power among the departments of the Government.

But as indicated efforts are made to compound the Government into a protoplasmic mass. Under a bureaucratic system of centralized authority, liberty in a true sense is not possible. Liberty means that assurance that every man shall be protected in doing what he believes his duty against the influence of authority, custom, and opinion. Within the limits of the Constitution the National Government may perform a limited number of activities but it may go no further. The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities. The proneness of man to seek unjust authority and to build up powerful governments prompted Jefferson to say:

> In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

Unfortunately, there is too much constitutional illiteracy and this in part accounts for the complacency with which Americans view the compounding of the States into one powerful Federal Government.

Hilaire Belloc, in his book entitled "The House of Commons and Monarchy," declares that—

> Men eager for freedom and dignity of living in the individual rightly demand the separation of the various powers in sovereignty. They insist on an independent judiciary; on a legislature uncontrolled by the Executive. But men who are concerned rather with the strength of the State, and especially with its action abroad * * * rejoice to recognize a high and successful centralization of sovereignty, however masked or under whatever name.

Jefferson, upon another occasion, declared that—

> Every government degenerates when trusted to the rulers of the people alone.

He refers to agriculture, manufactures, commerce, and navigation and states that—

> The four pillars of our prosperity are the most thriving when left free to individual enterprise.

Under the Constitution our country has grown in dignity and in power. Its development and growth have been the result of the application of democratic principles and the outgrowth of the recognition of the independence of the individual and the inviolability of individual rights. It has

been free from arbitrary power and has recognized the individual as the unit and source of authority, and the States as possessing sovereign authority to control their local and domestic affairs. And yet there are those who seek to compound the States into a colloidal mass and to confer unlimited authority upon the National Government. Chief Justice Marshall, with his strong inclinations in behalf of the Federal Government, declared—

No political dreamer ever was wild enough to think of breaking down the lines which separate the States and of compounding the American people into one common mass.

I regret that that statement cannot now be made in the light of legislative declarations and the views and actions of the executive branches, agencies, and departments, and the attitude of some of our citizens.

I do not forget the words of Andrew Jackson, a great Democrat and American. He stated—

There have always been those who wish to enlarge the powers of the General Government. Its authority is sufficient for all the purposes for which it was created; these powers are enumerated and every attempt to exercise power beyond those limits should be firmly opposed. For one evil example will lead to other measures still more mischievous and if * * * supposed advantages or temporary circumstances shall ever be permitted to justify the assumption of a power not given by the Constitution, the General Government will before long absorb all the powers of legislation, and we will have one consolidated government. Every friend of our free institutions should always be prepared to maintain unimpaired and in full vigor the rights and sovereignty of the States.

And yet in the face of these challenging declarations there are those in our midst who would destroy the landmarks and erect upon the ruins of this Republic a powerful National Government whose authority is coextensive in all matters national and local with the boundaries of the Republic.

For nearly a century the Deseret News has been published by a religious organization, of which I am a member. For nearly 2 years it has carried at the head of its editorial columns the statement, "We stand for the Constitution of the United States with its three departments of government as therein set forth, each one fully independent in its own field." If this Republic is to endure, the letter and spirit of the Constitution must be preserved.

Mr. OVERTON. Mr. President, before a vote is taken upon the conference report I desire to comment for a few moments in reference to a few phases of the pending business which have been brought up for discussion in the course of the debate.

There has been quite a variety of opinions expressed as to the power of the Federal Government to acquire property in a State. The right of the Federal Government to condemn has been challenged in argument, and the right of the Federal Government to acquire property without the consent of the States has been questioned.

I desire to call the attention of the Senate to a decision rendered by the United States Supreme Court in the case of *Kohl et al.* v. *United States,* decided in the October term, 1875, and reported in Ninety-first United States Reports. Mr. Justice Strong delivered the opinion of the court. It was a case in which the United States was condemning property for post-office purposes, and its right to do so was challenged.

The Court stated:

It has not been seriously contended during the argument that the United States Government is without power to appropriate lands or other property within the States for its own uses and to enable it to perform its proper functions. Such an authority is essential to its independent existence and perpetuity. These cannot be preserved if the obstinacy of a private person, or if any other authority—

I call attention to that expression—

or if any other authority.

I repeat the beginning of the sentence.

These cannot be preserved if the obstinacy of a private person, or if any other authority, can prevent the acquisition of the means or instruments by which alone governmental functions can be performed. The powers vested by the Constitution in the General Government demand for their exercise the acquisition of lands in all the States. These are needed for forts, armories, and arsenals, for navy yards and lighthouses, for customhouses, post offices, and courthouses, and for other public purposes. If the right to acquire property for such uses may be made a barren right by the unwillingness of property holders to sell, or by the action of a State prohibiting the sale to the Federal Government—

I repeat—

or by the action of a State prohibiting the sale to the Federal Government, the constitutional grants of power may be rendered nugatory, and the Government is dependent for its practical existence upon the will of a State or upon that of a private citizen. This cannot be. No one doubts the existence in the State governments of the right of eminent domain—a right distinct from and paramount to the right of ultimate ownership. It grows out of the necessities of their being, not out of the tenure by which the lands are held. It may be exercised, though the lands are not held by grant from the Government, either mediately or immediately, and independent of the consideration whether they would escheat to the Government in case of a failure of heirs. The right is the offspring of political necessity; and it is inseparable from sovereignty, unless denied to it by its fundamental law.

Citing authorities.

The decision rendered in Kohl et al. against the United States, to which I just referred, was expressly reaffirmed by the Supreme Court of the United States, in the October term of last year, in the case of James against Dravo Contracting Co. The Court said, quoting from the decision:

The right of eminent domain inheres in the Federal Government by virtue of its sovereignty, and thus it may, regardless of the wishes either of the owners or of the States—

I repeat—

or of the States, acquire the lands which it needs within their borders.

Therefore, Mr. President, when the Federal Government has authority to do anything, it has the authority to acquire lands, easements, or rights if the acquisition of such lands, rights, or easements is necessary for the accomplishment of the authority which is vested in the Government. And if it has the right of acquisition it necessarily has the right of eminent domain, because the right of acquisition includes the right of eminent domain. And it can exercise that right whether or not the States consent to the exercise of that right.

There is an exception, and that is an exception which is pronounced by the Federal Constitution. That is, that when the United States undertakes to exercise jurisdiction within the borders of a State, as in the case of arsenals, forts, and docks, then the consent of the State must be obtained. The consent of the State is obtained on matters of jurisdiction where the Federal Government desires to exercise an exclusive, or some political, jurisdiction over property situated within the State. But the right of acquisition and of condemnation of any property necessary to carry into execution any authority vested in the Federal Government is not dependent upon the consent of the States. It must not be, for, as the Supreme Court well points out, if such assent be a necessary prerequisite the grant of power may be a brutum fulmen; it may be rendered nugatory by the adverse action of a State.

It has also been contended that this is a new, startling theory which the bill proposes, namely, that the Federal Government may acquire the title to lands embraced within the area of dams and reservoirs. That it is a departure from all precedent for the Federal Government to exercise the right of condemnation in respect to improvements in connection with our rivers and harbors, and for flood-control purposes.

Mr. President, a statute was enacted by the Congress in 1888. It was approved April 24, 1888. It is Public, No. 63. That statute vests the right of condemnation in the Secretary of War in reference to all river and harbor improvements. That statute has not been repealed. It is the law today. It is a short statute, and I shall read it:

Be it enacted, etc., That the Secretary of War may cause proceedings to be instituted in the name of the United States in any court having jurisdiction of such proceedings for the acquirement by

condemnation of any land, right-of-way, or material needed to enable him to maintain, operate, or prosecute works for the improvements of rivers and harbors for which provision has been made by law.

How sweeping is that authority vested in the Secretary of War to condemn. He can condemn in order to enable him not only to acquire but to maintain, to operate, to prosecute works for improvements of rivers and harbors.

I continue to quote from the statute, enacted in 1888, and still the law:

Such proceeding to be prosecuted in accordance with the laws relating to suits for the condemnation of property of the States wherein the proceedings may be instituted. *Provided, however,* That where the owner of such land, right-of-way, or materials shall fix the price for the same which in the opinion of the Secretary of War shall be reasonable, he may purchase the same at such price without further delay, and

Provided further, That the Secretary of War is hereby authorized to accept donations of land or material required for the maintenance or prosecution of such work.

This authority vested in the Secretary of War was, by statute enacted by Congress in 1917, extended to cover works of improvement relating to flood control. I refer to the act of March 1, 1917, Public, No. 367, Sixty-fourth Congress. In that act section 3 declares:

That all provisions of existing law relating to examination and surveys and to works—

I repeat—

and to works or improvements of rivers and harbors shall apply so far as applicable to examinations and surveys and to works or improvements relating to flood control.

Therefore, for years the Congress of the United States has authorized the condemnation of property for improvements of rivers and harbors, and for flood-control works. That is the law today. Therefore, when it is proposed in the bill that the Federal Government shall be vested with that power and shall acquire the title, we are not proposing any new legislation upon the subject.

One other observation. Objection has been made, principally by representatives from the New England States, against the adoption of the conference report, upon the ground that it will deprive the States of their jurisdiction in relation to the control of the waters for the generation of hydroelectric power.

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

The PRESIDING OFFICER (Mr. TRUMAN in the chair). Does the Senator from Louisiana yield to the Senator from Vermont?

Mr. OVERTON. I yield.

Mr. AUSTIN. I ask if the Senator applies his remark to anything I have said, as representing the State of Vermont? Does the Senator construe what I have said as relating to deprivation of control of hydroelectric power?

Mr. OVERTON. I do not recall any specific statement made by the Senator in that regard.

Mr. AUSTIN. I specifically stated that the projects in the State of Vermont did not in themselves involve hydroelectric power development; that, as a matter of fact, our position was hostile to hydroelectric power development on the Connecticut River, and that by our action to prevent the building of the dams we would prevent something far better than power, namely, the stabilization of the water flow of the Connecticut River, on which there are power projects and power institutions.

The Senator understands that the projects contained in the report of the engineers are on tributaries of the Connecticut River wholly within the State of Vermont or within the State of New Hampshire, and are remote from the outlets into the Connecticut River, an interstate river. They do not in themselves involve the production of hydroelectric power.

The much more fundamental concern that we had that the bill should not pass is a matter which relates to the Government itself, and the sentiment of the people. We have shown our disposition to aid the people of Connecticut and Massachusetts by a compact, under the terms of which we would cooperate in protecting them. We have shown them that we are willing to cooperate. The essential thing against which we are trying to guard the State is a trespass upon its rights and upon its land titles, and a seizure of its territory without its consent, for a purpose which is not within the power of Congress.

If I am not taking too much of the Senator's time, let me make this comment so that he may answer. I notice that he has referred to certain authorities, with the principle of which I am familiar. If the Senator will review what I said yesterday he will observe that I take exactly the same position. I said that I regarded the power of eminent domain as an incident of sovereignty. It does not require an act of Congress to give it. An act of Congress cannot give it. It is an incident of sovereignty which is limited by the authority of Congress; and when the Government undertakes to seize title to the land of a private person for a use which is not within the power of Congress under the Constitution, then the act of the Government is beyond the power of Congress. We object to the attempt to create a power which does not exist and which never has been given by the people to the Congress.

Mr. OVERTON. If I follow the able Senator from Vermont, he does not object to the bill upon the ground that the Federal Government may convert any of the dams and reservoirs which may be situated in his State into hydroelectric generating plants.

Mr. AUSTIN. I will say to the Senator that I should object to any such attempt; but that question is not involved.

Mr. OVERTON. It is not involved in the bill.

Mr. AUSTIN. No.

Mr. OVERTON. I understand the Senator's other objection to be that he is opposed to the Federal Government acquiring title to lands, or acquiring easements within the area of a dam or reservoir.

Mr. AUSTIN. I object to the Federal Government acquiring title to the soil of Vermont for a purpose not within the authority of Congress.

Mr. OVERTON. I undertook to answer that objection in the beginning of the debate. I went into it with fair fullness and stated the reasons which actuated the conferees in coming to the conclusion that the amendment adopted by the Senate should remain in the bill. Objection has been made, and I understand the Senator from Massachusetts, whom I do not see present in the Chamber, has made objection becouse power is involved in the bill.

The bill is for flood-control projects. None of the projects which are authorized, with one or two exceptions mentioned in the bill, is to be constructed for power purposes. The projects are to be constructed solely for flood-control purposes. If any of them should be subsequently converted into reservoirs for power purposes, such action would require an enabling act of the Congress, and then the Congress would have the opportunity to pass upon the question and to determine under what circumstances, with what restrictions, and what limitations the Federal Government should undertake to convert any of the dams into hydroelectric generating plants.

Furthermore, Mr. President, when projects are converted into power dams the Federal Government is unable to do anything with reference to the sale or distribution of power until there is an enabling act of the Congress. As I understand it, that situation occurred in the case of Boulder Dam. It was constructed, and the title vested in the United States Government, but the Government could not do anything with the power until an enabling act was passed by the Congress. I think that situation is true with reference to the Denison Dam, which is one of the power dams contained in the bill. Before the Secretary of War or any other representative of the Government can undertake to sell or otherwise dispose of the electric energy generated by the dam, it will be necessary for Congress to pass an act vesting such authority in some agency.

Therefore, Mr. President, to sum up my concluding observations on the bill, the bill is constitutional. Congress has the authority to provide for the exercise of eminent domain for river and harbor or flood control works and improvements, with or without the consent of any private owner, or with or without the consent of any State.

No hydroelectric power is involved in the bill, which is a flood-control bill. The question of power can arise only under subsequent acts of Congress.

TAKING PROFITS OUT OF WAR

Mr. BONE. Mr. President, on April 27 of this year the Veterans of Foreign Wars formally presented to the Congress of the United States a petition containing nearly 4,000,000 names of American citizens, asking that Congress enact legislation to keep America out of war. This great petition was presented in a ceremony on the east front of the Capitol. Upon that occasion the commander in chief of the Veterans of Foreign Wars, Mr. Scott P. Squyres, urged adoption of Senate bill 3912, introduced that day by 27 Senators, with the sponsorship of the Veterans of Foreign Wars.

Mr. President, as a part of my remarks on this occasion, I ask that there be printed in the RECORD an editorial by Barney Yanofsky, editor of Foreign Service, the official organ of the Veterans of Foreign Wars of the United States, in the June issue.

The PRESIDING OFFICER (Mr. DUFFY in the chair). Without objection the editorial will be printed in the RECORD.

The editorial is as follows:

EDITORIAL BY BARNEY YANOFSKY, EDITOR OF FOREIGN SERVICE, OFFICIAL ORGAN OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES, JUNE 1938

DEPROFITIZE WAR TO PAVE THE WAY TO PEACE

Just as the love of money has been denounced as the root of evil, the lure of profits is universally accepted as a basic cause of war. In recognition of this human weakness, on April 27, 1938, one of the most important bills ever submitted to the Congress of the United States was introduced in the Senate under the sponsorship of the Veterans of Foreign Wars of the United States. This bill, known as S. 3912, a proposed war-profits taxation measure—plus fulfillment of the National Defense Act—will do more to keep America out of war in the future than any other idea that has yet been conceived.

Proposing a plan that is startling in its simplicity, S. 3912 would make every individual not in uniform and every corporation contribute their wartime profits to the United States Government toward financing the costs of war while that war is in progress. On the basis of actual income, every citizen, as well as every business association, would pay their proportionate share of the expense of going to war through the medium of a definitely stipulated income-tax schedule that would become effective upon the declaration of war. Corporations would be required to pay as high as 83 percent of their profits to the Federal Government during the period of war, while individuals would have their income taxes boosted in proportion.

In a few words, S. 3912 simply declares there will be no more wartime profiteers in the United States.

S. 3912 is the Veterans of Foreign Wars answer to the widespread denunciation of pending so-called universal draft proposals—proposals which have been condemned as blueprints for a dictatorship in the United States.

In S. 3912 the V. F. W. spurns the revolutionary idea of placing all of the natural, industrial, commercial, and financial resources of the Nation under the control of one individual—the Chief Executive of the Nation, whoever he may be. In this bill the V. F. W. rejects the theory of Government confiscation of private property, even as a wartime measure. In S. 3912 the V. F. W. proposes to seize only excess profits, and not property.

Should S. 3912 become a law, it is doubtful if this country will ever have the opportunity of witnessing its actual operation. The overhanging threat that there will be no wartime-boom profits will be sufficient in itself as a deterrent to war. Self-seeking groups will never promote the propaganda which excites the clamor for war if they know beforehand Uncle Sam is prepared to take the profits they might otherwise enjoy.

Under S. 3912 the man who works in a munitions factory or in a shipyard—in time of war—will receive no more in proportion for his day's wages than the man who carries a gun. The little-business man as well as the big corporation will discover that profits will be kept at a normal level through the imposition of increased income taxes. Thus the motive for unwarranted price increases for ordinary commodities will be destroyed.

This bill will enable Uncle Sam to draft profits to finance a pay-as-we-fight program. Thus we can hope to avoid the aftermath of increased public debts which have heretofore been saddled upon future generations. Thus we can hope to avert years of economic depressions and widespread unemployment which inevitably follow in the wake of war and the disruption of world markets.

The suspicion that S. 3912 is only an idle dream of utopian dimensions is hardly confirmed by the fact that 27 Members of the United States Senate, representing Democrats, Republicans, Farmer-Laborites, and Progressives, were willing to be recognized as coauthors of this legislation at its very introduction.

With this auspicious beginning, and with no preliminary ballyhoo or fanfare of publicity, it certainly appears that a necessary majority in the Senate should not be difficult to obtain. There is every reason to believe that a majority in the House of Representatives would echo the sentiments of the Senate.

As far as the V. F. W. is concerned, the road ahead is clear. It remains the duty of this organization to acquaint the people of the country with the virtues of S. 3912 and what it will accomplish—not only as a practical peace measure but as a law that will give added strength to the National Defense Act in time of war and help make victory swift and certain.

Mr. BONE. I also ask that there be printed in the RECORD as a part of my remarks a statement by Millard W. Rice, legislative representative of the Veterans' of Foreign Wars, in the June issue of Foreign Service.

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

S. 3912. A MEASURE TO OUTLAW PROFITEERING, BY MILLARD W. RICE, LEGISLATIVE REPRESENTATIVE OF THE VETERANS OF FOREIGN WARS, IN THE JUNE ISSUE OF FOREIGN SERVICE

On the same afternoon, April 27, 1938, Americanization Day, that the V. F. W. made its presentation to Congress of nearly 4,000,000 petitions to "Keep American Out of War" (described elsewhere herein), the V. F. W. sponsored bill S. 3912 (a bill to take the profit out of war by steeply graduated income and other taxes in order to provide for the national defense, promote peace, and for other purposes) was introduced in the Senate by 27 Senators—a greater number of joint authors than has ever appeared on any Senate bill, except the cancer clinic bill of 1 year ago, on which all of the 96 Senators appeared as authors.

It is a foregone conclusion that many other Senators would have been glad to join in as joint authors of this significant bill, if it had been feasible to contact more of them.

Those who did become joint authors of S. 3912 are Senators HOMER BONE, BENNETT CHAMP CLARK, GERALD NYE, JAMES P. POPE, ARTHUR VANDENBERG, MATTHEW NEELY, LYNN FRAZIER, ERNEST LUNDEEN, HENRIK SHIPSTEAD, ARTHUR CAPPER, ROBERT LA FOLLETTE, ROBERT REYNOLDS, WILLIAM BULOW, CARL A. HATCH, JOSH LEE, EDWIN C. JOHNSON of Colorado, PAT MCCARRAN, ROBERT BULKLEY, GEORGE BERRY, ELMER THOMAS of Oklahoma, JAMES E. MURRAY, WILLIAM SMATHERS, VIC DONAHEY, RUSH D. HOLT, GUY GILLETTE, H. H. SCHWARTZ, and JAMES H. HUGHES. These authors represent all four political parties in Congress and all shades of economic opinions.

The companion House bill, H. R. 9525, had previously been introduced with V. F. W. sponsorship, by a V. F. W. member, the Honorable MAURY MAVERICK, of Texas.

Before the Ways and Means Committee in the House (where all tax legislation must originate), and before the Finance Committee in the Senate, these companion bills now appear to be scheduled to die in such committees at the close of this session of Congress, without public hearings. It is possible, of course, that such public hearings might still be granted if there were a sufficiently widespread demand for copies of these bills and for hearings concerning same, by letters to their respective Congressmen, on the part of such interested citizens as might be adversely affected by the sacrifices which would inevitably accompany any unwarranted future war.

Rather voluminous in content, the provisions of this proposed legislation, to tax the profits out of war and thus to "pay as you fight," was originally drafted in the special Senate Committee on the Investigation of Munitions, about 3 years ago, by Treasury Department tax experts, economists, and others, as part of a war controls bill. Title I, dealing only with taxes, was lifted out of the six titles of such war controls bill, and introduced as S. 3912.

All questions concerning the control of prices, priorities, finance expansion, labor, conscription of industry, and drafting of manpower are left out of the bill. Authorization to control such matters is, we believe, adequately provided for in the National Defense Act.

The only honest and effective way to take the profit out of war is by steeply graduated personal and corporation taxes—not by any form of fascism, communism, state socialism, or any other regimentism, which it might be practically impossible to discontinue after the termination of war.

This bill is predicated on the policy that the only way by which to approximate an equalization of the profits and burdens of war is, by drastic taxation, to draft nearly all income during wartime, to pay for the expenses and sacrifices necessitated by war.

To do that, as to individuals there would be a normal tax of 10 percent on all incomes above personal exemption of $500 plus $500 for a spouse, plus $100 for each dependent, together with superimposed surtax rates graduated from 10 percent up to 93 percent on surtax net incomes in excess of $20,000.

As to corporations, there would be a tax of 15 percent on net incomes not in excess of 2 percent of their adjusted declared value, 25 percent on net incomes not in excess of 6 percent of their adjusted declared value, and 100 percent on net incomes in excess thereof.

This bill would honestly strive to accomplish what its title indicates—take the profit out of war.

Enactment of such legislation would give advance warning to all concerned that war would mean not only the sacrifice of the lives and bodies of young men but the sacrifices of nearly all profits above that needed to pay for living expenses. Why not? Might not such legislation effectively instill a spirit of actual neutrality in the minds of potential profiteers and p-a-y-trioteers? And knowing that none was to be permitted to profit from war, then, if war should nevertheless come, would not the youth and all ordinary citizens of our land much more enthusiastically respond to the Nation's need for a coordinated effective national defense?

Mr. BONE. I also ask that there be printed in the RECORD as a part of my remarks statements from a number of Senators, in the nature of a symposium, expressing the views of those Senators on Senate bill 3912. The Senators referred to are: The Senator from North Carolina [Mr. REYNOLDS], the Senator from Oklahoma [Mr. LEE], the Senator from Idaho [Mr. POPE], the Senator from Montana [Mr. MURRAY], the Senator from Washington [Mr. BONE], the Senator from Kansas [Mr. CAPPER], the Senator from Michigan [Mr. VANDENBERG], the Senator from Ohio [Mr. DONAHEY], the Senator from North Dakota [Mr. FRAZIER], and the Senator from West Virginia [Mr. HOLT].

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

STATEMENT OF SENATOR ROBERT R. REYNOLDS, OF NORTH CAROLINA

For the past few years I have advocated a definite policy that I hope will keep America out of war. In Congress and out of Congress, by Nation-wide radio addresses and addresses before patriotic societies and organizations, I have warned the Nation against any foreign entanglements. I maintain that with the existing unemployment situation here in this country Uncle Sam has sufficient troubles of his own without attempting to meddle in the political affairs of other nations. If by the wave of a magic wand or some mystic power we could stop the frightful conflicts in Europe, thereby restoring peace into a war-torn world, then I say there would be few Americans who would not be willing, yes, gladly, to lend the helping hand.

I am a firm believer that a death blow would be delivered at least to propaganda that leads to war if the profits were taken out of war. If the time comes when this Nation must go to war, if the time ever arrives when our Nation must fight to defend itself from an invading enemy, then Uncle Sam should conscript money as well as men for war purposes. Let us draft the munition makers, as well as soldiers and sailors. Why permit a small clique of manufacturers of war implements to grow fabulously wealthy while millions of our youth forfeit their lives in defense of the Republic? Let the Government draft the owners of factories and their factories in the next war, and the next war will be long delayed in arriving.

Hence, to delay our program for defense might result in attack or invasion of our country. Despite the ravages of war in other parts, America must march on. America will march on, true to its principles and doctrines as set forth by the founding fathers. America must serve as a beacon light for the darkened countries. We must be prepared. Our democracy must survive. Our democracy will survive.

STATEMENT OF SENATOR JOSH LEE, JUNE 14, 1938

One of the final steps that would promote peace by removing the profits from war is the passage of tax laws that would take 100 percent of all war profits. War should be a burden to everyone. Then everyone would oppose war. In the feverish days of the war Americans bent every energy to win that war. It rather shocked our patriotism when we returned from France, where we had served for a dollar a day and a chance to die, and found that 22,000 millionaires had been made off of that war that cost us in blood and money.

We found that the war cost our Government $29,000,000,000. Do you know how much of that went to pay our soldiers, the men who faced death? Only 5 percent.

I was glad to join in sponsoring S. 3912, because it is not only an effective way of capturing all war profits but if enacted would probably be one of the strongest deterrents of war since it would serve notice to the country that the people of the United States intended to equitably distribute the burdens of war. The cost of war should properly be paid out of the profits of war.

STATEMENT OF JAMES P. POPE, OF IDAHO

Peace among nations cannot be obtained through panaceas; nor can the United States stay out of war by proclaiming neutrality. War arises from many causes. Economic factors, racial hatred, religious differences, and the whims of dictators have led to war. Each factor contributing to international conflict must be dealt with, just as the individual problems of a community must be solved before law and order can be obtained. The nature of man and his methods of action constitute a sufficiently high obstacle to peace, let alone permitting to exist a situation encouraging and inducive to war makers.

One of the greatest inducements to armed conflict, in my opinion, is the profit of war, and legislation to remove that destructive remuneration should be one of the first concerns of the Congress. War, perhaps, will occur after its profits are destroyed, but the chance would be tremendously lessened.

As a member of the special committee of the Senate which investigated the manufacture and sale of munitions and implements of war I was convinced that the vast profits of the munitions industry as well as wartime profiteering encourages some short-sighted persons to promote and encourage warfare. While the profit motive is, in many respects, admirable, that phase of it, at least, should be abolished completely and at once.

No just man is entitled to make a fortune from the wholesale slaughter of innocent women and children such as the world is now witnessing in Spain and China. No government can morally countenance the practice.

Those interests advocating war in the past would be much more peaceably inclined if they knew that they could make no money from international ventures in destruction. If a soldier is willing to risk his life for his country, industrialists should at least be willing to work for a reasonable—not exhorbitant—profit.

STATEMENT OF JAMES E. MURRAY ON WAR PROFITS BILL, S. 3912

During recent years it has become generally recognized that the greatest motive for war has been lust for profit. For this reason there has long been a need for national legislation that will effectively curb the profits attainable due to war. During the World War munitions manufacturers accumulated vast fortunes out of war profits—fortunes entirely without foundation but exacted at the expense of humanity. S. 3912 is a bill to take the profit out of war by placing a tax on those profits resulting from war. It is my opinion that the justification of such a tax cannot be questioned. It is only natural that such a meritorious bill has won the support of a vast number of our people. Just a few weeks ago a petition signed by 4,000,000 American citizens supporting this bill was presented to Congress. The bill has the support of the Veterans of Foreign Wars. Those veterans who have actually experienced the horrors of war. We all know that there is no profit in war for the millions of young men that must do the fighting, and certainly there is no justification for the huge profits that accrue to the munitions makers during wartime.

It can be safely said that war propaganda emanates from those that have much to gain in the event of war. Does it not follow that if there is nothing to be gained by war that agitation for war will materially cease?

One need only turn to the cold facts of the last war to find that profits play a major part in any war. It has been conceded by all competent students of the subject that the cost of the last war was 50 percent greater than it should have been.

It is difficult to conceive that anyone would claim that business enterprise should profit at the cost of human misery and even human lives. I am sure that every thoughtful American citizen will agree that this bill merits the full support of Congress as a step toward eliminating war. There can be no doubt but that the enactment of such legislation would do more to advance the cause of peace than any recent act of Congress.

STATEMENT BY SENATOR HOMER T. BONE ON S. 3912, JUNE 4, 1938

S. 3912 is a bill designed to take the profit out of war profiteering. The power of the Government to tax is brought to bear in this bill in such a way that the inordinate profits growing out of wartime activities are taken by the Government and used for the conduct of the war.

During the World War men accumulated great fortunes out of war profits. Such a thing would be utterly impossible if S. 3912 were enacted into law. The profits men made would be diverted into paying for the war instead of passing on to profiteers. The bill not only accomplishes this wholesome and patriotic purpose, but it likewise avoids autocratic Government controls provided in certain types of bills now pending, which have well been designated as "blueprints for fascism."

I do not believe that we cannot prosecute a war successfully unless war profiteers can make and keep millions in what is literally blood money. Certainly the boy in the trenches is as much entitled to get rich out of a war as the man who remains at home and supplies munitions or any other necessary commodity. But the boy in the trenches has no such thought. He serves without thought of money. I share the view of the V. F. W. that the proper way is to permit no man to enrich himself by war profits. I feel sure that when the significance and the high moral purposes of this bill become widely known to the people of America, it will be enacted into law. Four million citizens, in a petition to Congress, have already expressed themselves as determined to fight for these principles.

If the bill becomes law it is my judgment that it will tend greatly to stifle propaganda for war. The lust for war profits is a great force in certain quarters, and we are all familiar with the argument that a war would be a good thing because men could make a lot of money out of it. Such a view is immoral. If the

hopes of men who hold this view were realized, we might be plunged into war by carefully organized propaganda. I share in full measure the views of the most careful students of the subject that a new world war in which we participated might result in fascism if we won—communism if we lost—but in any event it would certainly result in the destruction of democracy in America.

The country should be grateful to the Veterans of Foreign Wars for the great service it is performing in organizing public opinion for this bill and these principles.

STATEMENT OF SENATOR CAPPER ON S. 3912

I am supporting 100 percent the provisions of S. 3912, a bill designed to take the profits out of war by levying steeply graduated income taxes on war profits. I believe such a law is justified, and that it is sound public policy for the Government to take over war profits for the purpose of prosecuting the war.

I am sincerely hopeful that by taking the profits out of war we will remove one of the incentives for war. All of us who went through the World War remember the inordinate profits that went to the munitions industry, and to other industries engaged in the sale of war necessities. We remember the "war millionaires," the fortunes that were made from the suffering and misery and destruction of life and property.

This measure has the backing of the Veterans of Foreign Wars. In fact, I believe it can be stated that the Veterans of Foreign Wars, as an organization, actually sponsored this piece of legislation. Other veterans' organizations are strongly in favor of the principles established in this legislation.

I wish we could proceed on the assumption that the United States would not be engaged in war again in our time. I sincerely hope that we will not be dragged into any war again. I am opposed to war. I shall do everything in my power to prevent our going to war except clearly in self-defense.

But I realize that we must face the future realistically. The time may come when we will have to wage war to protect ourselves and our own interests and people.

On the basis of realism, it is necessary that we be adequately prepared to wage a successful war, when it becomes necessary.

I also believe it is just as necessary that we prepare adequately in advance to take the profits out of war. To enact such legislation in wartime, when everything is subordinated toward winning the war, would be very difficult, perhaps impossible.

The time to enact this worth-while legislation, the time to take the profits out of war by making it plain that war profits will not go to merchants of death and other profiteers, is now, while we are at peace.

This bill, S. 3192, is based on perfectly sound principles. It is good legislation. I consider it necessary legislation. It is part of a program of adequate preparedness for war, and it has my wholehearted support.

STATEMENT BY SENATOR A. H. VANDENBERG ON S. 3912, JUNE 7, 1938

I deeply believe that S. 3912—or its equivalent—is practical patriotism and practical pacifism at one and the same time. If America finds entry into another war to be unavoidable—which God forbid!—this high war-profits tax law will prove to be one of our best soldiers, because it will produce large revenues at the moment of greatest need.

Furthermore, by seeking to have our "next war" fought substantially on a pay-as-you-go basis, we shall avoid a "war boom" and thus in turn we shall save ourselves from the tragedy of a post-war deflation. There are many other reasons—some of them far more important—why S. 3912 or its equivalent should become the law.

I particularly have in mind the inevitable fact that wars are highly profitable to many citizens and many interests. Thus there is bound to be a commercial impulse and a commercial motive which at least deaden our sense of resistance to entry into war in far too great a degree. If we demonetize war—if we take the dollar sign off our battle flags, if we make it plain that our national anthem shall never be played upon cash registers, I think we shall have made a profound contribution to peace and to the avoidance of needless war.

These have been my sentiments ever since I entered the Senate 10 years ago. More than ever, they are my sentiments today. I have always been glad to cooperate with veterans' organizations in this connection and in this quest. I was glad to serve on the first special commission which made the first recommendations to take the profits out of war. I was glad to serve on the subsequent munitions committee which sponsored the second great effort in this laudable direction. I am glad now to join in sponsoring S. 3912 as the third concerted effort toward this essential goal.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMMERCE,
June 8, 1938.

I am supporting S. 3912 because the American people should profit by their past war experience, and I am in full accord with that old saying: "In time of peace prepare for war"; with the hope that we may never have another war.

VIC DONAHEY.

STATEMENT BY SENATOR LYNN J. FRAZIER ON S. 3912, JUNE 9, 1938

I am strongly of the opinion that taking the profit out of war will go a long way toward the prevention of war, and S. 3912 is a bill to carry out that purpose.

Past experience has proven that profiteering has been a decided stimulus for war and that the propaganda for war was largely spread by those who expected to make profit out of war.

Our Veterans of Foreign Wars are to be complimented upon their determined stand against war profiteering, and I wish them success and hope that they can create sentiment strong enough to enact S. 3912 and thus help to prevent war.

STATEMENT OF SENATOR HOLT ON SENATE BILL 3912

I hope that the United States of America will never again be in war. But, if for some reason, this country would become involved in conflict, let us stop profiteering in its conduct. That is the purpose of Senate bill 3912, introduced by a number of Members of the United States Senate. I am glad to be one of the sponsors.

History records the methods used by those who have reaped "blood money" at the expense of our people. We must devote ourselves to a cause that will prevent the repetition of such tactics. Profiteering in time of war must stop.

However, some legislation whose stated purpose is to take the profit out of war takes democracy out of America. Such legislation must not be passed. We can reach the profiteers without injuring the inalienable constitutional rights of citizens. Take the profit out of war but do it through such legislation as that sponsored by the Veterans of Foreign Wars. In that way the profiteers cannot amass their profits while the boys are fighting for democracy, and when the war is through our democracy will be here as a reward for their patriotism and loyalty.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 9801) to provide for the retirement, rank, and pay of Chiefs of Naval Operations, Chiefs of Bureau of the Navy Department, the Judge Advocates General of the Navy, and the Major Generals Commandant of the Marine Corps.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9997) to regulate the distribution, promotion, and retirement of officers of the line of the Navy, and for other purposes.

ENROLLED BILLS SIGNED

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

S. 5. An act to prohibit the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics, and for other purposes;

H. R. 1531. An act extending the classified civil service to include postmasters of the first, second, and third classes, and for other purposes;

H. R. 1872. An act for the relief of Martin Bridges;

H. R. 1948. An act conferring jurisdiction upon the United States District Court for the District of Massachusetts to hear, determine, and render judgment upon the claims of certain property holders within the Old Harbor Village area of Boston, Mass.;

H. R. 2191. An act for the relief of Roberta Carr;

H. R. 2362. An act for the relief of Henry M. Hyer;

H. R. 2665. An act for the relief of W. D. Presley;

H. R. 3610. An act to adjust the salaries of rural letter carriers;

H. R. 5615. An act for the relief of the administrator of the estate of Capt. B. B. Barbee;

H. R. 5743. An act for the relief of Haffenreffer & Co., Inc.;

H. R. 6586. An act to regulate the transportation and sale of natural gas in interstate commerce, and for other purposes;

H. R. 6618. An act for the relief of Miriam Grant;

H. R. 6710. An act conferring jurisdiction upon the United States District Court for the Eastern District of Louisiana to hear, determine, and render judgment upon the claims of Anna Lee Hebert, Mrs. Nicholas Hebert, Mr. and Mrs. Dossie E. Morrell, Mr. and Mrs. C. B. McClure, and W. F. Cobb; and

H. R. 8046. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; and to repeal section 76 thereof and all acts and parts of acts inconsistent therewith.

PROMOTION, RETIREMENT, ETC., OF OFFICERS OF LINE OF THE NAVY

Mr. WALSH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9997) to regulate the distribution, promotion, and retirement of officers of the line of the Navy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 17, 25, 27, 44, and 45.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 26, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 46, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the figure inserted by said amendment insert the following: "5½"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In line 4 of said amendment, strike out the following words: "beyond doubt"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"(f) Captains, commanders, and lieutenant commanders promoted to those grades by reason of adjudgment as fitted for promotion but not recommended by the report of a selection board, as approved by the President, for retention on the active list shall be retired on the date they are so promoted with the retired pay of the grade from which so promoted: *Provided*, That such officers shall not be retired earlier than 6 months after the date of approval by the President of the report of the selection board in which they were adjudged fitted for promotion."

And the Senate agree to the same.

DAVID I. WALSH,
PETER G. GERRY,
FREDERICK HALE,
Managers on the part of the Senate.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,
Managers on the part of the House.

The report was agreed to.

AUTHORIZATION OF FLOOD-CONTROL PROJECTS—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10618) entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes."

The PRESIDING OFFICER (Mr. HATCH in the chair). The question is on agreeing to the conference report.

Mr. O'MAHONEY obtained the floor.

Mr. GIBSON. Mr. President——

Mr. O'MAHONEY. I yield to the Senator from Vermont.

Mr. GIBSON. Reference has been made several times to the compact among certain New England States in regard to flood control. I ask unanimous consent that the resolution covering the compact be printed at this point in the RECORD in connection with my remarks.

There being no objection the joint resolution (S. J. Res. 177) was ordered to be printed in the RECORD as follows:

Resolved, etc., That the consent of Congress is hereby given to an interstate compact relating to flood control in the Connecticut River Valley, negotiated and entered into under authority of section 4 of the Flood Control Act of 1936 (U. S. C., 1934 ed., Supp. II, title 33, sec. 701d) and ratified by the States of Connecticut, Massachusetts, New Hampshire, and Vermont, which compact reads as follows:

"ARTICLE I

"The principal purposes of this compact are:

"(a) To promote interstate comity among and between the signatory States;

"(b) To provide adequate storage capacity for impounding the waters of the Connecticut River and its tributaries, designed primarily for the protection of life and property from floods;

"(c) To provide a joint or common agency through which the signatory States, while promoting, protecting, and preserving to each the local interest and sovereignty of the respective signatory States, may more effectively cooperate in accomplishing the object of flood control in the basin of the Connecticut River and its tributaries, and, among other things:

"(1) To acquire by lease from the States signatory hereto, or some of them, all lands, easements, and rights-of-way necessary for the construction of the projects herein contemplated, without cost to the United States, except as provided in said act of Congress hereinbefore referred to;

"(2) To hold and save the United States free from damages due to the construction works;

"(3) To maintain and operate all the works herein contemplated after completion in accordance with regulations prescribed by the Secretary of War;

"(4) To accept from the signatory States hereto, and from any other source, contributions of moneys as hereinafter set forth for the purposes herein set forth, including without limiting the same, funds for the acquisition of lands, easements, and rights-of-way, for the payment of damages and for the operation and maintenance of said flood-control reservoirs, and the expenses incidental thereto and to the functions of the Connecticut River Valley Flood Control Commission hereinafter created.

"ARTICLE II

"There is hereby created 'The Connecticut River Valley Flood Control Commission,' hereinafter referred to as the Commission, which shall consist of 12 commissioners, 3 of whom shall be residents of the Commonwealth of Massachusetts; 3 of whom shall be residents of the State of Connecticut; 3 of whom shall be residents of the State of New Hampshire; and 3 of whom shall be residents of the State of Vermont.

"The members of said Commission shall be chosen by their respective States in such manner and for such term as may be fixed and determined from time to time by the law of each of said States respectively by which they are appointed. A commissioner may be removed or suspended from office as provided by the law of the State for which he shall be appointed; and any vacancy occurring in said Commission shall be filled in accordance with the laws of the State wherein such vacancy exists.

"A majority of the members from each State shall constitute a quorum for the transaction of business, the exercise of any powers or the performance of any duties, but no action of the Commission shall be binding unless at least two of the members from each State shall vote in favor thereof.

"The compensation of the members of said Commission shall be fixed, determined, and paid by the State which they respectively represent. All necessary expenses incurred in the performance of their duties shall be paid from the funds of said Commission.

"The Commission shall elect from its members a chairman, vice chairman, clerk, and treasurer. Such treasurer shall furnish to said Commission, at its expense, a bond with corporate surety, to be approved by said Commission, in such amount as said Commission may determine, conditioned for the faithful performance of his duties.

"The Commission shall adopt suitable bylaws, and shall make such rules and regulations as it may deem advisable governing the operation of flood-control projects, not inconsistent with the laws of the signatory States or laws of the United States, and any rules or regulations lawfully promulgated thereunder.

"The Commission shall make an annual report to the governor of each of the signatory States, setting forth in detail the operations and transactions conducted by it pursuant to this compact and any legislation thereunder, which said reports shall be submitted to the respective legislatures.

"The Commission shall keep a record of all its meetings and proceedings, contracts and accounts, and shall maintain a suitable office, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at such times and under such regulations as the Commission shall determine.

"ARTICLE III

"The Commission shall constitute a body, both corporate and politic, with full power and authority—

"(1) To acquire by lease and to hold lands, easements, and rights-of-way for reservoirs herein contemplated, and for the use and enjoyment thereof;

"(2) To hold, maintain, and operate reservoirs, including appurtenances, for the purposes of flood control;

"(3) To receive funds and moneys from the signatory States or other sources, for the purpose of acquiring, operating, and maintaining such reservoirs as may hereafter be constructed within the basin of the Connecticut River under the terms of this compact, including, without limiting the same, funds for the acquisition of lands, easements, and rights-of-way, for the payment of damages and for the maintenance and operation of said reservoirs, and the expenses incidental thereto and to the functions of the commission;

"(4) To sue and be sued;

"(5) To have a seal and alter the same at pleasure;

"(6) To appoint and employ such agents and employees as may be required in the proper performance of the duties hereby committed to it, and to fix and determine their qualifications, duties, and compensation;

"(7) To enter into such contracts and agreements, and to do and perform any and all other acts, matters, and things as may be necessary and essential to the full and complete performance of the powers and duties hereby committed to and imposed upon it in connection with the construction, operation, and maintenance

of the system of reservoirs hereby or hereafter authorized and as may be incidental thereto; and

"(8) To have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of any of said States, concurred in by the legislatures of the other States.

"The Commission shall be charged with the duty, and it is hereby authorized and empowered, to give such assurances, satisfactory to the Secretary of War as are required by section 3 of the act of Congress hereinbefore referred to.

"The Commission shall make, or cause to be made, such studies as it may deem necessary, in cooperation with the War Department, for the development of a comprehensive plan of flood control, as herein defined, and for the efficient management and regulation of said flood-control system, and from time to time shall make reports and recommendations in respect thereto to the signatory States.

"The Commission shall not pledge the credit of the signatory States, or any of them, nor shall it convey, encumber, or in any way undertake to alienate the lands, easements, and rights-of-way so leased to it, as hereinafter provided, or any part thereof, or any interest therein, except by and with the consent of the signatory States.

"ARTICLE IV

"There shall be established in the Connecticut River Basin as an initial plan of flood control 8 of the following 11 proposed reservoirs, to wit:

"(a) Three of the four following reservoirs in the State of Vermont:

"(1) At Victory on the Moose River, controlling a drainage area of approximately 66 square miles, and providing flood-control storage for approximately 7 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control, and, in addition thereto, to be so designated and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development at the option of the State of Vermont.

"(2) At Union Village on the Ompompanoosuc River, controlling a drainage area of approximately 126 square miles, and providing flood-control storage for approximately 4½ inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control and also for a recreational lake, to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control.

"(3) At North Hartland on the Ottauquechee River, controlling a drainage area of approximately 222 square miles, and providing flood-control storage for approximately 4.1 inches of run-off over said drainage area, the dam at said reservoir to be for flood control purposes only.

"(4) At Groton Pond on the Wells River, controlling a drainage area of approximately 17.3 square miles, and providing flood-control storage for approximately 7 inches of run-off over said drainage area, and the dam at said reservoir to be constructed in such manner as to provide for flood control and also for a recreational lake, the level of the water to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control.

"(b) Three reservoirs in the State of New Hampshire as follows:

"(1) At Bethlehem Junction on the Ammonoosuc River, controlling a drainage area of approximately 90 square miles, and providing flood-control storage for approximately 6 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control and also for a recreational lake to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control.

"(2) At Stocker Pond in the towns of Grantham and Springfield, controlling a drainage area of approximately 34.4 square miles, and providing flood-control storage for approximately 6 inches of run-off over said drainage area, the dam at said reservoir to be constructed for flood control, and in addition thereto to be so designed and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development, at the option of the State of New Hampshire.

"(3) At Surry Mountain on the Ashuelot River, controlling a drainage area of approximately 100 square miles, and providing flood-control storage for approximately 6 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control, and in addition thereto to be so designed and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development, at the option of the State of New Hampshire.

"(c) Two of the four following reservoirs in the Commonwealth of Massachusetts:

"(1) At Knightville on the Westfield River, controlling a drainage area of approximately 164 square miles, and providing flood-control storage for approximately 4.5 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control, and in addition thereto to be so designed and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development, at the option of the Commonwealth of Massachusetts; or to be constructed in such manner as to provide for flood control and also for a recreational lake to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control, as said Commonwealth of Massachusetts may elect.

"(2) At Tully on the Tully Brook, a tributary of Millers River, controlling a drainage area of approximately 50 square miles, and providing flood-control storage for approximately 8 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control, and in addition thereto to be so designed and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development, at the option of the Commonwealth of Massachusetts; or to be constructed in such manner as to provide for flood control and also for a recreational lake to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control, as said Commonwealth of Massachusetts may elect.

"(3) At Priest Pond on Priest Brook, a tributary of Millers River, controlling a drainage area of approximately 18.8 square miles, and providing flood-control storage for approximately 6 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control, and in addition thereto to be so designed and constructed as to provide for further development by increasing the storage capacity, the added storage to be used for water conservation or power development, at the option of the Commonwealth of Massachusetts; or to be constructed in such manner as to provide for flood control, and also for a recreational lake to be maintained during the summer months, at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control, as said Commonwealth of Massachusetts may elect.

"(4) At Lower Naukeag on the Millers River, controlling a drainage area of approximately 19.7 square miles, and providing flood-control storage for approximately 5.1 inches of run-off over said drainage area, the dam at said reservoir to be constructed in such manner as to provide for flood control and also for a recreational lake, to be maintained during the summer months at a substantially constant minimum level, to be fixed by the Chief of Engineers of the United States Army, except when increased temporary storage is required for flood control.

"The type and general plans for the construction of the eight reservoirs herein provided to be constructed as an initial plan of flood control on the Connecticut River Basin are to be approved by the Connecticut River Valley Flood Control Commission, hereinbefore created, before any construction work thereon is begun or prosecuted.

"Insofar as any of the foregoing reservoirs may be constructed for the combined purpose of flood control and recreational facilities, none of the signatory States wherein such reservoirs are located shall be obligated to pay any additional cost of construction.

"ARTICLE V

"To the end that the Connecticut River Valley Flood Control Commission may give to the Secretary of War the assurances required under section 3 of the act of Congress hereinbefore referred to, and that the lands, easements, and rights-of-way necessary for the construction by the United States of the reservoirs and structures thereon, herein contemplated, may be provided, each State at the request of said commission shall proceed forthwith to acquire title to and possession of the lands, easements, and rights-of-way within its territorial limits, which are determined and designated by the commission for the construction of such reservoir or reservoirs.

"Such acquisition shall be by purchase or by the exercise of the right of eminent domain, as said commission may direct, and in the manner now or hereafter provided for by the laws of the States wherein such lands, easements, and rights-of-way are located. Title to such lands, easements, and rights-of-way shall be taken in the name of the State wherein the same are located. The cost of acquisition, as hereinafter defined, shall be borne by said commission and paid from and out of the funds contributed by the signatory States for such purpose, as hereinafter provided.

"Each State, upon notice from and at the sole expense of said commission, shall forthwith proceed to make, or cause to be made, such highway relocations, including the acquisition of all necessary rights-of-way therefor, and the construction of such relocated highway, as may become necessary therein because of the construction, operation, and maintenance of any reservoir or reservoirs for flood-control purposes: *Provided, however*, That due allowance shall be made on account of any improved type of construction of such relocated highway. The character, location, route, and construction of such relocated highways shall be determined by the State wherein such relocated highway is situated, or by its representatives.

"In like manner, such State, at the expense of the Commission, and upon its request, shall procure the relocation of any railroad, electric transmission, telephone or telegraph lines, or other public

utility structures, including new rights-of-way therefor as may be essential on account of the construction, operation, and maintenance of such reservoir for flood-control purposes.

"ARTICLE VI

"The Commission shall have the States in which such reservoirs are located free and harmless from all loss, cost, damage, or expense in connection with the control, operation, and maintenance of such reservoir or reservoirs, except as hereinafter provided in articles IX and XI.

"The Commission or the War Department in the construction and maintenance of such reservoir or reservoirs shall cause the area which may be flowed thereby when full, to be cleared of buildings and all such trees, brush, and underbrush as from time to time may be damaged or killed by such flowage; shall cause borrow pits or banks, other excavations or unused accumulations of material and debris, to be leveled, graded, masked, removed, or otherwise disposed of in such a way as to leave no holes or other unsightly conditions therein; and shall cause all water pockets to be properly drained and the premises affected by such flowage to be landscaped in such manner as may reasonably preserve the natural condition of such premises before such construction, except as the same necessarily may be changed thereby.

"The lands, easements, and rights-of-way leased shall be exempt from all taxation but the said Commission shall make payments on or before the first day of October of each year to each town in which such lands, easements, and rights-of-way, respectively, are located, of a sum equal to the taxes which would have been assessed against the said lands, easements, and rights-of-way in such town if the same had been included in the list of taxable property for such year, at the assessed valuation of the same as determined for the tax year 1936: *Provided, however,* That no payments shall be made or required hereunder on account of reimbursement for loss of taxes on any structure which may be erected on such premises in connection with the construction or use of said project, or on account of any railroad or other public utility which may be relocated under the terms of this compact, and which is included in the list of taxable property in said town when relocated.

"When said lands, easements, and rights-of-way essential to the construction of any dam or reservoir shall have been acquired as hereinbefore provided, the State wherein the same are located, shall make, execute, and deliver to said Commission a good and sufficient lease of the same, to include the structures thereon when completed and accepted by the State, except as hereinafter provided, upon the terms and conditions following, to wit:

"(a) The said Commission shall save the State in which said reservoirs are respectively located, free and harmless from all loss, cost, damage, or expense in connection with the control, operation, and maintenance of said reservoir or reservoirs except as hereinafter provided in articles IX and XI.

"(b) In the construction and maintenance of such reservoir or reservoirs, the area which may be flowed thereby, when full, shall be cleared of buildings and of such trees, brush, and underbrush, as from time to time may be damaged or killed by such flowage; borrow pits or banks, other excavations, or unused accumulations of material and debris, shall be leveled, graded, masked, removed, or otherwise disposed of in such a way as to leave no holes or other unsightly conditions therein; all water pockets shall be properly drained; and the premises affected by such flowage shall be landscaped in such manner as may reasonably preserve the natural condition of such premises before such construction, except as the same necessarily may be changed thereby.

"(c) The lands, easements, and rights-of-way hereby leased shall be exempt from all taxation; but the said Commission shall make payments on or before the 1st day of October of each year to each town in which such lands, easements, and rights-of-way, respectively, are located, of a sum equal to the taxes which would have been assessed against the said lands, easements, and rights-of-way in such town if the same had been included in the list of taxable property for such year, at the assessed valuation of the same as determined for the tax year 1936. *Provided, however,* That no payment shall be made or required hereinunder on account of reimbursement for loss of taxes on any structure which may be erected on such premises in connection with the construction or use of said project; or on account of any railroad or other public utility which may be relocated under the terms of this agreement, and which thereafter is included in the list of taxable property in said town when relocated.

"(d) The lands, easements, and rights-of-way herein described, are leased and demised solely for the purpose of flood control, and for no other purpose, and the said lessor hereby excepts from this lease and reserves unto itself all benefit or advantage of water conservation, power storage, or power development, that may be inherent in such reservoir site, with the right, at such time as it may determine, and upon compliance with the requirements of the United States respecting the adjustment and payment of any added construction cost by reason of the type of construction adapted for that purpose, and the assumption and payment of the cost of acquiring any additional lands, easements, and rights-of-way necessitated by such additional development, and the full preservation of the principal purpose of flood control, to develop the same in such manner and for such purpose as may be essential to the full beneficial use thereof.

"(e) The term of said lease shall be for the period of 999 years, subject only to be defeated by a breach of the terms or the conditions in this article set forth.

"ARTICLE VII

"The cost of acquisition of lands, easements, and rights-of-way, as used or referred to herein, shall be deemed to include the cost of:

"(1) The purchase or condemnation of lands, easements, and rights-of-way of every kind and nature required or essential in the construction, development, operation, and maintenance of such reservoirs as an effective agency for flood control, and including, among other things, camp sites, borrow banks or pits, rock ledges, gravel deposits and rights-of-way thereto in the vicinity of the dam necessary for the construction and maintenance thereof. Such camps are to be removed and the sites thoroughly cleaned up at no cost to the States or Commission before being relinquished by the United States upon the completion of the construction work;

"(2) The reconstruction, relocation, or elevation of public highways, including bridges or other structures;

"(3) The reconstruction or relocation of public service utilities, including railroads and the alteration of bridges and structures thereon, whether publicly or privately owned;

"(4) The reconstruction or relocation of telegraph, telephone, or electric light or power distribution and transmission lines, pipe lines, aqueducts, water or gas mains; and

"(5) Any other damages, expenses or costs that may be necessitated or incurred in procuring and providing the sites necessary for the construction of the reservoirs herein contemplated, including the cost and expense of acquiring such lands, easements, and rights-of-way and procuring the reconstruction or relocation of the highways, bridges, railroads, telephone, telegraph and electric lines, pipes, aqueducts, and mains above mentioned, or the rights-of-way for the same, or any other similar expenditures.

"ARTICLE VIII

"The rights to be acquired and exercised by the Commission are solely for flood-control purposes, and each of the respective signatory States wherein any reservoir may be situated, reserves respectively unto itself all benefit or advantage of water conservation, power storage, or power development that may be inherent in such reservoir site.

"In the event any signatory State may wish to preserve to itself the value of such site for the purposes aforesaid, it may, through an appropriate agency of the State, so notify the United States, through its War Department, before any construction work is commenced hereunder for flood-control purposes, so that the design and construction of the dam at such site may be developed in such manner as to provide for further development as a storage reservoir for the conservation of water, enhancement of stream flow, or power development.

"*Provided, however,* That nothing herein contained shall be deemed to prevent any such State, at its option, at any time hereafter, by itself or through such agency as it may designate, from developing any such reservoir or reservoirs for use for water conservation, power storage, or power development, in order that it may avail itself of the full beneficial use and enjoyment of the rights herein reserved. In such event, such State shall pay or provide for the payment of all costs or expenses necessary for such further development, including adaptation of any existing dam and works to such purpose, in accordance with plans approved by the Secretary of War, and at all times fully preserve the primary purpose of flood control.

"The terms and conditions under which any such signatory State shall make available the rights of water conservation, power storage, or power development herein reserved shall be determined by separate agreement or arrangement between such State and the United States; and the type and general plans for the construction of such of the reservoirs as are herein contemplated to provide for such further development shall be approved by some agency of such State, for that purpose duly authorized, before any construction thereon is begun or prosecuted.

"ARTICLE IX

"In order that an adequate fund may be established and created from which payments for the acquisition of lands, easements, and rights-of-way may be made, the signatory States become bound and each hereby obligates itself to pay to the Commission, the proportion of the cost of acquisition of lands, easements, and rights-of-way respectively set forth below, and subject to the limitations hereinafter provided, as follows:

"(1) The Commonwealth of Massachusetts 50 percent thereof.

"(2) The State of Connecticut 40 percent thereof.

"(3) The State of New Hampshire 5 percent thereof.

"(4) The State of Vermont 5 percent thereof.

"Provided, however, that it is the understanding, intent, and purposes of the parties hereto, that the cost of acquisition of lands, easements, and rights-of-way for eight reservoirs, provided for herein, shall not exceed the sum of $2,700,000 and that the drainage area of the Connecticut River Basin to be controlled thereby shall be approximately 7$^{61}/_{100}$ percent thereof; and it is expressly provided that the maximum amount to which each of the signatory States shall be bound or obligated for cost of acquisition of lands, easements, and rights-of-way on account of said eight reservoirs shall not exceed the respective proportions hereinbefore set forth of said sum of $2,700,000.

"The fiscal year shall be deemed to begin on July 1 and end on June 30. Payment by the signatory States of the cost of acquisition shall be made as and when requested by the Commisison on

or after July 1, 1937; provided that not more than one-half of said sum of $2,700,000 shall be required to be paid in any fiscal year after said date.

"ARTICLE X

"In the execution of the initial plan of eight reservoirs herein contemplated said Commission, with the approval of the Secretary of War, shall determine the order in which the construction work of the same shall be commenced and prosecuted, except that it is hereby declared to be the intent and purpose of the signatory States that construction work shall be first begun on one reservoir project located in the Commonwealth of Massachusetts and upon one reservoir project located respectively in each of the States of New Hampshire and Vermont before further construction work is begun on any other reservoir.

"The initial plan for the construction of eight reservoirs herein mentioned and provided for is part of a long-range comprehensive program for flood control on the Connecticut River and its tributaries, the object and purpose of the signatory States being to enlarge and expand such flood-control projects to an ultimate control, including the reservoirs hereinabove mentioned of approximately 21 percent of the drainage area thereof, at a total maximum cost to the signatory States, including the cost herein specified, of not to exceed $10,575,000; and the contributions by the respective signatory States, in the proportions hereinbefore set forth, shall not in any event exceed the total amount above stated.

"In the further development of such comprehensive program, said Commission shall determine from time to time the site, character, location, and extent of such additional reservoirs, subject to the approval of the legislature of the State in which the same may be located.

"ARTICLE XI

"Each of the signatory States shall annually contribute and pay to the Commission the respective proportions of the expense of operation and maintenance of the flood-control reservoirs hereafter constructed under the terms of this agreement, as follows:

"The Commonwealth of Massachusetts, 50 percent thereof;

"The State of Connecticut, 40 percent thereof;

"The State of New Hampshire, 5 percent thereof;

"The State of Vermont, 5 percent thereof;

and each of said States shall make adequate provision for compliance on its part with the provisions of this article, and the same shall be made available as and when required upon the requisition of the Commission.

"As a part of the expense of operation and maintenance of said reservoirs, the Commission shall assume and pay to the respective towns entitled thereto the cost of reimbursement for loss of taxes, as set forth and required in subparagraph (c) in article VI hereof, and shall pay all costs incident to or damages resulting from the operation and maintenance of such flood-control reservoirs, and shall save the United States free and harmless on account thereof, and shall pay all other costs or expenses which may be necessary in the operation and maintenance thereof, including the expenses of the members of said Commission hereinbefore provided to be paid out of the funds of said Commission.

"ARTICLE XII

"Each of the signatory States hereby releases and discharges the others of and from all damages, which may be claimed to result from the obstruction, detention, impounding, storage, release, or diversion of the waters of said Connecticut River and its tributaries, insofar as the same may be in any way affected by the construction, operation, or maintenance of the reservoirs herein contemplated.

"ARTICLE XIII

"This compact shall become operative and effective when approved by the legislatures of each of the signatory States and by the Congress of the United States. Notice of approval shall be given by the Governor of each State to the Governors of the other States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of each of the signatory States of its approval by the Congress of the United States."

SEC. 2. The right to alter, amend, or repeal the provisions of section 1 is hereby expressly reserved.

Mr. O'MAHONEY. Mr. President, I send to the desk a telegram which has just been received by the distinguished junior Senator from Connecticut [Mr. MALONEY] from the Democratic Governor of Connecticut, and ask that that telegram, together with another telegram from Connecticut, also addressed to the junior Senator from Connecticut, be read by the clerk.

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

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

The question is on agreeing to the conference report.

Mr. O'MAHONEY. I hope the clerk will be good enough now to read the telegrams.

The PRESIDING OFFICER. Without objection, the clerk will read as requested.

The legislative clerk read as follows:

HARTFORD, CONN., *June 15, 1938.*

Hon. FRANCIS T. MALONEY,
United States Senate:

Congratulations on the heroic stand you are taking today on the preservation of the rights of the States.

GOV. WILBUR L. CROSS.

HARTFORD, CONN., *June 15, 1938.*

Senator FRANCIS T. MALONEY,
Senate Office Building:

Hartford Times informed us of splendid speech you made on floor of Senate. Governor Cross just sent you wire commending vigorous and heroic position you have taken in preservation of State rights. State compact commission joins with Governor in expressing to you our deep thanks and appreciation.

CHARLES J. MCLAUGHLIN.

PROTECTION TO THE STATES

Mr. O'MAHONEY. Mr. President, may I not now say to the Members of the Senate who have been summoned here by a quorum call that my purpose in raising this question has not been motivated by any desire to defeat this conference report or to delay the adjournment of Congress? I am as willing as is any other Member, since such seems to be the program, that the session shall close, although I recognize that there are many subjects of supreme national importance which remain unsolved and which the Congress might solve if it were to remain in session. But my purpose is not delay. My purpose is to make a serious appeal to Members of this body not to endanger the sovereignty of the States with respect to the matter that is now before the Senate.

Mr. President, it strikes me as being a most pitiful circumstance that Members of the Senate of the United States are seriously considering today passing a bill which will withdraw from the States the protection of the provisions of the act of June 22, 1936, which were intended to preserve the sovereignty of the individual States in the face of the rapidly accelerating movement toward Federal consolidation.

Let me make it clear that I am one of those who believe in the most complete exercise of the Federal authority. I am, for example, one of those who believe that the power of Congress to regulate commerce among the States, granted by section 8 of article I of the Constitution is a complete and plenary power, authorizing the Congress to regulate even those matters which are wholly intrastate if to do so is necessary in order to carry out the fundamental power of regulation of commerce.

My good friend the Senator from Louisiana [Mr. OVERTON] has quoted the Kohl case and other cases to sustain the point of view that the Federal Government has the power of eminent domain. The Senator from Vermont [Mr. AUSTIN] is quite correct in his contention that there is no dispute in that regard. We all agree that the Federal Government has the right of eminent domain whenever necessary to carry out the powers which are granted to the Congress by the Constitution. What the Senator from Louisiana is overlooking is that flood control is not among the specifically enumerated powers of the Congress. The right of the Federal Government to deal with matters of flood control is an implied

power, derived from the general theory, the accepted theory, the principle, I may say, that Congress has complete power over navigable waters.

By legislation enacted from time to time, we have been extending the power to control navigable waters to include, by implication, flood control. Because there was a doubt of the extent to which that implication could be carried, the Congress deemed it necessary to pass the various laws to which the Senator has referred, granting the power of eminent domain under rivers and harbors activities.

That subject is not involved here. My contention is that we are now specifically repealing the provision of the act of 1936 to the effect that the Federal Government may not acquire land within the boundaries of one State for the benefit of another State without the consent of the State within which the land is acquired.

THE ISSUE HAS NOT BEEN MET

No Senator yet has uttered a single word upon the floor of the Senate to defend that repeal. I ask the Senators of the United States, I ask this body, to sustain that fundamental principle of State sovereignty that no State shall be permitted to risk the loss of complete jurisdiction of its lands and waters. Let no Member of this body go back to his people and say that by his vote he reduced the States of the dignity of counties. Are we here representing sovereign, independent States, or are we representing mere dependencies of the Federal power?

The senior Senator from Idaho has called attention to the fact that there is an amendment in this bill which grants a specific exemption to two States with respect to one river and one dam—the States of Oklahoma and Texas. Let me read that provision from page 5 of the conference report:

> The Government of the United States acknowledges the right of the States of Oklahoma and Texas to continue to exercise all existing proprietary or other rights of supervision of and jurisdiction over the waters of all tributaries of Red River within their borders above Denison Dam site.

FORTY-SIX STATES DISREGARDED

Is it not as plain as plain can be that this declaration, that the Government of the United States recognizes and acknowledges the right of the States of Oklahoma and Texas to jurisdiction over the waters of the Red River, is a declaration that without such exemption that jurisdiction would have been impaired? It is against the sacrifice of that jurisdiction that I am today appealing to the Members of the United States Senate. Why should there be an exception for 2 States and the other 46 have their jurisdiction placed in jeopardy?

I am appealing to the Members of this body on behalf of the Rocky Mountain States, wherein prevails the doctrine of "use" with respect to water, not the doctrine of riparian rights; and I am saying to my colleagues upon this floor that if they vote for the conference report in the form in which it has been presented to us they are saying to the States of the arid West, "You are to be reduced from the status of sovereign States to that of mere satrapies of the Federal Government, dependent for your progress, not upon the efforts and energies of your own people, but upon the favors of Washington.

Mr. President, I hope the Senate will reject the conference report, and in expressing that hope I say, without the slightest doubt of the correctness of the statement, that this conference report can be corrected within a half hour and a bill passed that will serve every proper purpose.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. VANDENBERG, Mr. WALSH, Mr. O'MAHONEY, and others asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. VANDENBERG (when his name was called). On this question I am paired with the senior Senator from Indiana [Mr. VAN NUYS]. I transfer that pair to the junior Senator from Maine [Mr. WHITE], and will vote. I vote "nay."

The roll call was concluded.

Mr. HALE. My colleague [Mr. WHITE] is necessarily absent. If present and voting on this question, he would vote "nay."

Mr. BARKLEY. The junior Senator from Pennsylvania [Mr. GUFFEY] and the Senator from Florida [Mr. ANDREWS] are unavoidably detained on official business. If present, they would vote "yea."

Mr. FRAZIER. My colleague [Mr. NYE] is absent. If present and voting, he would vote "yea."

Mr. AUSTIN. I announce that the Senator from New Hampshire [Mr. BRIDGES] is paired with the Senator from California [Mr. MCADOO]. If present, the Senator from New Hampshire would vote "nay" on this question, and the Senator from California would vote "yea."

Mr. LEWIS. The Senator from California [Mr. MCADOO], the Senator from New Jersey [Mr. SMATHERS], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS] are detained on important public business. I am advised that if present and voting, these Senators would vote "yea."

The Senator from West Virginia [Mr. HOLT] and the Senator from New Jersey [Mr. MILTON] are unavoidably detained.

The Senator from South Carolina [Mr. SMITH] and the Senator from Nevada [Mr. MCCARRAN] are detained in their respective States on public business.

The result was announced—yeas 51, nays 32, as follows:

YEAS—51

Adams	Dieterich	Lewis	Pittman
Bankhead	Ellender	Logan	Pope
Barkley	Frazier	Lundeen	Radcliffe
Bilbo	Green	McGill	Reames
Bone	Harrison	McKellar	Reynolds
Brown, Mich.	Hayden	McNary	Russell
Brown, N. H.	Herring	Miller	Schwellenbach
Bulkley	Hill	Minton	Sheppard
Byrnes	Hitchcock	Murray	Shipstead
Capper	Hughes	Neely	Truman
Caraway	Johnson, Colo.	Norris	Wagner
Clark	La Follette	Overton	Wheeler
Connally	Lee	Pepper	

NAYS—32

Ashurst	Chavez	Gillette	Maloney
Austin	Copeland	Glass	O'Mahoney
Bailey	Davis	Hale	Schwartz
Berry	Donahey	Hatch	Thomas, Utah
Borah	Duffy	Johnson, Calif.	Townsend
Bulow	George	King	Tydings
Burke	Gerry	Lodge	Vandenberg
Byrd	Gibson	Lonergan	Walsh

NOT VOTING—13

Andrews	McAdoo	Nye	Thomas, Okla.
Bridges	McCarran	Smathers	Van Nuys
Guffey	Milton	Smith	White
Holt			

So the conference report was agreed to.

JAMES J. HOGAN

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2505) for the relief of James J. Hogan, which were, on page 1, line 5, to strike out all after "Treasury" down to and including "Corps" in line 6, and insert "not otherwise appropriated"; on page 1, line 7, to strike out all after "of" down to and including "be" in line 8 and insert "$380"; and on page 1, line 9, to strike out "for damages sustained by the said James J. Hogan."

Mr. BARKLEY. On behalf of the Senator from New Jersey [Mr. SMATHERS], I move that the Senate concur in the amendments of the House.

The motion was agreed to.

OSAGE INDIANS OF OKLAHOMA

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 4036) relating to the tribal and individual affairs of the Osage

Indians of Oklahoma, which was to strike out all after the enacting clause and insert:

That hereafter the Secretary of the Interior shall cause to be paid to each adult member of the Osage Tribe of Indians not having a certificate of competency his or her pro rata share, either as a member of the tribe or heir or devisee of a deceased member, of the interest on trust funds, the bonus received from the sale of oil or gas leases, and the royalties therefrom received during each fiscal quarter, not to exceed $1,000 per quarter; and if such adult member has a legal guardian, his current income not to exceed $1,000 per quarter may be paid to such legal guardian in the discretion of the Secretary of the Interior: *Provided*, That when an adult restricted Indian has surplus funds in excess of $10,000 there shall be paid such Indian sufficient funds from his accumulated surplus in addition to his current income to aggregate $1,000 quarterly; but in the event of any adult restricted Indian has surplus funds of less than $10,000, such Indian shall receive quarterly only his current income not to exceed $1,000 per quarter: *Provided further*, That the Secretary of the Interior is hereby authorized to and may in his discretion pay out of any money heretofore accrued or hereafter accruing to the credit of any person of Osage Indian blood who does not have a certificate of competency or who is one-half or more Osage Indian blood, all of said person's taxes of every kind and character, for which said person is now or hereafter may be liable, before paying to or for such person any funds as required by law: *And provided further*, That upon application and consent of any restricted Osage Indian the Secretary of the Interior may cause payment to be made of additional funds from the accumulated surplus to the credit of any Osage Indian under such rules and regulations as he may prescribe. Rentals due such adult members from their lands and their minor children's lands and all income from such adults' investments, including interest on deposits to their credit, shall be paid to them in addition to the current allowances above provided.

Whenever minor members of the Osage Tribe of Indians have funds or property subject to the control or supervision of the Secretary of the Interior, the said Secretary may in his discretion pay or cause to be paid to the parents, legal guardian, or any person, school, or institution having actual custody of such minors, such amounts out of the income or funds of the said minors as he deems necessary, and when such a minor is 18 years of age or over, the Secretary of the Interior may in his discretion cause disbursement of funds for support and maintenance or other specific purposes to be made direct to such minor.

SEC. 2. There is authorized to be appropriated from funds on deposit to the credit of the Osage Tribe of Indians not to exceed $10,000 annually to pay per diems to, and traveling expenses of, the members of the Osage Tribal Council in making necessary trips to the city of Washington and other places in connection with Osage tribal affairs. Expenditures from appropriations made pursuant to this authorization shall be in accordance with rules and regulations to be prescribed by the Secretary of the Interior.

SEC. 3. That section 1 of the act of Congress of March 2, 1929 (45 Stat. L. 1478), relating to the Osage Indians of Oklahoma, be, and the same is hereby, amended to read as follows:

"That all that part of the act of June 28, 1906 (34 Stat. L. 539), entitled 'An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes,' which reserves to the Osage Tribe the oil, gas, coal, or other minerals, covered by the lands for the selection and division of which provision is made in that act is hereby amended so that the oil, gas, coal, or other minerals, covered by said lands are reserved to the Osage Tribe, until the 8th day of April, 1983, unless otherwise provided by act of Congress, and all royalties and bonuses arising therefrom shall belong to the Osage Tribe of Indians, and shall be disbursed to members of the Osage Tribe or their heirs or assigns as now provided by law, after reserving such amounts as are now or may hereafter be authorized by Congress for specific purposes.

"The lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage Tribe of Indians, the members thereof, or their heirs and assigns, shall continue subject to such trusts and supervision until January 1, 1984, unless otherwise provided by act of Congress.

"The Secretary of the Interior and the Osage Tribal Council are hereby authorized and directed to offer for lease for oil, gas, and other mining purposes any unleased portion of said land in such quantities and at such times as may be deemed for the best interest of the Osage Tribe of Indians: *Provided*, That not less than 25,000 acres shall be offered for lease for oil- and gas-mining purposes during any one year: *Provided further*, That as to all lands hereafter leased, the regulations governing same and the leases issued thereon shall contain appropriate provisions for the conservation of the natural gas for its economic use, to the end that the highest percentage of ultimate recovery of both oil and gas may be secured: *Provided, however*, That nothing herein contained shall be construed as affecting any valid existing lease for oil or gas or other minerals, but all such leases shall continue as long as gas, oil, or other minerals are found in paying quantities.

"Homestead allotments of Osage Indians not having a certificate of competency shall remain exempt from taxation while the title remains in the original allottee of one-half or more of Osage Indian blood and in his unallotted heirs or devisees of one-half or more of Osage Indian blood until January 1, 1984: *Provided*, That the tax-exempt land of any such Indian allottee, heir, or devisee shall not at any time exceed 160 acres."

Mr. CHAVEZ. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

WILLIAM R. KELLOGG—CONFERENCE REPORT

Mr. BAILEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 371) entitled "An act for the relief of William R. Kellogg" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House, and agree to the same.

M. M. LOGAN,
ARTHUR CAPPER,
JOSIAH W. BAILEY,
Managers on the part of the Senate.
AMBROSE J. KENNEDY,
ROBERT RAMSPECK,
FRANK CARLSON,
Managers on the part of the House.

The report was agreed to.

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 without amendment the following bills of the Senate:

S. 1294. An act to amend the act entitled "An act to authorize the President to provide housing for war needs," approved May 16, 1918, as amended;

S. 2163. An act to authorize the deposit and investment of Indian funds;

S. 3337. An act to amend section 2 of the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1919, and for other purposes," approved July 1, 1918, to increase the authorized percentage of privates, first-class, in the Marine Corps from 25 to 40 percent of the whole number of privates;

S. 3548. An act to amend section 9 of the Civil Service Retirement Act, approved May 29, 1930, as amended;

S. 3774. An act to authorize cooperation between the United States and the State of New York in the protection of the public interest and welfare inherent in certain forest lands in said State through provision for the acquisition and management of said lands;

S. 4007. An act authorizing the county of Lawrence, Ky., to construct, maintain, and operate a free highway bridge across the Big Sandy River at or near Louisa, Ky.;

S. 4011. An act to extend the time for completing the construction of a bridge across the Mississippi River at or near a point between Cherokee and Osage Streets, St. Louis, Mo.;

S. 4069. An act to authorize the Secretary of War to lend certain property to the reunion committee of the United Confederate Veterans to be used at their annual encampment to be held at Columbia, S. C., from August 30 to September 2, 1938;

S. 4070. An act to authorize the attendance of the Marine Band at the United Confederate Veterans' 1938 Reunion at Columbia, S. C., from August 30 to September 2, 1938, both dates inclusive; and

S. 4132. An act limiting the hours of labor of certain officers and seamen on certain vessels navigating the Great Lakes and adjacent waters.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10024) to establish the Olympic National Park, in the State of Washington, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DEROUEN, Mr. ROBERTSON, Mr. HILL,

Mr. ENGLEBRIGHT, and Mr. CRAWFORD were appointed managers on the part of the House at the conference.

The message further announced that the House had insisted upon its amendments to Senate amendments numbered 72, 74, 75, and 76 to the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects, disagreed to by the Senate; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. TAYLOR of Colorado; Mr. WOODRUM, Mr. BOYLAN of New York; Mr. CANNON of Missouri; Mr. LUDLOW, Mr. SNYDER of Pennsylvania, Mr. TABER, Mr. BACON, and Mr. WIGGLESWORTH were appointed managers on the part of the House at the further conference.

The message also announced that the House had severally agreed to the amendments of the Senate to each of the following bills and joint resolution of the House:

H. R. 3162. An act conferring jurisdiction upon the United States Court of Claims to hear, examine, adjudicate, and render judgment on any and all claims which the Uncompahgre (Tabegauche), Uintah (Uinta), and White River (Yampa and Grand River) Bands of the Ute Indians may have against the United States, and for other purposes;

H. R. 4571. An act for the relief of the widow and children of James Patrick Mahar;

H. R. 5379. An act for the relief of Mrs. B. E. Hennigan and her dependent minor children;

H. R. 5690. An act to amend the Longshoremen's and Harbor Workers' Compensation Act;

H. R. 7844. An act to amend the act of Congress entitled "An act to establish an Alaska Game Commission, to protect game animals, land fur-bearing animals, and birds in Alaska, and for other purposes," approved January 13, 1925, as amended; and

H. J. Res. 699. Joint resolution to amend sections 101, 102, 103, 104, and 859 of the Revised Statutes of the United States relating to congressional investigations.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 10432) to amend an act approved June 14, 1906 (34 Stat. 263), entitled "An act to prevent aliens from fishing in the waters of Alaska."

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1995) to add certain lands on the island of Hawaii to the Hawaii National Park, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 9721) authorizing the disbursement of funds appropriated for compensation of help for care of material, animals, armament, and equipment in the hands of the National Guard of the several States, Territories, and the District of Columbia, and for other purposes.

The message also announced that the House had passed a bill (H. R. 10846) to create the office of the Librarian Emeritus of the Library of Congress, in which it requested the concurrence of the Senate.

The message further announced that the House insisted upon its amendments to the bill (S. 662) for the relief of Jeanne Rich, a minor, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. KENNEDY of Maryland, Mr. EBERHARTER, and Mr. CASE of South Dakota were appointed conferees on the part of the House.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 66), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That, notwithstanding any recesses of the Senate or House of Representatives or the adjournment of the third session of the Seventy-fifth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

SECOND DEFICIENCY APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 10851) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1938, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1938, and June 30, 1939, and for other purposes.

The VICE PRESIDENT. When the Senate began the consideration of the conference report on the flood-control bill, the Senator from Colorado [Mr. ADAMS] had the floor in connection with the deficiency bill, which was taken up by consent of the Senator from Washington [Mr. SCHWELLENBACH], the unfinished business having been temporarily laid aside.

The Chair now recognizes the Senator from Colorado [Mr. ADAMS].

Mr. ADAMS. Mr. President, I offer an amendment to carry out the provisions of an act passed by Congress, and supported by the Budget.

The VICE PRESIDENT. The amendment offered by the Senator from Colorado will be stated.

The CHIEF CLERK. On page 13, after line 7, it is proposed to insert:

ZONING COMMISSION

For salaries and expenses necessary for the administration of the act entitled "An act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes," approved June —, 1938, fiscal year 1939, $5,690.

The amendment was agreed to.

Mr. RUSSELL. Mr. President, it has been brought to my attention that there is some conflict between the language of the bill as it passed the House on page 88, commencing with line 13, and the Senate amendment adopted yesterday providing for the refund of taxes paid by producers of cotton, tobacco, and potatoes. I therefore move to amend by striking out the language beginning with the word "provided" on line 13, page 88, down to and including the word "refund" on line 25.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 88, line 13, after the numerals "1937", it is proposed to strike out the following:

Provided, That hereafter no refund shall be allowed of any amount paid or collected as tax under the aforesaid Cotton Act of April 21, 1934, as amended, and Tobacco Act of June 28, 1934, as amended, unless the person who paid such tax shall establish to the satisfaction of the Commissioner of Internal Revenue (a) that he bore the burden of the amount of tax for which refund is claimed, and did not shift it to any other person or (b) if he shifted the burden of such tax to any other person, that he has repaid the tax to the person who bore the burden of the tax, or unless he files with the Commissioner written consent of the person who bore the burden of tax to the allowance of the refund.

The amendment was agreed to.

Mr. BULKLEY. I offer an amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to insert at the proper place the following:

To carry out the provisions of the joint resolution (H. J. Res. 620) entitled "Joint resolution for the observance of the celebration of the one hundred and twenty-fifth anniversary of the Battle of Lake Erie", fiscal year 1939, $25,000, to be immediately available.

Mr. BULKLEY. Mr. President, this is to carry out the provisions of a joint resolution which has now passed both branches of Congress, and passed the Senate only night before last.

Mr. BYRNES. No estimate has been made?

Mr. BULKLEY. I do not know about that, but the joint resolution passed the Senate only night before last.

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

The amendment was agreed to.

Mr. SHEPPARD. Mr. President, I offer an amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to insert at the proper place the following:

Army Medical Library and Museum Building, District of Columbia, as authorized by the act entitled "An act to authorize the Secretary of War to proceed with the construction of certain public works in connection with the War Department in the District of Columbia, $1,250,000.

Mr. SHEPPARD. Mr. President, Congress has passed a law authorizing the construction of this building at a cost of $3,750,000. Last Monday the President transmitted a Budget estimate in which he concurred, and recommended the appropriation of that amount. However, I do not ask for that amount at this time, having ascertained that a substantial start can be made on the building for $1,250,000. I ask the chairman of the committee if he will not agree to accept the amendment.

Mr. ADAMS. Mr. President, I have no right to agree to accept the amendment, but, so far as I am concerned, I think it would be all right to have it adopted and taken to conference, in view of the fact that there is a Budget estimate.

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

The amendment was agreed to.

Mr. POPE. Mr. President, I desire to have printed in the RECORD a proposed amendment for an appropriation of $4,000 for the operation and maintenance of a fish hatchery in Shoshone County, Idaho. The proposed amendment is as follows, on page 92, line 2, strike out the period and insert a semicolon and the following:

and not to exceed $4,000 for the operation and maintenance of a fish hatchery in Shoshone County, Idaho, to be donated to the United States by the Shoshone County Sportsmen's Association, of Wallace, county of Shoshone, Idaho.

A most unusual situation exists. The association proposing the amendment raised in the town of Shoshone $25,000 to build and equip this fish hatchery, raising the money from various sources, by 25-cent contributions in the high school, and from others in the town, and offered to donate the hatchery to the Federal Government in the event the Federal Government would appropriate $4,000 for the maintenance and operation of the hatchery.

I have a letter from the Bureau of Fisheries in which it is stated this is a most unusual situation. They recommend very strongly that this action be taken. However, there is no existing law, I have no Budget estimate, and the chairman of the subcommittee having the bill in charge tells me that he feels he would have to object on the ground that it would be legislation. I serve notice, however, that I shall pursue this matter, and next year expect to obtain the necessary appropriation. Therefore I shall not tender the amendment to the Senate, but I desire to have printed a letter from the secretary of the association in Shoshone County in connection with my amendment.

The VICE PRESIDENT. Is there objection?

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

SHOSHONE COUNTY SPORTSMEN'S ASSOCIATION,
Wallace, Idaho, March 7, 1938.

Hon. JAMES P. POPE,
Senate Office Building, Washington, D. C.

DEAR SENATOR POPE: The Shoshone County Sportsmen's Association, Inc., wishes to make an unusual request of you. We would like to have the United States Bureau of Fisheries budget bill amended so that an appropriation of $4,000 additional funds will be available for the sole use of maintaining and operating a fish hatchery in Shoshone County. We of the association are raising a fund of $25,000 to pay for the erection and outfitting of this hatchery. All we ask is that the Federal Government pay for the maintenance. The hatchery will be deeded to the Federal Government upon such assurance that it will be maintained. Usually sportsmen's and civic groups ask for the Government to foot the entire bill. We feel differently, that we should show our interest by financial support of such a project, then call upon the Federal Government to go the rest of the way. We have already purchased and paid in full for 90 acres of ground adjoining the present Shoshone County Park. The site for the hatchery has been approved by Hon. Fred J. Foster, regional director of the United States Bureau of Fisheries, Seattle; David L. Maclay, junior biologist of the United States Forest Service, Mr. Russell, superintendent of the Federal Hatchery of Hagerman, Idaho.

We have had all of the land surveyed and crews are now working there clearing the site. Also on the site is a 7-room house, barns, running water, garage, etc. (all paid for) which can be used for the convenience of the hatchery workers. The fish hatchery site will only require about 5 acres, the balance to be deeded to the United States Forest Service for the purpose of enlarging the Shoshone County Park thereby increasing its present size seven or eight times.

We are now assured of the successful completion of the drive for funds. Two thousand people have already chipped in sums varying 25 cents to $500 apiece. The high-school students of Mullan voted an assessment of 25 cents apiece; the Wallace high school and faculty gave $57; many miners, office workers, etc., voted the amount of 1 day's wage check. And the money is constantly coming in. Within the next 30 days we will have a sufficient amount to undertake the final construction of the hatchery and rearing ponds. The water supply is ample. We had a complete survey of the county made by Russell and Maclay before the site was agreed upon. Their report was unanimously adopted by the association and the program started to raise the funds. To date we have not asked the mining companies to contribute, but we know that the balance of the fund will be paid for by them. However, the contributions have come from so many different sources (from the C. I. O., local chambers of commerce, barbers' unions, Masonic, Elk, Eagles Lodges, women's clubs, Boy Scouts, etc.) that we know that the project will be successful. We have about $10,000 cash raised now, with promises and guarantees of the balance. That is why I have not written before, because I wanted to be sure that the funds would be forthcoming first.

I'm sure that the proposal of increasing the budget appropriation of the United States Bureau of Fisheries by the amount of $4,000 annually to maintain a hatchery bought and paid for by the sportsmen and hundreds of individuals of the community will meet the approval of your colleagues. Already this Congress has done more for the fish and game interests of the country than any or all of the previous Congresses as shown last session by the unanimous vote on the allocation of taxes derived from guns and shells to the United States Biological Survey.

I will send you a list later of the various donors showing the individual amounts subscribed just as soon as it is completed. Also any further information you may desire. The Bureau also has on file a short report by Hon. Fred J. Foster.

The 2,000 members of Shoshone County Sportsmen's Association Inc. (Idaho's largest sportsmen's association), hope that you will accede to their request. We're making a sporting gesture to the Federal Government and we hope that they accept it as showing our good faith in asking for the appropriation.

With best personal wishes to you and the office force.

Respectfully,

DAN MCGRATH, *Secretary.*

Mr. GREEN. Mr. President, I desire to offer an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 10, line 24, after the figures "$500,000" it is proposed to insert the words "to become available when the design and site are approved by the Committee of Fine Arts."

Mr. ADAMS. Mr. President, I should like to have the Senator from Rhode Island explain just what the consequence of the adoption of the amendment would be, and the purpose of the amendment.

Mr. GREEN. Mr. President, this is an amendment of the provision for a Thomas Jefferson memorial. It would not prevent the erection of a suitable memorial, and it would not affect the amount to be made available for construction. The amendment merely provides that the site and design shall first be approved by the Commission of Fine Arts.

It is extraordinary that there is now such a universal demand for a suitable memorial to Thomas Jefferson; it is a disgrace to this Nation, in my opinion, that for 150 years no appropriate memorial has been erected to him in this capital city. But it would be very unfortunate if, after waiting 150 years, a design or site were approved and work on the

memorial begun when there is such widespread dissatisfaction with the design and selected site as is the case at present.

The statement is made that this design and site have been approved by the Commission of Fine Arts. If that is the case, the adoption of the amendment would have no effect whatever. If, however, that is not the case, it seems to me that that is the very purpose for which the Commission of Fine Arts was created. The language of the act creating the Commission does not make it obligatory to follow its advice, but it does make it obligatory to ask for its advice. The amendment provides that the advice shall be taken, and it seems to me that in the matter of a great memorial such as this it is proper to require the advice of the Commission of Fine Arts to be taken.

If I may use an illustration, an alternative site has been suggested, on the opposite shore of the Potomac, in direct line with the Capitol, the Washington Monument, and the Lincoln Memorial, so that in one straight line would be the Capitol and memorials to those three great Americans, Washington, Lincoln, and Jefferson. The site would be in his own State of Virginia. From it a statute of him would look down upon the capital city, the symbol of the Nation which he helped to create. A design might be chosen which would be not merely a monument to a dead statesman, but a memorial to a great living spirit. I think of Jefferson as a living spirit, still inspiring the people of this great nation, and not as a dead statesman, whose work was done, and whom we should merely commemorate.

For the reasons I have stated it seems to me the amendment is proper.

Mr. KING. Mr. President, I have listened with interest to the statement made by the Senator from Rhode Island [Mr. GREEN]. In my opinion, there is an almost universal demand in the United States for the erection of a suitable memorial commemorating the great achievements of Thomas Jefferson. I think it is conceded that next to Washington he was the outstanding figure in that period which laid the foundations of democratic government.

Jefferson was a great political prophet, and a statesman whose fame will live so long as people love liberty and strive for justice and free government. No monument will do justice to his lofty character and his undying glory. He breathed into charters and statutes the spirit of liberty and justice, and he left behind him a fame which entitles him to the gratitude of all generations. He lighted the fires of liberty, and inspired his contemporaries not only in this but in other lands to struggle to throw off the chains of oppression and to establish democratic governments in which the fullness of liberty might be enjoyed.

The American people, on each recurring anniversary of the promulgation of the Declaration of Independence, meet and read that immortal document and renew their faith in the ideals and concepts to which Jefferson gave life, and pledge anew their devotion to the Constitution of the United States and the principles of liberty and justice.

As I have indicated, the American people believe that the genius of sculptors and artists should be invoked in order that a suitable memorial might be erected to his name. It is not to the credit of our country that so many years have passed without a suitable monument to Jefferson having been erected in the Capital of this Republic. Unfortunately, while his greatness has been recognized by the American people, they have not been sufficiently earnest and loyal to his name, as a result of which many decades have passed without a suitable monument being erected commemorating his life and his great achievements. He symbolizes the spirit of liberty, of justice, of freedom of speech, and of religion, and those lofty ideals which are essential to the reign of the highest form of civilization. He is a true representative of the ideals which establish and maintain liberty and glorify the life of truly great nations. Too long we have awaited for a monument to Jefferson.

Differences of opinion have arisen between groups and individuals, which have delayed the erection of a suitable monument to his name. There have been differences of opinion as to a suitable site upon which the monument was to be erected, and as to the character and form of the monument itself. These differences of opinion have prevented the execution of a duty which rests upon the American people.

Reference was made by the Senator from Rhode Island [Mr. GREEN] to some of the differences of opinion and the obstacles which have delayed the realization of the objective which was sought.

Commissions have been created which had to do with the selection of a suitable site and the preparation of a suitable monument. As indicated there has not been complete harmony among various members of committees. The commission appointed to select a site had some differences of opinion but 2 or 3 years ago when a site was selected within the Tidal Basin there was considerable public opposition to the same. There was also some criticism of the type of the memorial. The contention was made by some that it was a mausoleum lacking in spirit and life such as would be in harmony with the spirit and ideals of Jefferson. The Fine Arts Commission, of which Dr. Moore was president, declined to approve of the site and as I recall the memorial, contention was made that the site would affect the beauty of the Tidal Basin, and destroy some of the beautiful trees which were so attractive and unique.

The Park and Planning Commission, of which I happen to be a member, was not satisfied with the site or form of the mausoleum. Further studies have been given to the subject since then, and, as I understand, an agreement has been reached by members of the Commission charged with the duty of selecting the site and providing for the erection of a memorial, and pursuant to such agreement, the measure before us was presented to the House, and a few days ago approved by that body. It is now before the Senate for action.

Frankness compels me to say that I am not entirely satisfied with the site selected or the form of the memorial. Mr. Gilmore, the head of the Fine Arts Commission, who succeeded Dr. Moore upon the latter's resignation, has not approved of the plan embodied in the bill under consideration. The Fine Arts Commission has some responsibility in connection with the approval of the form of the memorial to be erected. The Commission created by statute may decline to accept the views of the Fine Arts Commission. I regret that there is not unanimity between the Fine Arts Commission and the Thomas Jefferson Memorial Commission. While I regret the delay, I cannot help but believe that a further examination of the matter would contribute to a satisfactory solution of the same.

The amendment offered by the Senator from Rhode Island certainly merits our consideration. Indeed I believe that with certain questions still controversial—questions relating to the design of the memorial and the site and the approaches thereto—there should be a reexamination of the matter involved in order that objections voiced from various sources may be further considered with a view to a harmonious adjustment of all differences.

I might add that I have a copy of a letter from Dr. Moore, who for so many years was Chairman of the Fine Arts Commission, expressing disapproval of the memorial plan. I have also received many communications from residents of the District of Columbia, and several from persons residing in nearby States, in which they request that further consideration be given this matter.

I had hoped that all controversies might be settled and that a plan would be presented and adopted that would meet the approval of all.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Rhode Island [Mr. GREEN].

Mr. GLASS. Mr. President, this controversy has extended over a period of 4 or 5 years. The Congress of the United States, at the suggestion of the President of the United States, and upon a report of the Bureau of the Budget, ordered the erection of this memorial to Thomas Jefferson.

A memorial commission was appointed, composed of three Members of the House of Representatives, three Members of the United States Senate, three members appointed by the President who are lineal descendants of Thomas Jefferson, and three members appointed by the Thomas Jefferson Memorial Fund, which purchased his home at Monticello.

Twenty-four meetings were held by the Commission appointed by Congress. I may say incidentally that it was a perfectly nonpartisan Commission, one of the Senate Members being the distinguished minority leader of the Senate [Mr. McNARY], the other two Senators being my friend the Senator from Connecticut [Mr. LONERGAN], and the distinguished Senator from Utah [Mr. THOMAS].

It has been stated in the Senate that Mr. Moore, the chairman of the Fine Arts Commission, was opposed to this proposition. As a matter of fact, the record shows that he was heartily in favor of both the site and of the plan. The architect was the greatest architect of this era, if not the greatest architect this country ever produced, John Russell Pope. He was appointed by Mr. Moore, the chairman of the Commission.

At this point I shall quote the testimony of the chairman of the Thomas Jefferson Memorial Commission, Representative BOYLAN, before the House committee:

> The plan that we have to submit to the committee this morning is one that has been approved by the Commission and by the President; and the President is whole-heartedly, whole-souled for it and has recommended to the Bureau of the Budget that they present a request for an initial appropriation to commence the work.

The total cost authorized was $3,000,000. This appropriation carries but $500,000 of the amount authorized.

The Senator from Utah [Mr. THOMAS], a member of the committee, said:

> I think no one in this day and age can depreciate in the least the value of monuments in reflecting the belief of the American people in democracy. * * *
>
> The type of monument and the place for the monument were subjects that our Commission has considered carefully during the last 3 or 4 years.
>
> There has been no lack of difference of opinion, but we have come to a unanimous understanding in the decision which we have now made. And we come before you asking in a united way that you give consideration to our decision and recognize the propriety of starting at once to carry out the authorization that has been made by Congress.

It is stated that the Fine Arts Commission as now composed is opposed to this monument and to the site. That comes from the fact that Mr. Moore, who was one of the most distinguished men ever to occupy a place on the Fine Arts Commission, resigned; and the New York landscape architect who has succeeded him wants to figure in the picture. Therefore he and some new members of the Commission are undertaking to reverse the action previously taken.

The matter was elaborately discussed in the House of Representatives, and by a vote of 2 to 1 the present design, and the site presented by this Commission, were agreed to.

I do not want to delay the Senate, because I have no idea the Senate is going to subscribe to this suggestion. The alternative proposal of the new Chairman of the Fine Arts Commission was to construct a monument, the estimated cost of which was $14,000,000, as compared to this modest cost of $3,000,000 for the design and the site unanimously agreed upon by the Commission.

I may suggest that with greater propriety one of the senatorial members of the Commission might resist this proposition. I have particularly in mind the distinguished Senator from Utah [Mr. THOMAS], whose cultural accomplishments, I think, would compare very favorably with those of the present Chairman of the Fine Arts Commission, who wants us to build a $14,000,000 monument to Thomas Jefferson.

Mr. President, I think it is an unutterable shame that 150 years should have elapsed without a memorial being erected in the Capital of the Nation to the man who wrote the Declaration of Independence, the very foundation of our national existence.

The proposal to permit the new Fine Arts Commission, the chairman of which has changed his attitude, to determine whether the memorial shall be built means that nothing will be done, because Congress is not going to appropriate $14,000,000 for a monument to anybody at this time.

Therefore, I hope the amendment of the Senator from Rhode Island [Mr. GREEN] will not be adopted.

Mr. THOMAS of Utah. Mr. President, let me say one word in confirmation of what the Senator from Virginia has said.

Our Commission has been meeting for a number of years, and I think I have attended every meeting the Commission has held. A difference of opinion has been expressed in the Commission, both as to the site and as to the form of the monument. The only difference which exists today is a difference as to the form of the monument. The Fine Arts Commission is favorable to the present site, and we have received estimates showing us that our misgivings with respect to the other site which had been selected do not hold for the present site.

The Commission was set up by an act of Congress. The appropriation was authorized by an act of Congress. The Commission has acted in conformity with the spirit of all the planning groups for the city of Washington; and the only real controversy in the whole question is the present controversy over whether the idea of one man that we should have a monument without a top, rather than a monument with a top, should prevail. So far as the Commission is concerned, there is no opposition to the site. There is only an artist's opposition to the form of the monument.

When we consider that the form which the Commission has decided upon is a form in harmony with what Jefferson himself thought to be the very height of beauty in architecture; when we consider that Jefferson is in reality the father of American architecture; and when we remember that Jefferson used this type of design, copied from the Roman Pantheon, not only in his own home, but also for the buildings of the University of Virginia, we find that the design which has been accepted is so completely in harmony with the Jeffersonian principles of architecture, and so in keeping with what would have been his wishes, that it is difficult to understand why anyone should oppose the project.

The opposition arises from the fact that in 1921 a plan was decided upon for the extension of the monumental part of the city of Washington. In that plan it was decided that the monument should be on or near the site which has been selected, but that the monument should be of an open nature, without a top, leaving a view of the Potomac River.

The present monument will in no way cut off the view of the Potomac, because the design of the monument is open all around, and any one will be able to see through it when it is completed. The opposition to the building of the monument, to the site, and to the design is in no sense comparable to the opposition which was displayed at the time the Lincoln Memorial was built. If those of us who look at the Lincoln Memorial today will realize that there were persons who opposed the site, opposed the design, and opposed everything about it, we can see that those who are recommending building the monument in the place selected, and with the type of building selected, will probably receive the approval of future generations.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Rhode Island [Mr. GREEN].

The amendment was rejected.

Mr. COPELAND. Mr. President, I am reoffering an amendment which I offered last night. In the hours which passed in the evening I found that Senators did not know what I was trying to accomplish by my amendment, which involves only $3,600.

There are four messengers, Mr. Madden and three others, who carry the manuscript for the CONGRESSIONAL RECORD to Senators for revision, and finally to the Printing Office. I have talked with more than a majority of the Members of the Senate, and Senators have told me that they did not understand the amendment, and in the confusion did not vote as they would have liked to vote. Now that the opportunity offers, I hope we may give the matter renewed consideration.

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

The PRESIDENT pro tempore. The amendment offered by the Senator from New York will be stated.

The CHIEF CLERK. It is proposed to insert in the bill, at the proper place, the following:

For payment to William Madden, Preston L. George, William S. Houston, and John Nalley, messengers on night duty during the third session of the Seventy-fifth Congress, $900 each, in all $3,600, to be paid from the appropriation for printing and binding for Congress for the fiscal year 1939.

Mr. COPELAND. Mr. President, this amount has been paid for 21 years. The men have been expecting the money. It is part of their budget. I know that a sufficient number of Senators are interested in these old men to vote the money.

Mr. BYRNES. Mr. President, last evening, when the amendment was offered, the Senator from Colorado [Mr. ADAMS] explained the situation.

The Appropriations Committee would like to please all the employees of the Senate. It is a very disagreeable duty to decline to grant an increase of compensation to everyone who works around the Senate and with whom we come in contact.

The fact is that the men who are assigned to the duties described by the Senator from New York are employees of the Government Printing Office. They are classified. They have certain duties to perform. There are many other men who are civil-service employees and who have the same classification, but who have never been fortunate enough to be assigned to that duty. They have never been given the privilege of coming to the Senate to be of help to the Senate.

Although the men involved are assigned to the Capitol, they are on the rolls of the Government Printing Office. They perform the duty of taking the manuscript for the CONGRESSIONAL RECORD to Senators who wish to revise their remarks. There are other men in the same classification who have worked for the same number of years, and who feel that they are entitled to the same consideration at the hands of the Congress. They feel that if the two or three men who are selected for this duty, which is regarded as a privilege by all the others, are to be given an increase of $900, which is $75 a month, all employees in the same classification should have the same increase in salary, or $75 a month.

The committee was impressed with the thought that we could not select four men, merely because they are assigned to the Capitol and come in contact with Senators, and because they meet us as we leave the Chamber and ask us to give them more money, and give them $75 a month more than other employees in the same classification.

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

Mr. BYRNES. I yield.

Mr. GERRY. Have these men received this money for 21 years?

Mr. BYRNES. It is not my understanding that all of them have received it. As I understand it, there is one man who has received it for a number of years.

Mr. GERRY. One man has received it for 21 years?

Mr. BYRNES. I do not know for how many years the one man has received it.

Mr. MCKELLAR. Mr. Madden has received it for 21 years. He has been an exceedingly faithful employee, and it seems to me that in every way he is deserving of some consideration at the hands of the Senate.

Mr. BYRNES. I do not think any of these men, who are on the rolls of the Government Printing Office and are assigned to the Capitol for this service during the sessions of Congress, ought to receive $75 a month more than other men who have been in the service for the same length of time. If they are to receive it, we might as well wipe out the Classification Act. The only excuse for paying it is that the men serve the Senators by taking manuscript to their homes.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from New York.

Mr. BYRNES. Mr. President, on this question I ask for a division.

The Senate divided.

The PRESIDENT pro tempore. The Chair is informed that on the division the vote is a tie. The Chair casts his vote in favor of the amendment, and the amendment is agreed to.

Mr. BULKLEY. Mr. President, I offer an amendment to the pending bill.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 8, after line 17, it is proposed to insert the following:

NORTHWEST TERRITORY CELEBRATION COMMISSION

For an additional amount for the expenses of participation of the Government of the United States in the Northwest Territory Celebration Commission, in accordance with Public Resolution No. 101, approved May 31, 1938, fiscal year 1938, $15,000, to remain available until April 15, 1939.

Mr. BULKLEY. Mr. President, this item is supported by a Budget estimate. I trust the Senator from Colorado will accept the amendment.

Mr. ADAMS. Is that the amendment which was submitted awhile ago?

Mr. BULKLEY. No; this is an amendment providing a small appropriation for the Northwest Territory Celebration Commission.

Mr. ADAMS. Did not the Senator present a similar amendment?

Mr. BULKLEY. It was similar, but it was a different amendment. The amendment now offered is not for the same purpose as the other one.

Mr. ADAMS. It proposes to appropriate $15,000.

Mr. BULKLEY. The other proposed an appropriation of $25,000.

Mr. ADAMS. The Senator is coming down.

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

The amendment was agreed to.

Mr. ANDREWS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 31, line 14, after the word "expenses", it is proposed to insert the following:

For protecting the sponge fisheries, including employment of inspectors, watchmen, and temporary assistants, hire of boats, rental of office and storage, care of seized sponges and other property, travel, and all other expenses necessary to carry out the provisions of the act of August 15, 1914 (U. S. C., title 16, sec. 781–785), to regulate the sponge fisheries, $5,000.

Mr. ANDREWS. Mr. President, this amendment is authorized under an act of August 15, 1914. About 3 years ago, when the Government cut salaries, even those of Members of Congress, and undertook to reduce the expenditures of the Government, somehow or other provision for this particular service was not carried in the appropriation bill.

It has to do with the sponge industry, and I will make a brief statement which I think will convince the Senate that this service should be restored and salaries be paid to those who are conducting this service.

For a period of approximately 20 years there was stationed at Tarpon Springs, Fla., a representative of the Bureau of Fisheries employed to work with the sponge industry in that locality. The duties of the representative of the Bureau of Fisheries were to inspect the sponges as they were brought in to the docks and enforce the Federal regulation that no sponges smaller than 5½ inches be allowed to enter.

In addition, the inspector worked with the fishermen in helping to develop new sponge beds, but in particular was charged with the legal enforcement of Federal regulations regarding the sizes of the sponges.

About 3 years ago, under the economy program, this position was discontinued, and, since that time, I am informed that millions of sponges have been bootlegged and sold in this country, demoralizing the market to a large extent. There are something like 150 vessels engaged in the sponge fisheries at Tarpon Springs, which has the largest sponge industry on the continent, and furnishes employment to thousands of people.

At the present time there is no effective method of protecting the Federal Government in the purchase of sponges from various distributors. Sponges run in several sizes or types, and contracts are usually made for the types needed by the Procurement Division in Washington and shipped by various wholesalers throughout the country who, in turn, buy them in large lots from the sponge companies in Tarpon Springs.

In my opinion, there is ample need and justification for the reestablishment of this position. I have taken it up with the Commissioner of Fisheries, who is of the same opinion, and states that he will be glad to reestablish the position in the event that funds are made available. As a matter of fact, the position is already established by law, and all that is lacking is a small amount of $5,000 to carry out the law.

As the Senators know, a large portion of the sponges obtained at Tarpon Springs are used by the Navy Department, the War Department, and other departments of the Government in Washington for purposes for which nothing else can well be used.

I am asking the Senate to reestablish the position so that this great industry may be taken care of under the supervision of the United States Government. The amount asked for is small, and I most earnestly request that my amendment be accepted.

Mr. ADAMS. Mr. President, may I ask the Senator how long ago was this service discontinued?

Mr. ANDREWS. About 3 years ago.

Mr. ADAMS. And it has not been operating since then?

Mr. ANDREWS. It has not. We have been trying to have it put into operation, but something has always happened to block our efforts.

Mr. ADAMS. Am I correct in understanding the Senator to say that this service was authorized by an act of 1914—24 years ago?

Mr. ANDREWS. That is correct.

Mr. ADAMS. What is the form of that authorization?

Mr. ANDREWS. It is to carry out the provisions of the act of August 15, 1914.

Mr. ADAMS. That is the clause in the Senator's amendment.

Mr. ANDREWS. No, that is the law under which the service was authorized and under which it was carried on from that time until discontinued.

Mr. ADAMS. There is no Budget estimate for it, is there?

Mr. ANDREWS. There is no more Budget estimate for it than there is a Budget estimate, I suppose, for any other clerk or employee who has been accidentally left off the pay rolls.

Mr. ADAMS. This involves the reestablishment of a department or service of the Government, and there is no Budget estimate for it. It seems to me it should have been submitted to the Bureau of the Budget. Therefore, I hope the amendment will not be adopted.

Mr. ANDREWS. Mr. President, I hope the amendment will be adopted. It is authorized by a statute; it concerns an important industry, and it will only cost $5,000. Certainly we can afford to take care of such an important industry by appropriating that small amount of money.

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

Mr. ANDREWS. I ask for a division.

On a division, the amendment was rejected.

Mr. JOHNSON of Colorado. Mr. President, I offer an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 81, after line 21, it is proposed to insert the following:

Educational orders: For placing educational orders to familiarize private manufacturing establishments with the production of munitions of war of special or technical design, noncommercial in character, as provided in House bill 6246, $2,000,000.

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

Mr. JOHNSON of Colorado. Mr. President, a few days ago the House and Senate, by a bill which was passed, authorized an expenditure for "educational orders." The amendment provides for an appropriation to take care of that authorization.

Sometime ago, during the course of the debate in the Senate, the senior Senator from Maryland [Mr. TYDINGS], who is not only a statesman but was a courageous soldier as well, told of a very significant experience he had while in the Army. He said when he joined the Army he happened to be placed in a machine gun division. No machine guns were available for the use of the organization to which the Senator was attached, and so they had to practice with machine guns made of wood. When they reached France and went into the trenches they were finally equipped with French machine guns with which they were not familiar. Naturally, of course, such a condition does not make for efficiency.

In America we have the wealth, we have the manpower, we have the battleships, we have provided for all such things; but we have not sufficient guns, we have not sufficient munitions. Our arsenals, according to the War Department, can only furnish 10 percent of the needed munitions for an army which would be required in a major conflict.

The appropriation proposed by the amendment would enable the War Department to let out contracts to private industries, industrial establishments, for the making of guns and munitions, so that industry would learn how to make these articles, and, in case of war, our Army could be equipped with munitions and implements of war. That is the purpose and objective of the amendment.

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

Mr. JOHNSON of Colorado. I yield.

Mr. KING. Was not an appropriation made adequate to carry out the purpose indicated by the Senator? It seems to me that it is very proper that the War Department should take necessary steps to prepare equipment essential for every activity in war, but with a very large appropriation, more than $550,000,000 for the War Department and practically $2,000,000,000 for the Navy Department, in my judgment, sufficient money has been appropriated to achieve the object the Senator has in mind.

Mr. JOHNSON of Colorado. The War Department, I may say to the Senator, has been trying since the World War to have an authorization of this kind so that they could engage private industry to accept these educational orders, but for years Congress refused to grant them permission. It was granted just the other day in an authorization bill after the War Department appropriation bill had been passed. There is no appropriation in the appropriation bill for the Army for this purpose and the War Department has no funds with which to enter upon this work.

As I have said, the War Department has been trying to get this measure through since the close of the World War, and The Assistant Secretary of War, Col. Louis Johnson, has worked, and his department has worked, for the passage of this authorization. They are very much interested in this appropriation. I hope the amendment will be agreed to.

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

Mr. JOHNSON of Colorado. I yield.

Mr. HILL. The distinguished and able Senator from Utah [Mr. KING] referred to the appropriations for the War and Navy Departments. It is a fact, is it not, that no money that has heretofore been appropriated may under the law be used for the purpose for which the Senator's amendment would make an appropriation. Is not that true?

Mr. JOHNSON of Colorado. That is correct, because the authorization has only recently been provided by Congress.

Mr. HILL. The authorization bill was unanimously reported by the Senate Committee on Military Affairs, and was passed by this body by unanimous consent. It was unanimously reported by the House Committee on Military Affairs, and passed the House of Representatives by unanimous consent. This deficiency bill is the first appropriation bill to come before this body or before the Congress since the passage of the authorization bill. In other words, this is the first opportunity Congress has had to appropriate or make available any money for these purposes. Is not that true?

Mr. JOHNSON of Colorado. That is a true statement.

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

The amendment was agreed to.

Mr. LONERGAN. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment offered by the Senator from Connecticut will be stated.

The CHIEF CLERK. It it proposed to insert, at the proper place in the bill, the following:

For the purpose of paying to the respective persons the respective amounts found by the Court of Claims to be the value of work performed by them, respectively, in excess of 8 hours in each calendar day while employed as engineers, firemen, laborers, and mechanics in the care of public buildings of the United States, elsewhere than in the District of Columbia, as set forth in the following Senate documents, $94,456.20:

(1) Senate documents of the Sixty-first Congress, first session, Nos. 93 and 95;

(2) Senate documents of the Sixty-first Congress, second session, Nos. 234, 236, 263, 264, 265, 313, 262, 260, 232, 231, 243, 311, 230, 228, 239, 251, 308, 267, 312, 257, 233, 249, 250, 253, 259, 269, 235, 229, 237, 255, 266, 309, 310, 268, 238, 252, and 261; and

(3) Senate documents of the Sixty-second Congress, second session, Nos. 535, 532, 524, 527, 528, 534, 541, 500, 521, 515, 517, 533, 519, 506, 537, 512, 498, 538, 525, 504, 503, 507, 501, 530, 543, 539, 499, 523, 497, 505, 536, 514, 540, 516, 529, 546, 509, 518, 544, 508, 545, 513, 520, 531, 547, 526, 542, and 502.

Such respective amounts shall be disbursed by the Secretary of the Treasury and each such payment is to be in full satisfaction of, and receipt of same shall operate in each case as a full and final release and discharge of, their said respective claims for compensation for extra hours of work above the legal day of 8 hours.

Mr. LONERGAN. Mr. President, yesterday I filed a motion that this amendment be considered under suspension of the rule. I now move that the rule be suspended for the purpose of making the amendment in order.

The PRESIDENT pro tempore. The Senator from Connecticut yesterday gave notice of a motion to suspend the rule so that the amendment now offered would not be subject to a point of order.

Mr. ADAMS. Mr. President, I think the Senate should understand the situation before voting on the motion to suspend the rule. In other words, in the absence of a motion to suspend the rule the amendment would be subject to a point of order under subsection 5 of rule XVI, to the effect that private claims may not be received except under the conditions specified in the rule, and that the amendment must specify the terms of the existing law or treaty stipulation, which must be cited on the face of the amendment. It seems to me that if we suspend the rule for the purpose of permitting private claims to be offered as amendments to the appropriation bill, we shall simply be disregarding the rule established for a very good purpose, for the purpose of protecting appropriation bills from private claims.

Mr. LONERGAN. Mr. President, the purpose of this amendment is to effect the payment of findings of the Court of Claims totaling $94,456.20 for extra labor above the legal day of 8 hours performed by laborers and mechanics in public buildings of the United States.

These findings are of the same class as those for laborers and mechanics in navy yards and shore stations paid in the last Congress—Private Act 349 and Private Resolution 7, Seventy-fourth Congress. The navy-yard bill came before the Education and Labor Committee while the Senator from Massachusetts [Mr. WALSH] was chairman. It was approved and passed. A bill was later introduced to provide for the same consideration by Congress for the custodial employees so as to include the remaining findings of the Court of Claims for overtime beyond the legal 8-hour day. However, because of other important legislation before that committee, no action was taken on the bill, S. 3724, which was referred to a subcommittee of the Senate Committee on Education and Labor composed of the Senator from Louisiana [Mr. ELLENDER], the Senator from Massachusetts [Mr. WALSH], and the Senator from Wisconsin [Mr. LA FOLLETTE].

The American Federation of Labor submitted a very strong endorsement of the bill; and in view of the rush of events of the past few days, which have prevented action on it, I was asked to offer the amendment to the deficiency bill.

The obligation of the Government to pay these findings of the Court of Claims is fully set forth in Senate Document 984, Sixty-second Congress, third session, entitled "Statement Relating to Claims for Extra Pay of Mechanics and Laborers in Public Buildings." I have here pages 10 to 12 of that document, following which is a tabulated statement, arranged by States, of the findings of the court, which also appears in the same Senate document. An up-to-date résumé of the history of this legislation will be found in the CONGRESSIONAL RECORD of July 23, 1937, at pages 9769–9772.

Senators will be interested in the fact that 24 States have claimants under this bill.

I ask unanimous consent to have printed in the RECORD, as part of my remarks, the matter to which I have referred.

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

There are 87 cases reported by the Court of Claims wherein the court has made a finding for the value of time in excess of 8 hours per day of laborers and mechanics, and other persons performing manual labor, in the public buildings under the Treasury Department. That is, findings are for certain amounts which the court has held are the value, computed at the rate of the regular compensation, for time in excess of 8 hours per day.

THE 8-HOUR LAW OF AUGUST 1, 1892

These claims are based on the 8-hour law of August 1, 1892, which prescribes in mandatory terms that "the service and employment of all laborers and mechanics who are now, or may hereafter be, employed by the Government of the United States * * * is hereby limited and restricted to 8 hours in any 1 calendar day, etc."

Within a few weeks after the passage of this law the Attorney General delivered an opinion, the correctness of which has never been questioned, holding that it applied not merely to laborers and mechanics employed in the construction of public works, but that it applied to all laborers and mechanics employed anywhere by the Government of the United States; that the language of the section referring to the "public works" was a limitation referable only to contractors and subcontractors employing manual labor.

Twenty-five Opinions, Attorney General (465): "The act of August 1, 1892 (27 Stat. 340), applies to 'all laborers and mechanics' that come within its description. It therefore includes persons who are paid by the month or year, as well as those who are paid by the day, if they are laborers and mechanics."

Twenty-five Opinions, Attorney General (445): "If Congress had intended to limit the hours of labor of laborers and mechanics employed by the Government anywhere, or by contractors on all of the public works of the Government of the United States wherever they were undertaken, it would be difficult to find more apt words to accomplish that purpose than those which are used in this act."

DESCRIPTION OF CLAIMANTS

The employees of the Treasury Department on whose behalf the pending claims are made are employed as engineers, firemen, laborers, and several as "firemen-laborers," and "watchmen-firemen." They are persons whose duties require them to render manual labor. They are, therefore, the persons for whose benefit the act of August 1, 1892, provided that their service of employment should be limited to 8 hours. It will be noted that the

language of this act is of itself a restriction which must be read into any contract of employment of manual labor by the Government, and the executive officers of the United States have no power or right to disregard the statute.

There is presented in connection with this memorandum a tabulated statement of the 87 cases, showing with respect to each the name and residence of the claimant, the character of the work, the hours per day, annual salary, the amount allowed by the Court of Claims for extra hours, and the Senate document number in which the report of the Court of Claims is to be found. An examination of these reports as tabulated in this manner shows conclusively the discrimination which has existed to the detriment of the present claimants. This does not, however, show the full extent of this discrimination, because the comparison can only be made between men who are all working extra time, and it must be realized that 95 percent of similar employees work only 8 hours, and receive the same salary as do these claimants.

The record shows that the persons employed as laborers and mechanics in this service were paid as follows: Engineers, $900 per annum; firemen, $720 per annum; laborers, $540 per annum; watchmen-firemen, from $600 to $720 per annum; watchmen-laborers, $600 per annum. The testimony we have referred to herein shows that these salaries were fixed without any knowledge of how much work would be assigned to any one man, or how many hours he would have to work, so that the men who worked more than the 8 hours received no greater pay than those who worked 8 hours or less.

ENGINEERS

There are eight claims of engineers among the cases reported by the Court of Claims. Every one of these engineers received $900 per annum.

One engineer employed at Rochester, N. Y., worked 9½ hours daily.

Three engineers employed at Columbus, Ohio, worked 10 hours daily.

One engineer employed at Cleveland, Ohio, worked 11 hours daily.

One engineer employed at Troy, N. Y., worked 11 hours daily.

One engineer employed at Toledo, Ohio, worked 12 hours daily.

One engineer employed at Peoria, Ill., worked 13 hours daily.

The fact that each one of these men received $900 per annum, that they worked from 1½ to 5 hours longer than the general force of engineers, and that they received the same salary that the others received shows that there has been a discrimination against these claimants. As between the eight claimants, one engineer employed at Rochester worked 9½ hours, while others employed at Cleveland, Troy, New York, Toledo, and Peoria, worked from 11 to 13 hours for the same compensation. This establishes the fact that the statement made by the Court of Claims that the claimants were paid "what their work was worth" means only that they were paid according to the grade of their employment, and not that the amount of work they would have to do was considered.

The character of the testimony in these cases is illustrated by that of Robert Tobin, engineer at Troy, N. Y., which is attached hereto.

FIREMEN

Among these 87 cases there are 11 firemen. The records of the Treasury Department show that the regular rate for firemen throughout the service is $720 per annum, although there are some instances in which men at small buildings have been paid less. This is probably because the duties of the firemen at these buildings are largely those of a laborer at other buildings.

Of the 11 firemen, 10 received $720 per annum and 1 received $600 per annum. Of the 10 firemen who received $720 per annum, 5 worked 12 hours per day. This occurred at La Fayette, Ind.; Portland, Maine; Hartford, Conn.; Des Moines, Iowa; and Newark, N. J. Four worked 11 hours per day at Portsmouth, Ohio; Cleveland, Ohio; Utica, N. Y.; and Quincy, Ill. One at Newark, N. J., worked different hours between 8 and 13.

LABORERS

There were 50 laborers among the claimants, 46 of whom received $540 per annum, and 4 received between $500 and $660. The 1 laborer who received $660 worked only 9 hours per day, while 14 laborers who worked 12 hours per day received $540. The others worked from 9½ to 11½ hours per day.

A comparison of these cases, therefore, without reference to the 95 percent of the men in this service who worked 8 hours per day, shows that the discrimination existed as is claimed, and that the finding of the Court of Claims in paragraph 2 and that these men were paid what the work was worth has no reference whatever to the quantity of the work, but merely as to the quality, and that some men who did twice as much work as others, working 12 and 14 hours per day, received no greater compensation than those who worked 8 hours and less.

A tabulated statement, arranged by States, referred to by the American Federation of Labor, which shows the sums due each individual under provisions of the proposed amendment follows:

ALABAMA

1. Joseph A. Decatur, Mobile (S. Doc. 535, 62d Cong., 2d sess.) ---- $2,644.50

ARKANSAS

2. Peter Jarrett, Texarkana (S. Doc. 234, 61st Cong., 2d sess.) ---- 1,462.35
3. Perry McCarty, Texarkana (S. Doc. 532, 62d Cong., 2d sess.) ---- 65.97

CALIFORNIA

4. John D. Cash, Stockton (S. Doc. 236, 61st Cong., 2d sess.) ---- $91.31
5. Joseph A. Workings, Stockton (S. Doc. 263, 61st Cong., 2d sess.) ---- 165.20

CONNECTICUT

6. William F. Burns, Hartford (S. Doc. 528, 62d Cong., 2d sess.) ---- 932.25
7. Fred H. Collins, Hartford (S. Doc. 541, 62d Cong., 2d sess.) ---- 300.65
8. John J. O'Neil, Hartford (S. Doc. 527, 62d Cong., 2d sess.) ---- 4,950.00
9. Archie E. Galpin, Bridgeport (S. Doc. 265, 61st Cong., 2d sess.) ---- 109.50
10. James B. Garrison, Bridgeport (S. Doc. 264, 61st Cong., 2d sess.) ---- 218.81
11. William G. Goven, Hartford (S. Doc. 534, 62d Cong., 2d sess.) ---- 1,576.00
12. Joseph M. Mohr, Hartford (S. Doc. 524, 62d Cong., 2d sess.) ---- 1,088.50
13. Erwin R. Wadhams, Torrington (S. Doc. 313, 61st Cong., 2d sess.) ---- 391.16

FLORIDA

14. Forest Crocket, Jacksonville (S. Doc. 521, 62d Cong., 2d sess.) ---- 230.06
15. Nelson F. English, Key West (S. Doc. 515, 61st Cong., 2d sess.) ---- 124.50
16. John W. Graham, Jacksonville (S. Doc. 500, 62d Cong., 2d sess.) ---- 168.85
17. Albert A. Lewis, Key West (S. Doc. 262, 61st Cong., 2d sess.) ---- 735.00
18. Dennis Kelly, Key West (S. Doc. 517, 62d Cong., 2d sess.) ---- 918.00
19. Joseph M. Taylor, Key West (S. Doc. 533, 62d Cong., 2d sess.) ---- 2,300.50

GEORGIA

20. Moses Molette, Brunswick (S. Doc. 519, 62d Cong., 2d sess.) ---- 628.03

ILLINOIS

21. Lemuel Gay, Quincy (S. Doc. 506, 62d Cong., 2d sess.) ---- 363.75
22. Silas S. Myers, Joliet (S. Doc. 537, 62d Cong., 2d sess.) ---- 391.79
23. John O'Neil, Peoria (S. Doc. 260, 61st Cong., 2d sess.) ---- 1,181.25
24. Emmett W. Smith, Aurora (S. Doc. 512, 62d Cong., 2d sess.) ---- 2,093.58

INDIANA

25. Timothy C. Harrington, La Fayette (S. Doc. 232, 61st Cong., 2d sess.) ---- 634.66

IOWA

26. John Browne, Des Moines (S. Doc. 498, 62d Cong., 2d sess.) ---- 1,427.28
27. Joseph O. Drennen, Des Moines (S. Doc. 231, 61st Cong., 2d sess.) ---- 3,382.25
28. John Jordan, Des Moines (S. Doc. 538, 62d Cong., 2d sess.) ---- 159.37
29. Edward B. Murphy, Des Moines (S. Doc. 243, 61st Cong., 2d sess.) ---- 187.87
30. William Halloran, Des Moines (S. Doc. 95, 61st Cong., 1st sess.) ---- 1,218.00

KANSAS

31. William M. Terrill, Topeka (S. Doc. 525, 62d Cong., 2d sess.) ---- 609.16

MAINE

32. David D. Hannegan, Portland (S. Doc. 504, 62d Cong., 2d sess.) ---- 1,405.00
33. James E. Rogers, Bangor (S. Doc. 507, 62d Cong., 2d sess.) ---- 1,105.83
34. Llewellyn K. Webber, Bangor (S. Doc. 503, 62d Cong., 2d sess.) ---- 1,862.91

MASSACHUSETTS

35. Wilson B. Scribner, Lynn (S. Doc. 501, 62d Cong., 2d sess.) ---- 1,900.45

MICHIGAN

36. Harry E. Drake, Jackson (S. Doc. 530, 62d Cong., 2d sess.) ---- 2,294.40
37. Willis E. Stimson, Kalamazoo (S. Doc. 543, 62d Cong., 2d sess.) ---- 2,522.50

MISSOURI

38. Erbin P. Higgins, Sedalia (S. Doc. 539, 62d Cong., 2d sess.) ---- 772.08

NEBRASKA

39. Wilson Byerly, Norfolk (S. Doc. 311, 61st Cong., 2d sess.) ---- 205.50
40. Jacob Renner, Lincoln (S. Doc. 499, 62d Cong., 2d sess.) ---- 2,514.00
41. John J. Rodgers, Blair (S. Doc. 230, 61st Cong., 2d sess.) ---- 992.79

NEW HAMPSHIRE

42. Henry C. Mace, Concord (S. Doc. 523, 62d Cong., 2d sess.) ---- $461.45

NEW JERSEY

43. Silas A. Bryant, Newark (S. Doc. 228, 61st Cong., 2d sess.) ---- 599.06
44. George Jacobus, Newark (S. Doc. 505, 62d Cong., 2d sess.) ---- 1,596.75
45. Wm. G. Jell, Newark (S. Doc. 239, 61st Cong., 2d sess.) ---- 1,418.00
46. Fergus McCarthy, Newark (S. Doc. 497, 62d Cong., 2d sess.) ---- 438.75
47. Conrad Wagner, Newark (S. Doc. 251, 61st Cong., 2d sess.) ---- 295.31
48. Andrew J. Meade, Hoboken (S. Doc. 93, 61st Cong., 1st sess.) ---- 1,147.18

NEW YORK

49. Daniel P. Dulhane, Rochester (S. Doc. 308, 61st Cong., 2d sess.) ---- 2,078.75
50. Joseph C. Leddy, Utica (S. Doc. 312, 61st Cong., 2d sess.) ---- 191.25
51. Ezra T. Marney, Ogdensburg (S. Doc. 540, 62d Cong., 2d sess.) ---- 1,956.66
52. George Miller, Utica (S. Doc. 267, 61st Cong., 2d sess.) ---- 767.06
53. Stephen A. Smith, Utica (S. Doc. 536, 62d Cong., 2d sess.) ---- 259.50
54. Abram Epstein, Ogdensburg (S. Doc. 514, 62d Cong., 2d sess.) ---- 1,242.50
55. Robert Tobin, Troy (S. Doc. 257, 61st Cong., 2d sess.) ---- 2,131.56

OHIO

56. John Brodie, Columbus (S. Doc. 249, 61st Cong., 2d sess.) ---- 659.20
57. Leslie E. Drake, Toledo (S. Doc. 235, 61st Cong., 2d sess.) ---- 848.75
58. Stephen A. Ingles, Portsmouth (S. Doc. 516, 62d Cong., 2d sess.) ---- 556.25
59. Rudolph L. Johns, Cleveland (S. Doc. 229, 61st Cong., 2d sess.) ---- 532.25
60. Theodore Kipp, Dayton (S. Doc. 310, 61st Cong., 2d sess.) ---- 540.00
61. Wm. K. Krautman, Columbus (S. Doc. 250, 61st Cong., 2d sess.) ---- 669.77
62. Joseph Kuehne, Cleveland (S. Doc. 255, 61st Cong., 2d sess.) ---- 2,496.56
63. Charles H. McCann, Columbus (S. Doc. 259, 61st Cong., 2d sess.) ---- 213.58
64. Thomas Murnane, Columbus (S. Doc. 253, 61st Cong., 2d sess.) ---- 122.17
65. Ignace Rosinski, Cleveland (S. Doc. 237, 61st Cong., 2d sess.) ---- 807.18
66. David Scurry, Columbus (S. Doc. 233, 61st Cong., 2d sess.) ---- 533.40
67. Fred Sinclair, Columbus (S. Doc. 269, 61st Cong., 2d sess.) ---- 386.25
68. Joseph Sledz, Cleveland (S. Doc. 266, 61st Cong., 2d sess.) ---- 720.69
69. Alonzo Thirlkill, Dayton (S. Doc. 309, 61st Cong., 2d sess.) ---- 775.31

PENNSYLVANIA

70. James Downing, Altoona (S. Doc. 529, 62d Cong., 2d sess.) ---- 382.59
71. Adam Hoke, Harrisburg (S. Doc. 268, 61st Cong., 2d sess.) ---- 1,151.62
72. Wm. T. Jordon, York (S. Doc. 238, 61st Cong., 2d sess.) ---- 583.50
73. Wm. H. Witta, York (S. Doc. 546, 62d Cong., 2d sess.) ---- 2,145.00

SOUTH CAROLINA

74. James Butler, Columbia (S. Doc. 252, 61st Cong., 2d sess.) ---- 1,041.96
75. John Pinckney, Columbia (S. Doc. 518, 62d Cong., 2d sess.) ---- 871.92
76. Louis Prior, Columbia (S. Doc. 509, 62d Cong., 2d sess.) ---- 4,310.66

TEXAS

77. Frank Boddeker, Galveston (S. Doc. 261, 61st Cong., 2d sess.) ---- 1,956.62
78. Sandy Hester, Galveston (S. Doc. 544, 62d Cong., 2d sess.) ---- 2,273.33
79. George King, Austin (S. Doc. 508, 62d Cong., 2d sess.) ---- 351.18
80. Thomas Thompson, Waco (S. Doc. 545, 62d Cong., 2d sess.) ---- 1,169.53
81. Ambrose B. Williams, Beaumont (S. Doc. 513, 62d Cong., 2d sess.) ---- 736.50
82. Sidney B. Williams, Beaumont (S. Doc. 520, 62d Cong., 2d sess.) ---- 593.78

VIRGINIA

83. Charles R. Carter, Richmond (S. Doc. 547, 62d Cong., 2d sess.) ---- $219.80
84. William H. Parker, Norfolk (S. Doc. 526, 62d Cong., 2d sess.) ---- 1,147.87
85. William G. Singleton, Richmond (S. Doc. 531, 62d Cong., 2d sess.) ---- 2,050.56
86. Alfred Strange, Lynchburg (S. Doc. 542, 62d Cong., 2d sess.) ---- 647.29

WISCONSIN

87. Olaf Swanson, Ashland (S. Doc. 502, 62d Cong., 2d sess.) ---- 2,001.00

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Connecticut [Mr. LONERGAN] to suspend the rule so that the amendment offered by him will not be subject to a point of order. [Putting the question]: Evidently two-thirds of the Senators present have not voted in the affirmative; so the Senate declines to suspend the rule and the amendment is not in order.

The bill is still before the Senate and open to amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time, and passed.

Mr. ADAMS. I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. ADAMS, Mr. GLASS, Mr. MCKELLAR, Mr. HAYDEN, Mr. BYRNES, Mr. HALE, and Mr. TOWNSEND conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

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

On June 13, 1938:

S. 3373. An act to provide for holding terms of the district court of the United States at Hutchinson, Kans.; and

S. J. Res. 289. Joint resolution to provide that the United States extend an invitation to the governments of the American Republics, members of the Pan American Union, to hold the Eighth American Scientific Congress in the United States in 1940 on the occasion of the fiftieth anniversary of the founding of the Pan American Union; to invite these governments to participate in the proposed Congress; and to authorize an appropriation for the expenses thereof.

On June 14, 1938:

S. 593. An act for the relief of the estate of W. K. Hyer;

S. 1694. An act authorizing the Secretary of War to convey to the town of Montgomery, W. Va., a certain tract of land;

S. 1878. An act for the relief of Mary Way;

S. 2417. An act for the relief of Samuel L. Dwyer;

S. 2474. An act to provide a uniform method for examinations for promotion of warrant officers;

S. 2643. An act for the relief of Mr. and Mrs. James Crawford;

S. 2798. An act for the relief of Edith Jennings and Patsy Ruth Jennings, a minor;

S. 2802. An act for the relief of Carl Orr, a minor;

S. 2985. An act for the relief of John F. Fahey, United States Marine Corps, retired;

S. 3056. An act for the relief of Dorothy Anne Walker, a minor;

S. 3095. An act 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;

S. 3102. An act for the relief of the estate of Raquel Franco;

S. 3126. An act 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;

S. 3147. An act for the relief of Mr. and Mrs. S. A. Felsenthal, Mr. and Mrs. Sam Friedlander, and Mrs. Gus Levy;

S. 3223. An act for the relief of the dependents of the late Lt. Robert E. Van Meter, United States Navy;

S. 3242. An act to aid in providing a permanent mooring for the battleship *Oregon;*

S. 3365. An act for the relief of Joseph D. Schoolfield;

S. 3543. An act authorizing the Comptroller General of the United States to settle and adjust the claim of Earle Lindsey;

S. 3882. An act amending the act authorizing the collection and publication of cotton statistics by requiring a record to be kept of bales ginned by counties; and

S. J. Res. 247. Joint resolution authorizing William Bowie, captain (retired), United States Coast and Geodetic Survey, Department of Commerce, to accept and wear decoration of the Order of Orange Nassau, bestowed by the Government of the Netherlands.

INSURANCE OF TAXICABS IN THE DISTRICT

Mr. TYDINGS. Mr. President, in the case of House bill 7084, the District of Columbia taxicab bill, the papers are now on the desk of the Speaker of the House. In order to expedite the passage of the bill and to break the impasse, I ask unanimous consent that the Senate reconsider its request for a conference with the House; and if the request is agreed to I shall ask for the return of the papers from the House to the Senate, in the hope that in that way I may secure action on the bill before final adjournment.

The PRESIDENT pro tempore. There is another matter pending.

Mr. TYDINGS. I ask unanimous consent that what I have stated be done. I think it will not take more than a moment.

Mr. SCHWELLENBACH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Washington will state the parliamentary inquiry.

Mr. SCHWELLENBACH. Will granting the request of the Senator from Maryland take away the position which my motion now occupies?

The PRESIDENT pro tempore. It will not, by unanimous consent.

Mr. SCHWELLENBACH. Very well.

The PRESIDENT pro tempore. Without objection, the request of the Senator from Maryland is granted.

Mr. TYDINGS. I now ask unanimous consent that the Senate request the House to return to the Senate House bill 7084, and the papers in connection therewith.

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

UNEMPLOYMENT INSURANCE SYSTEM FOR RAILROAD EMPLOYEES

Mr. WHEELER. Mr. President——

Mr. SCHWELLENBACH. I yield to the Senator from Montana.

Mr. WHEELER. I ask that the pending matter be temporarily laid aside, and that the Senate proceed to consider Senate bill 3772, and that House bill 10127, which is identical with Senate bill 3772, be substituted for the Senate bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Mr. SCHWELLENBACH. Mr. President, I talked to the Senator from Montana yesterday about this matter. This piece of legislation is very desirable and important; and, if it may be taken up without my motion losing its position, I am anxious that the request of the Senator from Montana be granted.

The PRESIDENT pro tempore. The Senator will lose no rights in the matter.

Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill (S. 3772) to regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes, which had been reported from the Committee on Interstate Commerce, with an amendment.

Mr. WHEELER. I ask unanimous consent that House bill 10127, which is identical with the Senate bill, and which has passed the House by an overwhelming vote, be substituted for the Senate bill.

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

The Senate proceeded to consider the bill (H. R. 10127) to regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes.

Mr. TYDINGS. Mr. President, I ask the Senator whether this is the bill taking railroad employees out from under the Social Security Act and placing them under the Railroad Retirement Board.

Mr. WHEELER. It is.

Mr. TYDINGS. Is this the bill which reduces the amounts of the contributions and increases the benefits?

Mr. WHEELER. It is.

Mr. TYDINGS. Then I hope the bill will pass.

Mr. ASHURST. Mr. President——

Mr. WHEELER. I yield to the Senator from Arizona.

Mr. ASHURST. I should like to inquire of the able Senator in charge of the bill, Is there anything in connection with this bill relating to the so-called long-and-short haul?

Mr. WHEELER. There is not.

Mr. ASHURST. I thank the Senator. I take the Senator's word for it.

RESOLUTIONS FROM COMMITTEE TO AUDIT AND CONTROL THE CONTINGENT EXPENSES OF THE SENATE

Mr. BYRNES. Mr. President, will the Senator from Montana yield?

Mr. WHEELER. I yield to the Senator from South Carolina.

Mr. BYRNES. I ask unanimous consent for the consideration at this time of a few resolutions from the Committee to Audit and Control the Contingent Expenses of the Senate. I shall be able to be on the floor for only a short time, having to go to the meeting of a conference committee, and I wish to have the resolutions considered at this time. I will explain them.

Mr. WHEELER. I yield for that purpose.

Mr. McNARY. Mr. President, let the resolutions be read before the request is acted upon.

Mr. BYRNES. In answer to the request of the Senator from Oregon, let me say that the resolutions are not controversial. A number of resolutions have been reported by the Committee to Audit and Control the Contingent Expenses of the Senate and are on the calendar. Two of the resolutions presented at this time are made necessary by reason of the fact that in the deficiency bill which has just been passed by the Senate, two positions under the Senate were abolished; and the committee determined to take care of the situation therein presented by resolutions from the Committee to Audit and Control the Contingent Expenses of the Senate, which carry those positions only until the next legislative bill may be considered by the Congress. One of the other resolutions is simply to continue the employment of an employee of the

press gallery. Another is to authorize the employment of a stenographer by the Committee on the Library, of which the Senator from Kentucky [Mr. BARKLEY] is chairman, the committee never having secured the necessary authority, and having a bill pending. The Unemployment Committee also has two bills outstanding which are included in the other resolution.

Mr. WAGNER. Mr. President, I should like to inquire of the Senator from South Carolina whether in the meeting today his committee considered the resolution offered by me to study the subject of health insurance.

Mr. BYRNES. No, Mr. President; the committee did not have a meeting today. It has had no meeting since Monday morning, and the resolutions I am now reporting are noncontroversial resolutions, solely as to employees of the Senate, the resolutions made necessary by reason of the abolishing of certain positions in the deficiency bill.

Mr. WAGNER. I did not think the resolution which I asked the committee to consider was controversial.

Mr. BYRNES. Unfortunately, it was.

The VICE PRESIDENT. The Senator from South Carolina has asked unanimous consent for the consideration of some legislative business.

HEARINGS BEFORE COMMITTEE ON THE LIBRARY

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution (S. Res. 292) (submitted by Mr. BARKLEY on the 9th instant), reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on the Library, or any subcommittee thereof, hereby is authorized during the Seventy-fifth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding 25 cents per hundred words, to report such hearings as may be had in connection with any subject which may be before said committee, the expense thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

SPECIAL COMMITTEE TO INVESTIGATE UNEMPLOYMENT AND RELIEF—LIMIT OF EXPENDITURES

Mr. BYRNES. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably, with an amendment, Senate Resolution 289, and I ask unanimous consent for its present consideration.

There being no objection, the Senate proceeded to consider the resolution.

The amendment was, in line 6, before the word "in", to strike out "$5,000" and insert "$2,000."

The amendment was agreed to.

The resolution as amended was agreed to, as follows:

Resolved, That the special committee appointed by the Vice President pursuant to S. Res. 36, agreed to June 10, 1937, to study, survey, and investigate the problems of unemployment and relief in the United States, hereby is authorized to expend from the contingent fund of the Senate $2,000 in addition to the amounts heretofore authorized to be expended for such purposes.

ADDITIONAL MESSENGER FOR SERVICE TO PRESS CORRESPONDENTS

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported a resolution (S. Res. 300) which was considered by unanimous consent and agreed to, as follows:

Resolved, That the Sergeant at Arms hereby is authorized to continue until January 2, 1939, the employment of an additional messenger for service to press correspondents, to be paid from the contingent fund of the Senate at the rate of $1,440 per annum, as authorized by Resolution No. 236, Seventy-fourth Congress, agreed to February 20, 1936.

PRESS RELATIONS OFFICER

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported a resolution (S. Res. 301) which was considered by unanimous consent and agreed to, as follows:

Resolved, That, effective July 1, 1938, there is hereby created the office of press relations officer who shall be appointed by the Secretary of the Senate, and shall be paid out of the contingent fund of the Senate at the rate of $2,140 per annum during the fiscal year ending June 30, 1939.

TEMPORARY ASSISTANT CLERK, COMMITTEE ON FOREIGN RELATIONS

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported a resolution (S. Res. 302), which was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Foreign Relations is hereby authorized to employ, during the fiscal year ending June 30, 1939, an assistant clerk to be paid out of the contingent fund of the Senate at the rate of $2,880 per annum, and $500 additional so long as the position is held by the present incumbent of the office of assistant clerk to be abolished on July 1, 1938.

INVESTIGATION OF WORKS PROGRESS ADMINISTRATION

Mr. KING. Mr. President, if I may have the attention of the Senator from South Carolina, I should like to say that sometime ago I offered Senate Resolution 284 for the purpose of obtaining the necessary funds for the investigation of the Works Progress Administration. That resolution was referred to the Senator's committee. What disposition has been made of it?

Mr. BYRNES. Mr. President, the Committee to Audit and Control the Contingent Expenses of the Senate has before it the resolution offered by the Senator from Maryland [Mr. TYDINGS], and the committee determined to strike out all after the resolving clause and to provide for an investigation of every expenditure by every Department, agency, or instrumentality of the United States Government, and every department, agency, or instrumentality of State governments for the purpose of influencing votes in any election in which a Senator of the United States was to be elected. After the committee had reported the resolution it postponed indefinitely action upon the resolution of the Senator from Utah.

Mr. KING. Was the resolution which was finally adopted different from the resolution which resulted in the appointment of the senior Senator from Texas [Mr. SHEPPARD] to investigate expenses in senatorial elections? Obviously this is vastly different from that.

Mr. BYRNES. The opinion of the Senator from South Carolina was that under the Barkley resolution the committee had the power to investigate any such expenditures. The resolution offered by the Senator from Kentucky was identical with the resolution reported by the Committee to Audit and Control the Contingent Expenses of the Senate 2 years ago.

The construction placed upon it then was that it gave to the committee the power to investigate any expenditure, and it provides in addition that they may investigate any promise of patronage, any use of public funds of any kind whatsoever. Notwithstanding that statement, doubt was expressed by Members of the Senate and, according to the press, by certain members of the committee, as to whether or not the committee did have that power. The resolution of the Senator from Maryland as amended will leave no doubt that the committee has that power. The committee was given $10,000 in addition to the $30,000 which had previously been provided, so that if the resolution now on the calendar is adopted, there will be authorized an expenditure of $40,000, to be spent by the committee heretofore appointed by the Vice President, and that committee will have the power to investigate any expenditure by any Department, agency, or instrumentality of either the Federal Government or a State government.

Mr. KING. Mr. President, will the resolution which was reported and the committee which has been named have authority to investigate, first, the extent to which officials of such administration have engaged directly or indirectly in political activities?

Mr. BYRNES. According to my construction, yes; or any other officials.

Mr. KING. And the extent to which the funds available for such administration have been used or administered on a political basis or with a view to aiding candidates for public office or to securing legislation, local or national?

Mr. BYRNES. It would depend entirely on what is meant by "political basis." I would not care to pass a judicial opinion on that, but as to the other statement, whether funds are used to influence elections, yes.

Mr. KING. Would it include an investigation to ascertain the extent to which persons on the relief rolls or those seeking relief have been intimidated, coerced, or influenced by those in authority in the various States or elsewhere in such administration with a view to obtaining their political support for such candidates or for the adoption or rejection of policies or legislation.

Mr. BYRNES. Nothing as to legislation would be affected at all by the resolution. As to the use of money to employ any person to intimidate or coerce an employee, I think it would apply, in an election.

Mr. KING. Would it cover an investigation to ascertain the total number of all officers and employees of such administration, including officers and employees of State and local agencies, any part of whose compensation is received from money appropriated or allocated for the use of such administration, if the salary is more than $3,000?

Mr. BYRNES. No, Mr. President, it would not. That information can be secured from the hearings of the House and Senate Committees on Appropriations. It is now in print.

Mr. KING. Did the committee have before it when it drew the resolution which has been reported, the resolution to which I have referred, and was it intended to incorporate the important provisions to which I have called attention?

Mr. BYRNES. No, Mr. President, it was not, because included in it there are many provisions to which no consideration was given, such as the last one referred to. When the Senator appeared before the committee I called his attention to the fact that if he desired to know the number of W. P. A. employees, that information could be found in the hearings of the House and Senate committees. The resolution is intended to do exactly what it says, that and no more. I know the Senator is better able to interpret the language than I am. I call it to his attention. I am willing to answer any question he may ask, but his own decision would be more influential with him than mine.

UNEMPLOYMENT INSURANCE SYSTEM FOR RAILROAD EMPLOYEES

The Senate resumed the consideration of the bill (H. R. 10127) to regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes.

Mr. GEORGE. Mr. President, I desire to ask the Senator from Montana whether House bill 10127 is the same as Senate bill 3772, the bill introduced by the Senator from Montana and the junior Senator from New York?

Mr. WHEELER. It is.

Mr. GEORGE. They are identically the same?

Mr. WHEELER. The House bill is identically the same bill as the Senate bill to which the Senator refers; it was passed by the House by an overwhelming vote, and was reported unanimously by the Committee on Interstate Commerce of the Senate.

Mr. GEORGE. The bill is a lengthy one. I have had opportunity to read Senate bill 3772 and I favor that bill, and if the other bill is identical, I shall favor it, of course.

Mr. WHEELER. It is identical in every detail.

Mr. GEORGE. Very well.

Mr. WHEELER. Mr. President, the bill before us, House bill 10127, is a bill the principles of which were recommended by Federal Coordinator Eastman a few years ago. It was also recommended by the President's Commission on Economic Security. It is a bill which does not cost the railroads an additional 5-cent piece, and it does not cost the Government of the United States anything at all. As a matter of fact, it will save the railroads, according to the figures which we have, anywhere from three to six million dollars.

The bill provides that the Railroad Retirement Board shall administer the unemployment insurance system, instead of having a system applicable to railroads administered by the several States.

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

Mr. WHEELER. I yield.

Mr. BARKLEY. If I understand the situation, railroads had had for a long time a retirement system of their own. Congress enacted a separate retirement system for that industry just as this bill proposes a separate unemployment-insurance system for it.

Mr. WHEELER. That is correct.

Mr. BARKLEY. The railroads are now paying the unemployment-insurance tax which is required of all employers under the Social Security Act and the State unemployment-insurance laws.

Mr. WHEELER. Yes.

Mr. BARKLEY. The bill takes unemployment insurance with respect to the railroad industry out from the State systems, sets up a separate system for railroads and places the administration of it in the Railroad Retirement Board, which now administers the Railroad Retirement Act.

Mr. WHEELER. That is correct.

Mr. BARKLEY. And the Senator's belief is that the enactment of the proposed legislation will not only not cost the Government anything, but by taking them from under the existing State laws there may actually be a saving?

Mr. WHEELER. That is correct.

Mr. BARKLEY. And as compared to what the railroads now pay under the Social Security Act and the State laws, this bill will work a saving in taxes of some $1,200,000.

Mr. WHEELER. That is correct.

Mr. BARKLEY. In other words, it puts the unemployment insurance of railroad employees on the same basis as their pension or retirement compensation, for which Congress has heretofore provided?

Mr. WHEELER. That is correct.

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

Mr. WHEELER. I yield.

Mr. CLARK. The Senator from Kentucky, my colleague on the Committee on Finance, and the Senator from Montana [Mr. WHEELER] will recall that at the time of the passage of the Social Security Act it was in the contemplation of all concerned, and so stated in all the discussion, that such a measure as this should be passed at the earliest practicable date. It was never intended for the railroad employees to be under the Social Security Act.

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

Mr. WHEELER. I yield.

Mr. LEWIS. The statement made by the Senator from Missouri is absolutely correct. Since that understanding has there been objection on the part of the employees?

Mr. WHEELER. The employers put in some formal figures, but frankly, it seemed to me that there was not any justified opposition to the measure. They preferred to have the matter continued until the fall.

Mr. LEWIS. They simply made some suggestions.

Mr. WHEELER. Simply made some suggestions. But the bill, in my judgment, is a sound bill, and it will save money for the railroads in the long run. In some States at the present time they have to pay at least 3 percent upon their entire pay rolls, and in other States they have to pay more than that. Under this bill they will pay 3 percent on the pay rolls up to $300 per month per employee. They have to make reports to the different States. Under this measure they will only have to make one report—and that to the Retirement Board. As a matter of fact they now have to make most of the reports under the Retirement Act which they would have to make under this bill to the Retirement Board, so the enactment of this bill should save the railroads considerable money, by subjecting them to the supervision of only one board instead of the commissions of the several States.

Mr. LEWIS. Conceding that, will the able Senator tell what advantage there will be to the employees?

Mr. WHEELER. The advantage to the employees is that it gives more benefits to the lower-paid employees than are given under the present laws. It does not give as much advantage to the higher-paid employees as many States give. But the higher-paid employees in the railroad service are willing to waive their rights to receive the greater benefits

in order that the men who receive the lowest wages may receive greater advantages. I think that that is one of the very best features of the measure.

Some statements were made that we were seeking to pay the employees $140 a month. As a matter of fact the maximum that can be paid in any one year to an employee who is unemployed is $240. That would be to the higher-paid employees. The maximum to the lower-paid worker is $140 in any one year.

I hope the bill will pass.

Mr. WAGNER. Mr. President, as a matter of fact, under this bill the railroad companies will pay a smaller tax than under the present system.

Mr. WHEELER. I think that is true.

Mr. WAGNER. Under the present system the entire pay roll is levied upon at the rate of 3 percent.

Mr. WHEELER. That is correct.

Mr. WAGNER. Under the pending measure the tax is limited to the pay rolls of those receiving $3,600 per year or less.

Mr. WHEELER. That is correct.

Mr. WAGNER. The railroads will save a million and a half dollars to $2,000,000 in that particular. It is estimated that at least $2,000,000 more will be saved in the way of simplified administration, in that the system will be a national one.

Mr. WHEELER. That is correct.

Mr. LEWIS. Mr. President, does the Senator from Montana feel that the position of lower-paid men would be improved?

Mr. WHEELER. Yes. They are the ones who should be benefited. I think it was very generous on the part of the higher-paid men that they should concede that the men who are lower paid should receive a greater advantage under the measure.

Mr. McNARY. Mr. President, the chairman of the committee has given the bill thorough study. I concur in his views. I hope the measure will be passed without further delay.

The VICE PRESIDENT. The question is on the third reading and passage of the bill.

The bill (H. R. 10127) was ordered to a third reading, and read the third time, and passed.

The VICE PRESIDENT. Without objection, Senate bill 3772 will be indefinitely postponed.

JOHN F. FITZGERALD—VETO MESSAGE (S. DOC. NO. 221)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying bill, referred to the Committee on Claims and ordered to be printed, as follows:

To the Senate:

I return herewith, without my approval, Senate bill No. 2051, entitled "An act for the relief of John F. Fitzgerald."

This bill proposes to authorize and direct payment to John F. Fitzgerald, of Brattleboro, Vt., of the sum of $150 which he had previously paid to the Government in compromise of a claim asserted against him and against a surety company, arising in connection with the enforcement of the National Prohibition Act.

It appears that while the eighteenth amendment was in effect, Fitzgerald gave a bond for $1,000, with himself as principal and a surety company as surety, to secure compliance with the terms of a permit issued to him under the National Prohibition Act for the sale of alcohol for medicinal purposes. The Government subsequently asserted a claim against him and against the surety company because of certain violations of the permit. He submitted an offer to compromise both claims for the sum of $150. This offer was accepted.

About 6 weeks before the acceptance of the offer, the Supreme Court, in the case of *United States* v. *Constantine* (296 U. S. 287) held that additional taxes such as were involved in the claim against Fitzgerald were in fact penalties and fell with the repeal of the eighteenth amendment. The proposed refund to Fitzgerald appears to be based upon this ruling. This would overlook the fact, however, that the Supreme Court likewise held, in *United States* v. *Mack* (295 U. S. 480) that causes of action on bonds given in connection with the enforcement of the National Prohibition Act did not become null and void, but continued in effect, after repeal, if they had vested prior to that time.

In this instance, the compromise, which was offered by Fitzgerald voluntarily, of his own motion, settled the claims on the bond, as well as the other claims asserted against him. The potential liability on the bond was in the sum of $1,000.

In view of the foregoing considerations, no reason appears why the amount of $150 thus paid by Fitzgerald in compromise of these various claims, including the claim on the bond, should be refunded to him.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 15, 1938.*

HOUSE BILL REFERRED

The bill (H. R. 10846) to create the office of the Librarian Emeritus of the Library of Congress was read twice by its title and referred to the Committee on the Library.

PRINTING OF PRAYERS OFFERED BY REV. JAMES SHERA MONTGOMERY

The VICE PRESIDENT laid before the Senate House Concurrent Resolution 65, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That 2,500 copies of the prayers offered by the Reverend James Shera Montgomery, chaplain of the House of Representatives, at the opening of the daily sessions of the House during the Seventy-fourth and Seventy-fifth Congresses, be printed and bound for the use of the House of Representatives.

Mr. HAYDEN. I move that the Senate concur in the concurrent resolution.

The motion was agreed to.

OLYMPIC NATIONAL PARK, WASH.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10024) to establish the Olympic National Park, in the State of Washington, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ADAMS. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. ADAMS, Mr. PITTMAN, Mr. HATCH, Mr. O'MAHONEY, and Mr. BORAH conferees on the part of the Senate.

WILLIAM HENRY JOHNSTON, JR.

Mr. THOMAS of Utah. I ask unanimous consent for the immediate consideration of House bill 9888.

The VICE PRESIDENT. The clerk will report the bill by its title.

The LEGISLATIVE CLERK. House bill 9888, for the relief of William Henry Johnston, Jr., a minor.

The VICE PRESIDENT. Is there objection to the present consideration of the bill? There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the legal guardian of William Henry Johnston, Jr., of Salt Lake City, Utah, a minor, the sum of $3,500, in full satisfaction of all claims against the United States for the death of the father of said minor, William Henry Johnston, who was killed on April 29, 1937, by a cave-in occurring in a trench which deceased was engaged in digging under direction of prison officials while an inmate of the United States Penitentiary, McNeil Island, Wash.: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any

sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

LIBRARIAN EMERITUS OF THE LIBRARY OF CONGRESS

Mr. BARKLEY. Mr. President, from the Committee on the Library, I report back favorably without amendment House bill 10846, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill (H. R. 10846) to create the office of the Librarian Emeritus of the Library of Congress was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That upon separation from the service, by resignation or otherwise, on or after July 1, after the approval of this act, Herbert Putnam, the present Librarian of Congress, who has served in that office for 39 years, shall become Librarian Emeritus, with such duties as the President of the United States may prescribe, and the President of the United States shall thereupon appoint his successor, by and with the advice and consent of the Senate. The said Herbert Putnam shall receive as Librarian Emeritus compensation at the rate of $5,000 per annum. Such salary shall be paid in equal monthly installments by the disbursing officer of the Library of Congress, and such sums as may be necessary to make such payments are hereby authorized to be appropriated.

BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. BARKLEY. From the Committee on the Library I report back favorably, without amendment, the joint resolution (H. J. Res. 712) providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress, and I ask unanimous consent for its immediate consideration.

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the death of Augustus P. Loring, be filled by the appointment of Arthur H. Compton, a citizen of Illinois, for the statutory term of 6 years.

Mr. BARKLEY. From the Committee on the Library I report back favorably, without amendment, the joint resolution (H. J. Res. 711) providing for the filling of a vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress, and I ask unanimous consent for its present consideration.

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the expiration of the term of R. Walton Moore, June 29, 1938, be filled by the appointment of R. Walton Moore, a citizen of Virginia, to succeed himself, for the statutory term of 6 years.

INVITATION TO FOREIGN GOVERNMENTS TO PARTICIPATE IN THE THIRD INTERNATIONAL CONGRESS FOR MICROBIOLOGY

Mr. PITTMAN. Mr. President, I ask unanimous consent for the present consideration of House Joint Resolution 702. I ask that it be read by its title first.

The VICE PRESIDENT. The resolution will be read by its title.

The LEGISLATIVE CLERK. House Joint Resolution 702, to provide that the United States extend to foreign governments invitations to participate in the Third International Congress for Microbiology to be held in the United States during the calendar year 1939, and to authorize an appropriation to assist in meeting the expenses of the session.

Mr. PITTMAN. Mr. President, the measure carries no appropriation. It simply provides for the invitations.

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

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Foreign Relations with an amendment.

The amendment was to strike out section 2, as follows:

SEC. 2. The sum of $10,000, or so much thereof as may be necessary, is hereby authorized to be appropriated for the expenses of organizing, holding, and publishing the proceedings of the Third International Congress for Microbiology, including expenditures for personal services in the District of Columbia and elsewhere without regard to the Classification Act of 1923, as amended, communication services, stenographic and other services by contract if deemed necessary without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5); travel expenses, local transportation, hire of motor-propelled passenger-carrying vehicles, rent in the District of Columbia and elsewhere, printing and binding, entertainment, official cards, purchase of newspapers and periodicals, necessary books and documents, stationery, membership badges, such expenses as may be actually and necessarily incurred by the Government of the United States by reason of observance of appropriate courtesies in connection therewith, and such other expenses as may be authorized by the Secretary of State.

The amendment was agreed to.

The joint resolution was ordered to a third reading, read the third time, and passed, as follows:

Resolved, etc., That the President is hereby authorized and requested to invite foreign governments to participate in the Third International Congress for Microbiology, to be held in New York, N. Y., September 2 to 9, inclusive, 1939, under the auspices of the International Association of Microbiologists.

SUBCONTRACTORS ON PUBLIC BUILDING PROJECTS

Mr. CONNALLY. Mr. President, some days ago the Senate passed House bill 146 on the call of the calendar. The Senator from Utah [Mr. KING] moved to reconsider the vote by which the bill was passed. I now desire to call up the motion to reconsider and dispose of it.

The VICE PRESIDENT. The Senator from Texas calls up the motion for reconsideration of House bill 146, to require contractors on public-building projects to name their subcontractors, materialmen, and supply men, and for other purposes.

Mr. KING. Mr. President, the bill before us has some rather remarkable features, and it is believed by many persons and by some officials of the Government that it will prove injurious instead of beneficial—injurious not only to contractors and subcontractors, but to the Government of the United States. The bill, it is claimed, contains features that interfere with the rights of contractors in their dealings with the Government, and with private persons; and, also, will not only accomplish no good but will result in increased cost to the Government and prove injurious to persons engaged in the construction of public buildings within the limits just referred to.

At the outset, may I say that my information is that the principal Departments of the Government which would be affected by this legislation are unanimously opposed to its enactment.

The bill passed the House on March 24, 1937, and it was reported to the Senate on April 15, 1938. It was referred to the Committee on Public Buildings and Grounds and reported by that committee to the Senate on April 15, 1938. It passed the Senate on June 7, 1938. It was returned to the Senate on the 8th of June, and a motion to reconsider was entered and the motion to reconsider is now before the Senate.

Mr. President, I was not advised of the nature of the bill until it had passed the Senate. From information that came to me from Departments the same day, or the following day, I entered a motion to reconsider the bill. I examined the hearings before the House, and the facts there presented led me to believe that the bill lacked merit and should be further considered by the Senate before approval was given to the same.

A number of communications were submitted to the House by officials of the Government having to do with public buildings and who know more about the difficulties and problems and proceedings in connection with the letting of

contracts for public buildings than perhaps any other persons. As I am advised, they did not seek this legislation and had made no representations which would justify the introduction of a measure such as the one under consideration. So far as I can learn, the situation was not such as to warrant a drastic measure as the one before us, which it was claimed by the Government officials would result in confusion, and, indeed, a loss to the Government, and be of no benefit whatever to contractors or subcontractors.

I desire to call attention to a letter written to the chairman of the Senate committee under date of April 26, 1937, by Hon. Wayne C. Taylor, Acting Secretary of the Treasury.

As Senators know, Secretary Taylor has much to do with the letting of contracts by the Government for public buildings and the repair of public buildings. It is well known that hundreds of Federal buildings have been constructed during the past few years, and hundreds more will be erected during this and the coming year. Hundreds of millions of dollars will be expended during this and the next year or two for the construction of post offices, courthouses, and various types of public buildings required for Federal purposes. The Acting Secretary of the Treasury has had much to do with contracts for public buildings, and is familiar with the processes employed in entering into contracts, and is familiar with methods and character of subcontractors and the relations between contractors and the subcontractors. His letter indicates that the situation does not call for a measure such as the one under consideration. His letter I send to the desk and ask that it may be read by the clerk.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the clerk will read the letter.

The legislative clerk read as follows:

TREASURY DEPARTMENT,
Washington, April 22, 1937.

Hon. TOM CONNALLY,
Chairman, Committee on Public Buildings and Grounds,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of March 3, 1937, requesting an expression of the views of the Treasury Department with reference to bill H. R. 146, to require contractors on public-building projects to name their subcontractors, materialmen, and supplymen, and for other purposes.

The bill, which it is noted has passed the House of Representatives, is intended to remedy two conditions—so-called "bid shopping" and difficulties of subcontractors and materialmen in obtaining prompt payment of sums due to them.

The existence of these conditions in the present system of contracting is recognized. However, for the reasons hereinafter stated, it is my opinion that the enactment of the subject bill would have no corrective tendency.

There will first be discussed the provisions of the bill which apparently are intended to correct the evils of "bid shopping." The portion of the bill dealing therewith requires bidders to file with their bids a "statement containing the names and addresses of the subcontractors, materialmen, and supplymen whose services the bidder intends to utilize in the performance of the work." It requires a provision in contracts for "withholding from, or payment by, the contractor of such penalties as may be fixed in the contract for failure to utilize" those named in the statement in the performance of the work; and provides that "sums assessed or paid as penalties for such failure may be remitted or refunded" in case it is shown to the satisfaction of the head of the governmental contracting agency that the substitution was justified by reason of the inability or unwillingness of the one designated in the statement to furnish the materials or supplies or properly to perform the work.

This places a heavy burden upon contracting officers. No formula or guide of any sort is set forth in the bill for the determination of the amount of penalties to be specified in contracts. Undoubtedly they would vary greatly among the several Departments as, in the very nature of the subject matter, the amount of the penalty would of necessity be determined arbitrarily—there being no relation between the amount of the penalty and the performance of the work under the contract.

The imposition of penalties, prior to a determination of guilt, is harsh treatment of a contractor. A large number of contractors are doing Government work with a rather limited capital. They rely, to a large extent, for their funds to meet payment of current obligations upon the progress payments made to them pursuant to the contract. Thus the imposition of the penalties (on the basis of a complaint which may or may not be warranted in a particular case) will definitely tend to defeat the other major purpose of the bill, namely, the prompt payment of subcontractors, etc.

The bill is further unfair to a general contractor, in that frequently his bid is, in good faith, based upon his own estimate (without sub-bids) for a particular class of work subsequently subcontracted. The bill would appear to be difficult, if not impossible of enforcement, in that the determination of its violation would depend upon the intention of the contractor. It would be impossible for the contracting officer to determine with any degree of assurance whether or not the general contractor, at the time of filing his bid, intended to subcontract particular portions of the work which he later decided to do. Thus a method of evasion probably would be open to those not desiring to attempt, in good faith, to comply with the provisions of the bill—the very group which it is designed to curb.

In the absence of a law of general application to contractors with well-organized regulatory groups, such as was the case under the provisions of the National Industrial Recovery Act, it is believed that the evils of the "bid shopping" practice can be corrected only by the development of a higher ethical standard by the subcontractors and materialmen who are injured. It may be of interest, however, in this connection, to note that the Procurement Division, by administrative action, requires that general contractors perform 25 percent of the work with their own forces, thus tending to eliminate the broker-contractor. It is understood that the Public Works Administration later adopted this specification requirement.

Despite the fact that it seems apparent to me that the enactment of the bill will not effect its high purpose, it is clear that it will add greatly to the burden and expense of Government construction. If a fair effort is to be made to arrive at the true facts in connection with the assessment or remission of the penalties provided by the bill, a large additional staff of Government investigators would be required at considerable expense; and even the higher-principled general contractors might well hesitate to make reasonable bids for Government work in view of the uncertainty which would necessarily prevail as to the administration of the provisions of the act by the various departments.

The portion of the bill which deals with the nonpayment of obligations by general contractors provides that contracts shall contain provisions "for withholding from, or payment by, the contractor of such penalties as may be fixed in the contract * * * for failure to pay such subcontractors, materialmen, and supplymen (in proportion to the amounts due them, respectively, in relation to the amount due the contractor on any payment date), as the contractor is paid by the United States."

In addition to the comments set forth above with reference to the provisions of the bill dealing with "bid shopping," which are also largely applicable to this phase of the bill, the following is suggested:

Great hardships are frequently imposed as the result of the failure of general contractors and subcontractors to apply payments received to the payment of subcontractors and materialmen, whose work is included in that paid for by the Government. For this reason the Department recommended the enactment of the act approved August 24, 1935 (49 Stat. 793), among other things requiring a payment bond, upon which suit may be instituted by an unpaid subcontractor, workman, or materialman at the expiration of 90 days after the date on which the last of the work was performed or material furnished for which claim is made. This statute has been enacted for so short a time that its full effect cannot yet be determined. However, it undoubtedly is a fact that the expense of collection by suit under the act places a contractor and his surety in an extremely favorable position to chisel in the payment of smaller obligations.

The subject bill, however, does not, in my opinion, appear to provide a remedy and has many objectionable features. No provision is made for the payment to subcontractors, etc., of the amounts assessed as penalties. The general contractor might be assessed a penalty thereunder because of nonpayment of an amount which the contracting officer determined to be a just claim, which subsequently was found not to be due by a court of competent jurisdiction. As previously suggested, the imposition of the penalty, if in substantial amount, would impair the contractor's ability to meet just claims.

It is further suggested:

(1) That there is no occasion to restrict the discretion of contracting officers as to the length of time a project should be on the market for bids, as is proposed by the requirement in the bill that bidders submit their bids within 60 days after the date of the invitation. The evils sought to be remedied arise after, not before, the award of the contract.

(2) Upon an examination after award of a subbid on file it might be found unsatisfactory to the contracting officer, for example, in that the material described, such as marble, granite, or limestone, is not in compliance with the specifications. Yet it would undoubtedly be urged that the award indicated an approval by the Government of the subbid. To investigate prior to award, requiring submission of samples, etc., would result in lengthy delays and endless confusion.

(3) There is apparent to me no logical reason for limiting the application of the bill to public-building contracts. If it be desirable as to them, it would seem equally desirable that its provisions be made generally applicable to public-works contracts of the Government.

It is requested, in the event hearings are held on the measure, that representatives of the Treasury Department be afforded an opportunity to amplify the above statements.

The enactment of the legislation proposed by H. R. 146 is in conflict with the program of the President.

Very truly yours,

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

Mr. KING. The Acting Secretary presents valid reasons in opposition to the bill, and answers, as it seems to me, arguments alleged in support of the bill. May I quote from the letter. He states that "for the reasons hereinafter stated, it is my opinion that the enactment of the bill would have no corrective tendency." The Secretary discusses the so-called bid shopping and, as I understand his letter, effectually meets the complaint that the so-called bid shopping has proven injurious. He states that "there is no occasion to restrict the discretion of contracting officers as to the length of time a project should be on the market for bids," and contends that "the evils sought to be remedied arise after, not before the award of the contract." He further states that it is apparent to him that no logical reason exists for limiting the application of the bill to public building contracts, but contends that if it is desirable as to them it would seem equally desirable that its provisions be made generally applicable to public works contracts of the Government. He concludes that the enactment of the measure "is in conflict with the program of the President."

Senators will perceive that the last statement of the Acting Secretary is a clear declaration that the bill is against the President's program.

I have before me a letter written by Hon. Harry H. Woodring, Secretary of War, to which I call attention. It reads as follows:

WAR DEPARTMENT,
Washington, April 27, 1937.

Hon. TOM CONNALLY,
Chairman, Committee on Public Buildings and Grounds,
United States Senate.

DEAR SENATOR CONNALLY: Careful consideration has been given to the bill H. R. 146, an act to require contractors on public-building projects to name their subcontractors, materialmen, and supply men, and for other purposes, which was passed by the House of Representatives on March 24, 1937, and has been referred to your committee.

The bill confers no discretion upon contracting officers with respect to accepting or rejecting bids based on the character, qualifications, or capacity of the subcontractors, materialmen, and supply men named by the bidder in his bid. The requirement that bidders shall submit in advance the names of subcontractors, materialmen, and supply men presents great difficulties not only to contracting officers of the Government but to the bidder. Conceivably upon payment of a consideration therefor a bidder could in advance enter into a tentative contract with such persons, which would be effective in the event of the Government contract was awarded to him; but this would unquestionably delay his submission of a bid, increase his costs, and consequently the price to the Government and would probably also tend to decrease the number of bidders on any particular project.

Many general contractors, however, are competent, and do estimate the costs of material and labor entering into construction work without first obtaining commitments from subcontractors and materialmen, preferring to negotiate for their requirements after receiving award of the prime contract.

It has recently been demonstrated that as business conditions have improved it has become increasingly difficult to secure proper proposals for Federal construction work, prospective bidders frankly stating that due to the numerous restrictions they prefer private to Government work. Any additional restrictions placed on bidders will certainly not improve conditions, and will result in higher costs to the Government. The bill also appears to be designed for the additional purpose of preventing contractors from bargaining with subcontractors and materialmen after general contracts for public works have been awarded. While it may be desirable to prevent excessive bargaining during periods of depression as an emergency measure, it is the opinion of this Department that during periods of normal business the enactment of the proposed bill would not generally be to the advantage of the public.

It should also be borne in mind that in the last analysis the Government in securing competitive bids is bargaining with contractors and it is only fair that the Government in turn should afford contractors an opportunity to bargain with materialmen and subcontractors. The time allowed contractors to secure prices and prepare proposals is usually only sufficient to permit them to make estimates of costs, and is entirely too short to permit a canvass of the entire field of manufacturers and subcontractors and to enter into tentative contractual relationships with them before submitting bids.

It will also be seen that if the proposed legislation is enacted many difficulties and controversies may be expected. Every contract is based on a specification, and if a bid is accepted based on the furnishing of definite makes of materials and equipment the acceptance of such a bid would practically obligate the Government to accept the products of the manufacturers stated therein. To illustrate difficulties which may be encountered, an assumption will be made that bids are requested for a refrigerating plant costing approximately $100,000 and that a certain kind of equipment valued at approximately $600 is required therein. It will be further assumed that a bid of $10,000 lower than all others was received, and that such low bid was accompanied by the name of a manufacturer of that kind of equipment referred to above which was known to be of inferior quality and not suitable for the purpose intended. It is evident in such event serious difficulties would arise if the bid were rejected merely because of a minor item not being acceptable, or if the bid was accepted and the contractor subsequently required to furnish other equipment without extra cost.

It is apprehended that the acceptance of a bid accompanied by a list of subcontractors and materialmen from whom the bidder proposes to obtain his materials may be impliedly an acceptance of that manufacturer's or materialman's product and establish privity between said contractor and the Government, a status which heretofore has been carefully avoided.

The acceptance of the bidder's bid, accompanied by such list would tend to vitiate the specifications if for any reason the subcontractor's product and the specifications were in conflict and might be used as a basis for claim against the Government.

It is the further opinion of this Department that it is immaterial whether general contractors bargain with materialmen before or after bids are publicly received and opened, and it is believed that the enactment of the proposed bill would not achieve the results desired. In this connection it is desired to point out that a contractor's proposal is made up of four general items, namely, work to be performed by subcontractors, materials to be purchased, and a general item covering overhead, profit, insurance, contingencies, etc. It may be seen that even though a general contractor did receive prices from materialmen and subcontractors his records might easily be made to show, by adjusting the many items, that he used none of the prices obtained in making up his estimate upon which his bid was based. It is the belief of this Department that if the bill in question is enacted that bidders will not furnish the name of materialmen and subcontractors and will be able to prove by their records that they did not use any prices obtained prior to the award of the general contracts. As there is nothing in the bill to prevent such action, and as stated above, many contractors are qualified to prepare estimates without assistance from outside sources, the object of the proposed legislation will not be obtained.

A general contractor in submitting a bid for construction work involving in many instances the expenditure of from $5,000 to $500,000 or more would be obliged not only to include the names of those subcontractors responsible for the principal subdivisions of the work, such as excavation, masonry work, carpenter work, steel erection, roofing, plastering, electrical, painting, and many others, in the list accompanying his bid, but also the name of every firm or individual from whom he expects to obtain the material used by him in performance of that part of the contract which he may perform with his own forces, provided the cost of such material exceeds $500. This part of the contract might involve many hundreds of items and as many materialmen.

To illustrate, there follows a list of probable or possible subcontracts involved in the construction of either an average, medium size, or large building dealing directly with the general contractor, whereas in case the contractor himself performs any one or a number of the subdivisions of the usual contract as listed hereunder, each one of said subdivisions listed which the general contractor may undertake, may be expanded in number to include three or four materialmen:

1. Excavator.
2. Foundations for special conditions.
3. Concrete work.
4. Masonry—brick, tile, gypsum, etc.
5. Cut stone.
6. Cast stone.
7. Plumbing.
8. Heating.
9. Air conditioning or ventilating.
10. Electric wiring outside.
11. Electric wiring inside.
12. Electric fixtures.
13. Rough carpentry.
14. Finish carpentry.
15. Millwork.
16. Window sash.
17. Window shades.
18. Window screens.
19. Venetian blinds.
20. Weatherstripping.
21. Structural steel.
22. Rough iron.
23. Ornamental metal.
24. Rough hardware.
25. Finished hardware.
26. Lathing.
27. Plastering.
28. Acoustical installations.
29. Roofing.

30. Waterproofing and/or dampproofing.
31. Sheet-metal work.
32. Painting and decorating.
33. Glazing.
34. Marble, tile, terrazzo, etc., flooring.
35. Linoleum.
36. Special floors (asphalt, tile, etc.).
37. Special equipment kitchens, etc.
38. Elevator or dumb-waiter installation.
39. Landscaping, grading, etc.

The specifications require a contractor to submit samples of the material which he proposes to use, which samples, if the contractor is obligated to a subcontractor already named and impliedly accepted by the Government, must be submitted and approved prior to award of the contract. Under existing conditions, the contractor submits samples only prior to their actual need and if the product of one manufacturer is not acceptable, it is the contractor's responsibility to obtain material that will answer specification requirements.

The confusion and difficulties involved in the receipt of bids for any construction project under the provisions of said act, can best be exemplified by the following example, viz:

If it be assumed that there are 10 general contractors each submitting bids based on bids received from subcontractors and each submitting samples of not over 30 materials for approval, there will be a total of approximately 300 samples to be passed upon. When it is considered that prior to final approval of materials it may be necessary to submit the samples to the United States Bureau of Standards for test, some conception of the volume of work and the difficulties anticipated may be had.

Also, in order to satisfy himself that the materialmen whose names he expects to submit are able to furnish articles complying with specification requirements, a bidder, before submitting his bid should receive prior approval of the various construction materials entering into the completed project. In view of the limited facilities available to contracting officers for determining the suitability of such materials, and the limited time available due to the tendency of materialmen to delay submission of quotations until within a day or two of the time scheduled for the opening of the bids for the prime contract, it should readily be seen that the passage of this act will make it practically impossible to secure adequate competition for the work projected.

The firms or persons named by the general contractor as subcontractors must necessarily, in order to carry out the purpose of the act, name the materialmen from whom they expect to obtain the material for their part of the work. The general contractor in all fairness should not alone bear the onus of the charge of unfair practice. Thus it will be seen that the list of subcontractors to be furnished would be formidable and involve much additional work by administrative offices of the Government thereby increasing the cost for which the Government receives no return.

The Government, through its purchasing officers, in procuring supplies and materials for general use, is required to advertise its needs and to award the contract to the lowest bidder, unless, however, the desired commodity can be obtained in the open market for less than the lowest bid, in which event purchase in the open market in manner common among businessmen is authorized. A contractor bidding for construction work should not be restricted in the conduct of his business to a greater extent than the Government itself practices in the conduct of its business.

It will be noted that the bill as originally presented to the House provided that contracts in excess of $5,000 in amount shall be awarded *only* to bidders whose bids are submitted within 30 days after date of the invitation for bids, and are accompanied by a statement containing the names and addresses of the subcontractors, materialmen, and supplymen whose services the bidder intends to utilize in the performance of the work, etc. This provision was changed so that the bill as finally passed by the House provided that 60 days should be allowed bidders for the submission of bids instead of 30 days as originally written. The 30 days mentioned hereinabove was too short a time from the bidders' standpoint, whereas 60 days from the date the work is first advertised imposes a hardship on the Government because of the delay in the actual starting of work, to not less than 90 days and in some cases, particularly where administrative examination and comparison of bids require also the examination and approval of samples submitted, a much longer time.

In many cases of construction work it is absolutely essential to commence work at the earliest possible date and to that end invitations for bids frequently require that bids be submitted in less than 30 days. It is foreseen that in the event H. R. 146 is enacted into law construction work of the Government will be subject to unconscionable delay.

The general contractor is required to furnish a performance bond for the protection of the Government and a payment bond for the protection of labor and materialmen, therefore, it would be logical to assume that in view of the conditions imposed on him by H. R. 146, that the general contractor would require subcontractors and materialmen to also furnish a performance bond for his protection so that the ideal would be attained and no risk of loss incurred by the general contractor, incidentally increasing the cost of the work beyond all reason.

It should be noted in this respect that the provisions of the standard form of Government construction contract provide that if the contractor or any subcontractor fails to pay the rate of wages stipulated in the advertised specification for the work to be paid to laborers and mechanics employed at the site of the work, the general contractor is held liable for the difference between the wages actually received by the workman and the wages he should have received, and the contract further provides for the action to be taken by the contracting officer to effect compliance with said provision. Actual cases are known where a general contractor has paid wages twice due to actions of a subcontractor.

A recent act of Congress (Public, No. 321, 74th Cong., approved Aug. 24, 1935) requires the contractor to furnish a payment bond to insure all subcontractors and materialmen payment for materials and labor supplied to the work. If a subcontractor receives payments due him and fails to pay workmen or materialmen from whom he obtained the materials used by him under his subcontract, the general contractor is responsible for the payment to the workmen for wages and to materialmen for material, all of which he may have previously paid the subcontractor.

In conclusion, it is the opinion of the War Department that the proposed bill if enacted into law will serve no useful purpose, will create confusion and delay in processing needed construction work, and also increase the cost of said work to an extent not measurable at this time, therefore, it is recommended that the bill be not enacted into law.

This proposed legislation was submitted to the Bureau of the Budget which advises that there would be no objection to the submission of the proposed unfavorable report to Congress.

Sincerely yours,

HARRY H. WOODRING,
Secretary of War.

It will be observed that the Secretary declares that any additional restrictions placed on bidders will certainly not improve conditions and will result in higher costs to the Government. He adds that the bill appears to be designed for the purpose of preventing contractors from bargaining with subcontractors and materialmen after general contracts for public works have been awarded, and adds that while it may be desirable to prevent excessive bargaining during periods of depression as an emergency measure, it is the opinion of this Department that during periods of normal business the enactment of the proposed bill would not generally be to the advantage of the public. He adds that it should be borne in mind that in the last analysis the Government, in securing competitive bids, is bargaining with contractors, and it is only fair that the Government, in turn, should afford contractors an opportunity to bargain with materialmen and subcontractors. He refers to the fact that time allowed contractors to secure prices and prepare proposals is usually only sufficient to permit them to make estimates of costs, and it is entirely too short to permit a canvass of the entire field of manufacturers and subcontractors and to enter into tentative contractual relationships with them before submitting bids. He adds that the acceptance of the bidder's bid, accompanied by such list, would tend to vitiate the specifications if for any reason the subcontractor's product and the specifications were in conflict and might be used as a basis for claim against the Government.

I call attention to the statement made by Secretary Woodring that by a recent act of Congress contractors are required to furnish a payment bond to insure all subcontractors and materialmen payment for materials and labor supplied for their work This meets one of the objections which I understand has been urged, that the subcontractors were placed at a disadvantage in the matter of payment. Secretary Woodring states:

> It is the opinion of the War Department that the proposed bill, if enacted into law, will serve no useful purpose, will create confusion, and delay in processing needed construction work, and also increase the cost of said work to an extent immeasurable at this time. Therefore, it is recommended that the bill be not enacted into law.

The Secretary adds that the proposed legislation was submitted to the Bureau of the Budget, which in effect approves of an unfavorable report upon the bill.

Mr. President, I call attention to the statement of Mr. Horatio Hackett, who as we all know, was a very efficient administrator in the office of the P. W. A. In his statement concerning the bill he states:

> The enactment of H. R. 146 would substantially increase the amounts of bid for construction work, and would delay performance of such work for the following reasons.

He submits five specific reasons as to why the bill should not be enacted. I shall not take the time of the Senate to

read them, but in my opinion they support and strengthen the views of the Secretary of War, and the Assistant Secretary of the Treasury, Taylor.

I might add that so far as wages are concerned they are protected under existing law, including the Davis prevailing-wage law, and by the Miller Act, which provides a separate bond running for the protection of subcontractors and labor. Thus one of the reasons assigned for the bill is found to be without merit.

Mr. President, I have presented the views of the Government officials, so far as they have been brought to my attention, who were charged with the responsibility of providing Federal buildings authorized by law. They know about the problems involved, and with such knowledge they unqualifiedly declare against the enactment of this measure. Their desire for the public good and for the welfare of the Government may not be overlooked or discounted. I, therefore, respectfully ask that the motion to reconsider be adopted, to be followed by a vote in opposition to the passage of the bill.

The House passed the bill more than a year ago. Within a week after the bill was introduced, limited hearings were held by the House committee. None were held before the Senate committee, so far as I can ascertain.

Mr. CONNALLY. I beg the Senator's pardon; the Senator from Massachusetts [Mr. WALSH] held a hearing.

Mr. WALSH. A subcommittee of the Committee on Education and Labor held a hearing.

Mr. CONNALLY. I have sent for a copy of it.

Mr. WALSH. Mr. President, will the Senator from Utah yield?

Mr. KING. Yes.

Mr. WALSH. The distinguished and conservative and brilliant Republican Senator from Vermont [Mr. AUSTIN] joined in recommending the passage of this legislation.

Mr. KING. That would be very much in its favor; but having read the testimony before the House committee, having read the letters from Mr. Woodring and Mr. Taylor in which they state in substance that the bill is against the President's policy, and point out the lack of necessity for its enactment, I am constrained to believe that the Senator from Vermont has made a mistake.

Mr. WALSH. Mr. President——

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

Mr. WALSH. Has my dear friend from Utah read the evidence about the common practice of a chief contractor asking subcontractors the amounts of money he should include in his bid for their parts of the work, and, after making his bid and getting his contract, going around to other subcontractors and asking them to do the subcontract job for a smaller figure? Will you take a little off this estimate? Will you take a little less for the plumbing, a little less for the carpenter work, a little less for the plastering, and so forth? It has led to serious injury to many reputable subcontractors?

Mr. KING. Mr. President, Secretary of War Woodring is a new dealer. Mr. Taylor is a new dealer. Mr. Hackett is a new dealer. These persons are, it is claimed, carrying out the policies of the New Deal. They are, it is alleged, interested in the welfare of the workingmen; and they unite in disapproving this bill and claim that if enacted it would prove injurious to the Government. They do not want the measure enacted, and say in conclusion that it is against the President's policy.

I am not on the committee which reported the bill. I know nothing about the questions involved other than the testimony which I read, taken by the House committee, and statements made to me by persons fully acquainted with the effects which would follow the enactment of the bill into law.

Mr. WALSH. Mr. President, the views of the Senator from Utah are always entitled to careful consideration. They are based upon sound thinking and conscientious convictions; but I should like to say to the Senator from Utah that it is natural for administrative officers, who seek to spend as little money as possible on contracts made by them, to invite and encourage means to obtain the lowest prices.

Mr. KING. Mr. President, I do not agree with the statement just made by my friend. I believe that the Federal officials who have been interested in the construction of public buildings, whether for the Works Progress Administration, the P. W. A., or the Treasury Department, have been fair in their treatment of contractors and subcontractors. They have tried to live up to the spirit of what is denominated the "New Deal" in their relations with labor and all persons who contracted with the Government for the erection of public buildings.

Mr. WALSH. I am pleased to see the distinguished Senator from Utah advocating a New Deal policy.

Mr. KING. I am sure that Assistant Secretary of the Treasury Taylor and Secretary of War Woodring and Mr. Hackett and Secretary Ickes, who will have more to do with the operations under this bill, if it becomes law, than any other persons, desire an honest and efficient administration, and I am sure they have been generous in dealing with contractors and subcontractors. They declare that the enactment of this bill would be disadvantageous to the Government, and of no benefit to the subcontractors, therefore they are opposed to it.

I have no interest in the matter. I made the motion to reconsider only because my attention was directed to the matter by a reading of the communications of the Secretary of War and Assistant Secretary Taylor of the Treasury. I have confidence in Mr. Hackett and in Secretary Ickes. I believe that these officials who have to do with Government construction and who have to account for every dollar that is spent by them, would recommend the best plan for contracts. Mr. Taylor says this bill is wrong, and that he is opposed to it. I prefer the testimony of these gentlemen to the statements of some other persons.

Mr. WALSH. Mr. President, I do not wish to prolong the discussion with a Senator who occupies a position in this body which I respect so highly as that of the Senator from Utah. I think it would be very unfortunate if we did not have in the Senate a man with the critical approach and the conscientious convictions of the distinguished Senator from Utah in the discussion of these measures. I desire to have the Senator know that I have profound respect for his attitude on all these public questions, and I sometimes wish I had as much ability and as exacting a conscience as he has in the analysis of public questions.

Mr. KING. I thank the Senator very much.

Mr. WALSH. I should like to ask the Senator a question. When a contractor submits a bid for the construction of a public building, what is the objection to his naming the subcontractors who will supply the plumbing, who will supply the lumber, who will do the masonry work, who will do the bricklaying, and who will do the other subcontract operations? What can be the objection to having the man who makes the bid give the names of these persons to the governmental agency, so that they may pass upon their standing and reputation as efficient, capable, and honest subcontractors?

Mr. KING. The objections are clearly set forth. The officials to whom I have referred say that because of the uncertainties accompanying strikes and the rise and fall in commodities, in brick and in cement, and so forth, it is impossible for the honest contractor to submit a statement in advance. It is understood that in some sections, particularly in large cities—I do not wish to point out any of them—that there are organizations of subcontractors who have a "cinch," to use the common expression, upon the contracting business, and I understand that some of their activities have been the subject of investigation by Government officials.

It is found that in some sections of the country—I will not indicate which ones I refer to—the subcontractors have organizations, and many of them make it impossible for the smaller contractor, the man without large capital, to bid, and they are thus driven out of business. They conspire for

the purpose of bringing about this elimination of independent contractors and subcontractors.

Mr. WALSH. Unfortunately, in every group in human society there are elements who take advantage of others, and employ the agencies of selfishness and greed to such an extent as to perform their functions contrary to the general welfare. Every law we pass here dealing with business is to punish those few who violate ethical and honorable business principles. We pass laws to limit speed, not because everybody violates speed restrictions, but because a few do so. This bill is for the purpose of preventing a limited number of subcontractors who are chiselers from limiting and restricting the opportunities for honest business achievement by reputable businessmen.

Mr. KING. The testimony of the officials to whom I have referred shows that they take just the opposite view. They say that the disadvantages will be very great if the plan which the bill seeks to put into effect is carried out.

I yield the floor.

WILLIAM G. LOY

Mr. CONNALLY obtained the floor.

Mr. McKELLAR. Mr. President, will the Senator from Texas yield to me? I am obliged to go to a conference on the relief joint resolution, and I desire to present two matters, which will take about half a minute.

Mr. CONNALLY. I yield.

Mr. McKELLAR. As in executive session, I ask unanimous consent for the reconsideration of the vote by which the nomination of William G. Loy to be postmaster at Newport, Pa., was rejected, and that his nomination be confirmed.

The PRESIDENT pro tempore. Without objection, the vote is reconsidered; and, without objection, the nomination is confirmed.

LOCAL DELIVERY RATE ON CERTAIN FIRST-CLASS MAIL MATTER

Mr. McKELLAR submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2716) to provide for the local delivery rate on certain first-class mail matter, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment to the text of the bill.

That the Senate recede from its amendment to the title.

KENNETH MCKELLAR,
CARL HAYDEN,
LYNN J. FRAZIER,
Managers on the part of the Senate.

HARRY L. HAINES,
HENRY C. LUCKEY,
N. M. MASON,
PAUL W. SHAFER,
Managers on the part of the House.

The report was agreed to.

ORDER OF BUSINESS

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

Mr. CONNALLY. For what purpose?

Mr. COPELAND. I desire to make a request for the consideration of a few House bills.

Mr. CONNALLY. Very well.

Mr. COPELAND. I ask the attention of the Senator from Kentucky [Mr. BARKLEY] for a moment. There are on the calendar a number of House bills which have been considered by Senate committees.

Mr. BARKLEY. Mr. President, I will say to the Senator that it is my purpose to ask tomorrow that the calendar be called for the consideration of bills not objected to, beginning where we left off at the last call, which would include bills which have been reported since that call.

Mr. COPELAND. What time tomorrow will that be done?

Mr. BARKLEY. We are going to recess pretty soon, I hope, to meet at 12 o'clock tomorrow. I have no way of knowing exactly at what hour we shall be able to call the calendar, but unless conference reports are ready for consideration I think we shall do so very soon after we convene.

Mr. COPELAND. I thank the Senator.

SUBCONTRACTORS ON PUBLIC-BUILDING PROJECTS

The Senate resumed the consideration of the motion of Mr. KING to reconsider the vote by which the Senate passed House bill 146, to require contractors on public-building projects to name their subcontractors, materialmen, and supply men, and for other purposes.

Mr. CONNALLY. Mr. President, I hope the Senate will not vote to reconsider this bill. That is the quickest and most expeditious manner in which to dispose of the bill, because if we reconsider it we may be here all night talking on the bill. I hope we shall not be.

The bill under discussion is House bill 146. It passed the House, came to the Senate, and was thoroughly considered by the Committee on Public Buildings and Grounds. A subcommittee was appointed of which the distinguished Senator from Massachusetts [Mr. WALSH] was chairman. The hearings, I understand, have been printed, and they have been available.

It is true that some of the departments, particularly the Procurement Division, do not want the bill enacted, for the simple reason that they do not want to be bothered with dealing with subcontractors. They want to deal with one contractor, and it is easier to deal with one man than with all the subcontractors. The purpose of the bill, however, is this:

A man bids on the construction of a Government building. Before he submits his bid he goes around and gets estimates from the plumber and the plasterer and the wallpaper man and the floorman and all the different subcontractors. They submit estimates, and he compiles them and makes his estimate and bid on that basis. Then, as soon as he gets his contract, he goes around and puts pressure on these men. He has not actually contracted with them. He has merely obtained little tentative estimates from them. He says, "I want to deal with you, but you will have to cut the estimate you gave me, because I can have the work done by Bill Jones for a thousand dollars less."

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

Mr. CONNALLY. I yield.

Mr. BARKLEY. Did I correctly understand the Senator to say that the contractors on public buildings secure estimates from subcontractors before they make their own bids on the Government work?

Mr. CONNALLY. Exactly.

Mr. BARKLEY. On the basis of those estimates, the contractors then submit their bids?

Mr. CONNALLY. They do.

Mr. BARKLEY. And if the contractors are awarded the contracts, not having any contracts with the subcontractors, they then negotiate with them or coerce them into accepting lower figures than those they use as the bases of their estimates?

Mr. CONNALLY. Exactly.

Mr. BARKLEY. And unless the subcontractor agrees to accept a lower figure, the contractor is at liberty to go elsewhere and get somebody else to do the work. Is that the fact?

Mr. CONNALLY. Exactly. That is the gist of the bill. The contractor says, "It is true you made this estimate; but times have changed and conditions have changed, and I cannot pay that amount now. You will either have to come down in your figures or you will lose the contract." Well, if the subcontractor can come down, he comes down, because he wants the job.

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

Mr. CONNALLY. I yield.

Mr. WALSH. Let me add that after the contractor gets the estimates he underbids them, with the object of afterward going to some subcontractor who will help him make good on the bid he has made.

Mr. CONNALLY. Exactly. If it is necessary to do so to get the contract, he will shave all of the estimates a little when he makes his bid, and then go back to the subcontractors and coerce them to come down still further.

Mr. BARKLEY. What does the bill do to prevent that?

Mr. CONNALLY. The bill requires the contractor, when he submits his bid, to submit a list of his subcontracts.

Mr. BARKLEY. In other words, it undertakes to hold him to the moral obligation he has entered into in order to get the estimates?

Mr. CONNALLY. Exactly.

Mr. BARKLEY. I hope the vote by which the Senator's bill was passed will not be reconsidered.

Mr. WALSH. Mr. President, what is the name of the practice in the trade? It has a particular name.

Mr. OVERTON. It is called "bid peddling."

Mr. CONNALLY. That is correct. The bill has been thoroughly considered, it passed the House and passed the Senate. The Senator from Utah, it is true, made a motion to reconsider. I have high respect for the motives of the Senator from Utah and his great learning and great zeal and great ability, but I am rather inclined to think that in this instance his interest is misdirected.

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

Mr. CONNALLY. I yield.

Mr. KING. As I stated at the outset, my attention was directed to this matter by officials. Their testimony was brought to my attention, and I felt that the Senate ought to understand their views before acting on the bill; and I did what the Senator from Texas would have done if he had been requested to bring the matter to the attention of the Senate. I moved to reconsider the vote, and having read their statements, in which one of them said the bill was against the President's policy, I confess I espoused the President's cause in this matter with a good deal of earnestness.

Mr. CONNALLY. I have no quarrel with the Senator from Utah. He illumines whatever he touches, he is a man of great zeal and ability and industry, and great personal charm. I enjoy my association with him on the Committee on Finance and on the Committee on the Judiciary; but the Senator did read these letters from some of the subordinates in the Departments. These matters were considered thoroughly by the subcommittee of which the Senator from Massachusetts was chairman, and the committee considered all the matters.

So far as some subordinate in the Department saying that it is against the President's policy is concerned, the President can veto the bill if it is contrary to his policy, and I would rather have an expression from the President as to his policy than of some assistant secretary in a department, who I am sure does not know anything about whether the President approves the bill or whether he does not. That is a sort of touch of death put on things by subordinates who do not want them passed, the statement that they are not in conformity with the President's financial policy.

I hope the Senate will vote down the motion to reconsider.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Utah to reconsider the vote by which the bill was passed.

The motion was rejected.

ORDER OF BUSINESS

Mr. PEPPER. Mr. President, I realize the desire of the Senator from Kentucky that we proceed as rapidly as possible, but I wonder if he would be good enough to permit the present consideration of Senate resolution 296, which I am sure will require nothing more than a vote. If discussion were required I would not ask for the consideration of the resolution.

Mr. BARKLEY. Mr. President, the Senate will be in session tomorrow; we have quite an executive calendar, and Senators want to have a recess taken at an early hour, and I do not think we ought to take up any other legislative matters.

Mr. PEPPER. Very well.

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 REPORTS OF COMMITTEES

Mr. HARRISON, from the Committee on Finance, reported favorably the nomination of Assistant Surgeon Marion B. Noyes, to be passed assistant surgeon in the United States Public Health Service, to rank as such from July 1, 1938.

Mr. HUGHES, from the Committee on the Judiciary, reported favorably the following nominations:

William Clark, of New Jersey, to be judge of the United States Circuit Court of Appeals for the Third Circuit, vice J. Whitaker Thompson, retired; and

Albert Branson Maris, of Pennsylvania, to be judge of the United States Circuit Court of Appeals for the Third Circuit, to fill an existing vacancy.

Mr. CONNALLY, from the Committee on the Judiciary, reported favorably the following nominations:

Douglas W. McGregor, of Texas, to be United States attorney for the southern district of Texas; and

Edward A. Conger, of New York, to be United States district judge for the southern district of New York.

Mr. KING, from the Committee on the Judiciary, reported favorably the following nominations:

John A. Matthewman to be fifth judge of the first circuit, circuit courts, Territory of Hawaii; and

Bolitha J. Laws, of Washington, D. C., to be an associate justice of the District Court of the United States for the District of Columbia.

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably, without reservation, Executive B, Seventy-fourth Congress, second session, a general treaty between the United States of America and the Republic of Panama, signed at Washington on March 2, 1936, and submitted a report (Exec. Rept. No. 17) thereon.

He also, from the same committee, reported favorably, without reservation, the following conventions and submitted reports thereon:

Executive C, Seventy-fourth Congress, second session, a convention between the United States of America and the Republic of Panama, for the regulation of radio communications in the Republic of Panama and the Canal Zone, signed at Washington, on March 2, 1936 (Exec. Rept. No. 18);

Executive D, Seventy-fourth Congress, second session, a convention between the United States of America and the Republic of Panama, providing for the transfer to Panama of two naval radio stations, signed at Washington on March 2, 1936 (Exec. Rept. No. 19); and

Executive E, Seventy-fourth Congress, second session, a convention between the United States of America and the Republic of Panama, with regard to the construction of a transisthmian highway between the cities of Panama and Colon, signed at Washington on March 2, 1936 (Exec. Rept. No. 20).

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

He also, from the same committee, reported adversely the nominations of several postmasters.

The PRESIDING OFFICER (Mr. DUFFY in the chair). The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of Francis J. W. Ford to be United States district judge for the district of Massachusetts.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE JUDICIARY

Mr. ASHURST. Mr. President, several nominations in the judiciary were made yesterday and the Senate Committee on the Judiciary, through its subcommittees, considered them and reported today. I ask that the nominations be considered, and that the various chairmen of the subcommittees present the matters.

Mr. BURKE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BURKE. In regard to the nominations from the Committee on the Judiciary, will it not be necessary for them to go on the calendar and be brought up for the first time tomorrow?

The PRESIDING OFFICER. Unless unanimous consent were granted they would be required to lie over for 1 day. The Chair assumed that the Senator from Arizona was asking unanimous consent that action be taken at this time.

Mr. ASHURST. I intended to.

Mr. BURKE. What I am asking is whether they can appear on the calendar now so that they will not lie over from this day until tomorrow, or whether they must appear first on the calendar tomorrow.

The PRESIDING OFFICER. They are reported today and they will be on the printed calendar tomorrow.

Mr. BARKLEY. I understood the Senator from Arizona to ask unanimous consent that the nominations reported today, but not on the calendar, be considered now.

Mr. BURKE. I object to that.

FEDERAL HOUSING ADMINISTRATOR

The legislative clerk read the nomination of Stewart McDonald, of Missouri, to be Federal Housing Administrator.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. DAVIS. Mr. President, I received a telegram from some colored citizens making certain requests in regard to the nomination of Mr. McDonald. As a result I conferred with Mr. McDonald, and he assured me that he had always been fair, and that his endeavor always had been to do what was right by all people with whom he came in contact, irrespective of race, color, or creed. I found him to be a very excellent man, and I am sure that those who communicated with me will find no ground for criticism when they consider Mr. McDonald's record. I ask that the telegram be printed in the RECORD at this point.

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

WASHINGTON, D. C., *June 15, 1938.*

Senator J. J. DAVIS,
Senate Office Building:

Mr. Stewart McDonald's name comes up for confirmation by the Senate. Has done an excellent job as administrator of the F. H. A. However, his division of the Government has consistently refused Negroes adequate participation in its program. The National Technical Association, composed of graduate engineers, architects, and technicians, wish assurance from Mr. McDonald that if reappointed he will see that qualified Negroes are given employment as architects, engineers, and technicians.

NATIONAL TECHNICAL ASSOCIATION, WASHINGTON CHAPTER,
L. K. DOWNING, *President.*

Mr. CLARK. Mr. President, I ask unanimous consent that the President be notified of the confirmation of Mr. McDonald.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the President will be notified.

COLLECTOR OF INTERNAL REVENUE

The legislative clerk read the nomination of James H. Latchum, of Milford, Del., to be collector for the district of Delaware.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

REGISTER OF LAND OFFICE

The legislative clerk read the nomination of Loraine Rollins, to be register of the land office at Evanston, Wyo.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS

The legislative clerk read the nomination of Kenneth A. Godwin, of California, to be regional director, region 6.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE JUDICIARY

The legislative clerk read the nomination of Leon McCord, of Alabama, to be United States circuit judge for the fifth circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Samuel B. Kemp, of Hawaii, to be associate justice of the Supreme Court, Territory of Hawaii.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

CIRCUIT COURT, TERRITORY OF HAWAII

The legislative clerk read the nominations of Harold E. Stafford, James Wesley Thompson, Delbert E. Metzger, and Carrick H. Buck, all of Hawaii, to be judges of the Circuit Court of the Territory of Hawaii.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

UNITED STATES ATTORNEY

The legislative clerk read the nomination of J. Saxton Daniel, of Georgia, to be United States attorney for the southern district of Georgia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk read the nomination of Frederick A. Sterling, of Texas, to be Envoy Extraordinary and Minister Plenipotentiary of America to Sweden.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. PITTMAN. I ask unanimous consent that the President be notified of this confirmation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the President will be notified.

FEDERAL POWER COMMISSION

The legislative clerk read the nomination of Basil Manly to be a member of the Federal Power Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent that the President be notified of the confirmation of Mr. Manly's nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the President will be notified.

IN THE NAVY

The legislative clerk proceeded to read sundry nominations in the Navy.

Mr. WALSH. I ask unanimous consent that the nominations in the Navy be confirmed en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the nominations are confirmed en bloc.

IN THE MARINE CORPS

The legislative clerk proceeded to read sundry nominations in the Marine Corps.

Mr. WALSH. I ask unanimous consent that the nominations in the Marine Corps be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

Mr. McKELLAR. Mr. President, as Senators know, on the last day of the session a great deal of confusion arises with regard to the appointment of postmasters. I ask unanimous consent, as in executive session, that the nominations of

postmasters which have been signed by the various Senators, and which have been reported by the committee, be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of the postmasters referred to are confirmed en bloc.

Mr. McKELLAR. I ask unanimous consent that the President be notified of the confirmation of the nominations to which I have referred, and the confirmation of the nominations which have previously been confirmed.

The PRESIDING OFFICER. Without objection, the President will be notified.

Mr. McKELLAR. I now ask unanimous consent that the nominations of postmasters which have been reported adversely today be rejected.

The PRESIDING OFFICER. Without objection, the nominations of postmasters reported adversely are rejected.

NORTH AMERICAN REGIONAL BROADCASTING AGREEMENT

Mr. PITTMAN. Mr. President, I ask that the Senate proceed to the consideration of Executive H.

The Senate, as in Committee of the Whole, proceeded to consider Executive H (75th Cong., 3d sess.), a North American regional broadcasting agreement between the United States of America, Canada, Cuba, Mexico, the Dominican Republic, and Haiti, signed at Habana on December 13, 1937, which was read the second time as follows:

HABANA, *December 10, 1937.*

NORTH AMERICAN REGIONAL BROADCASTING AGREEMENT

concluded among the following Governments:

Canada,
Cuba,
Dominican Republic,
Haiti,
Mexico,
United States of America.

The undersigned, plenipotentiaries of the Governments listed above, having met in conference at Habana, Cuba, have, in common agreement and subject to ratification, concluded the following Agreement.

PURPOSE AND SCOPE OF THIS AGREEMENT

1. Purpose of Agreement: The purpose of this Agreement is to regulate and establish principles covering the use of the standard broadcast band in the North American Region so that each country may make the most effective use thereof with the minimum technical interference between broadcast stations.

2. North American Region: The North American Region (hereinafter referred to as "Region") for the purpose of this Agreement shall be deemed to include and to consist of the following countries: Canada, Cuba, Dominican Republic, Haiti, Mexico, Newfoundland, and United States of America.

3. Standard broadcast band: The standard broadcast band shall be deemed to be the band of frequencies extending from 550 to 1600 kc, both inclusive, both 550 kc and 1600 kc being the carrier frequencies of broadcasting channels as hereinafter defined. The Governments agree, subject to the provisions of Article 7 of the General Radio Regulations annexed to the International Telecommunications Convention, Madrid, 1932, that this band of frequencies shall be allocated exclusively to broadcastng in the Region.

4. Sovereign right to use channels: The sovereign right of all countries, parties to this Agreement, to the use of every channel in the standard broadcast band is recognized. The Governments recognize, however, that until technical developments reach a state permitting the elimination of radio interference of international character, a regional arrangement between them is necessary in order to promote standardization and to minimize interference.

5. Regional character of Agreement: The Governments recognize that this Agreement, and each provision thereof, is a regional arrangement within the meaning of, and authorized by the International Telecommunications Convention and the General Radio Regulations annexed thereto.

II. TECHNICAL

A. DEFINITIONS

1. Broadcast station: A station the emissions of which are primarily intended to be received by the general public.

2. Broadcast channels—550 to 1600 kc: A broadcast channel is a band of frequencies ten (10) kc in width, with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. Carrier frequencies assigned to broadcast stations shall begin at 550 kc and be in successive steps of 10 kc. No intermediate frequency shall be assigned as the carrier frequency of any broadcast station.

3. Service areas:

(a) Primary service area: The primary service area of a broadcast station is the area in which the ground wave is not subject to objectionable interference or objectionable fading.

(b) Secondary service area: The secondary service area of a broadcast station is the area served by the sky wave and not subject to objectionable interference. The signal is subject to intermittent variations in intensity.

4. Dominant stations: A "dominant" station is a Class I station, as hereinafter defined, operating on a clear channel.

5. Secondary station: A "secondary" station is any station except a Class I station operating on a clear channel.

6. Objectionable interference: Objectionable interference is the degree of interference produced when, at a specified boundary or field intensity contour with respect to the desired station, the field intensity of an undesired station (or the root-mean-square value of field intensities of two or more stations on the same frequency) exceeds for ten (10) percent or more of the time the values hereinafter set forth in this Agreement.

7. Power: The power of a radio transmitter is the power supplied to the antenna. The power in the antenna of a modulated-wave transmitter shall be expressed in two numbers, one indicating the power of the carrier frequency supplied to the antenna, and the other the actual maximum percentage of modulation.

8. Spurious radiation: A spurious radiation from a transmitter is any radiation outside the frequency band of emission normal for the type of transmission employed, including any harmonic modulation products, key clicks, parasitic oscillations and other transient effects.

9. English, French and Spanish equivalent: It is agreed that, as used in this Agreement, the French and Spanish words below set forth are respectively the equivalent of, and mean the same as, the English terms opposite which they appear:

English	French	Spanish
Clear channel	Frequence libre	Canal despejado.
Objectionable interference	Brouillage nuisible	Interferencia objetable.

B. CLASSES OF CHANNELS AND ALLOCATION THEREOF

1. Three classes: The 106 channels in the standard broadcast band are divided into 3 principal classes: clear, regional, and local.

2. Clear channel: A clear channel is one on which the dominant station or stations render service over wide areas and which are cleared of objectionable interference, within their primary-service areas and over all or a substantial portion of their secondary-service areas.

3. Regional channel: A regional channel is one on which several stations may operate with powers not in excess of 5 kw. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.

4. Local channel: A local channel is one on which several stations may operate with powers not in excess of 250 watts. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.

5. Number of channels of each class: The number of channels of each class shall be as follows:

Clear channels	59
Regional channels	41
Local channels	6
	106

6. Allocation of specific channels to each class: The channels are allocated to the several classes as follows:

Clear channels: The following channels are designated as clear channels: 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 940, 990, 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1120, 1130, 1140, 1160, 1170, 1180, 1190, 1200, 1210, 1220, 1500, 1510, 1520, 1530, 1540, 1550, 1560, 1570, and 1580.

Regional channels: The following channels are designated as regional channels: 550, 560, 570, 580, 590, 600, 610, 620, 630, 790, 910, 920, 930, 950, 960, 970, 980, 1150, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1350, 1360, 1370, 1380, 1390 1410, 1420, 1430, 1440, 1460, 1470, 1480, 1590, 1600.

Local channels: The following channels are designated as local channels: 1230, 1240, 1340, 1400, 1450, and 1490 kc.

7. Use of regional and local channels by countries: All countries may use all regional and all local channels, subject to the power limitations and standards for prevention of objectionable interference set forth in this Agreement.

8. Priority of use of clear channels by countries:

(a) The clear channels are assigned for priority of use by Class I and II stations in the several countries in accordance with the table set forth in Appendix I.

(b) Each such channel shall be used in a manner conforming to the best engineering practice with due regard to the service to be rendered by the dominant stations operating thereon, as set forth elsewhere in this Agreement. If, for one year within the term of this Agreement, a country fails to make any use of a clear channel assigned to it, the channel shall be considered open for use by the

other countries, parties to this Agreement, pursuant to such arrangement as may be agreed upon by their respective administrations and without any necessity for revision of this Agreement.

(c) No country to which a clear channel has been thus assigned shall permit, or agree to permit, any other country to use such channel in a manner not in conformity with this Agreement without first giving sixty days[1] advance notice of its intention so to do to all other countries, parties to this Agreement. If during this period of sixty days[1] any other country shall present objections to such proposed use of the channel, the country to which the clear channel has been assigned shall not permit, or agree to permit, such proposed use until the difference presented by the objection has been amicably resolved.

(d) If within the period of this Agreement the country to which a clear channel has been assigned shall have made use of the channel but not in the manner above prescribed or not to the extent required by the provisions of this Agreement, such country shall be considered as having relinquished that portion of the rights which it has not used and at the expiration of this Agreement the other countries party thereto shall have the right, if they see fit, to withdraw the unused privileges from such country and to reassign them to any or all of the other interested countries.

C. CLASSES OF STATIONS AND USE OF THE SEVERAL CLASSES OF CHANNELS

1. Classes of stations: Broadcast stations are divided into four principal classes, to be designated Class I, Class II, Class III, and Class IV, respectively.

2. Definitions of classes: The four classes of broadcast stations are defined as follows:

Class I: A dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Class I stations are subdivided into two classes:

Class I–A: A Class I station which operates with power of 50 kw or more and which has its primary service area, within the limits of the country in which the station is located, free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area, within the same limits, free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

Class I–B: A Class I station which operates with power of not less than 10 kw or more than 50 kw and which has its primary service area free from objectionable interference from other stations on the same and adjacent channels and its secondary service area free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

(a) When two Class I–B stations on the same channel are separated by a distance of 2,800 miles or more, neither station shall be required to install a directional antenna.

(b) When two Class I–B stations on the same channel are separated by a distance of more than 1,800 miles and less than 2,800 miles, it will, in the absence of proof to the contrary, be assumed that each station is free of objectionable interference caused by the other and neither shall be required to install directional antennas or take other precautions to avoid such interference. In case the existence of objectionable interference is proved, the governments concerned will consult with each other regarding the desirability and practicality of installation of directional antennas or the taking of other precautions to eliminate the interference and will determine by special arrangement the measures, if any, to be taken.

(c) When two Class I–B stations on the same channel are separated by a distance less than 1,800 miles, it will, in the absence of proof to the contrary, be assumed that the installation of directional antennas or the taking of other precautions to avoid interference is necessary, and the governments concerned will consult with each other and will take such measures as may be agreed upon between them to the end that the objectionable interference may be reduced or eliminated.

Class II: A "secondary" station which operates on a clear channel and is designed to render service over a primary service area which, depending on geographical location and power used, may be relatively large, but which is limited by and subject to such interference as may be received from Class I stations. A station of this class shall operate with power of not less than 0.25 kw or more than 50 kw. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference, in accordance with the engineering standards hereinafter set forth, with Class I stations and with other Class II stations.

Class III: A station which operates on a regional channel and is designed to render service primarily to a metropolitan district and the rural area contained therein and contiguous thereto. Class III stations are subdivided into two classes:

Class III–A: A Class III station which operates with power not less than one kilowatt or more than five kilowatts and the service area of which is subject to interference in accordance with the engineering standards hereinafter set forth.

Class III–B: A Class III station which operates with a power not less than 0.5 kw or more than 1 kw night and 5 kw daytime and the service area of which is subject to interference in accord with the engineering standards hereinafter set forth.

[1] Calendar days.

Class IV: A station using a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kw or more than 0.25 kw and its service area is subject to interference in accord with the engineering standards hereinafter set forth.

3. Change of class: If a station or stations in Class III–B located in any country can, through the use of directional antennas or otherwise, so reduce the interference caused or received by such station or stations to the field contour to which interference to stations in Class III–A is allowed, such station or stations shall automatically be classified and included in Class III–A and shall thereafter be so recognized and treated by the administrations of all countries within the Region.

4. Use of clear channels:

(a) In principle and subject only to the exception hereinafter set forth, Class I stations shall be assigned only to clear channels.

(b) Class II stations may be assigned to clear channels only on condition that objectionable interference will not be caused to any Class I stations. Where any country has priority of use of a clear channel for any Class I–A station, no other country shall assign any Class II station to that channel for nighttime operation (from sunset to sunrise at the location of the Class II station) unless such Class II station is located not less than 650 miles from the nearest border of the country in which the Class I–A station is located; provided, however, that where an assignment for a Class II station is specifically stated in appendix I, such assignment shall be deemed as authorized under the limitations therein set forth.

5. Use of regional channels:

(a) In general only Class III–A and Class III–B stations shall be assigned to regional channels.

(b) On condition that interference be not caused to any Class III–A or Class III–B station, and subject to such interference as may be received from Class III–A or Class III–B stations, Class IV stations may be assigned to regional channels.

(c) Because of their geographical location with respect to the North American continent, special consideration will be given to the use by Cuba, the Dominican Republic, Haiti, and Newfoundland of stations of Classes I and II assigned to certain regional channels under certain conditions, with respect to power and precautions to avoid objectionable interference as set forth in Appendix VII.

6. Use of local channels: Only Class IV stations shall be assigned to local channels.

D. SERVICE AND INTERFERENCE

1. Satisfactory signal: It is recognized that, in the absence of interference from other stations and in regions where the natural electrical noise level is not abnormally high, a signal of 100 microvolts per meter constitutes a usable signal in rural and sparsely settled areas but that, because of the higher electrical noise levels in more thickly populated communities, greater field intensities (ranging as high as 25 millivolts or more in cities) are necessary to render satisfactory service. It is further recognized that it is not possible to accord protection to stations from objectionable interference over the entire areas over which their signals are or may be above the electrical noise level, particularly at night, and that it is necessary to specify boundaries or contours at or within which stations are protected from objectionable interference from other stations.

2. Areas protected from objectionable interference: The boundaries or contours at and within which the several classes of stations shall be protected from objectionable interference are as set forth in Appendix II. No station, however, need be protected from objectionable interference at any point outside the boundaries of the country in which such station is located.

With respect to the root-mean-square values of interfering field intensities referred to herein, it shall be understood to apply in determining the interference between existing stations and no station thereafter assigned the channel shall increase the root-mean-square value of the interfering field intensity above the maxima specified in the attached tables.

3. Objectionable interference on the same channel: Objectionable interference shall be deemed to exist to a station when, at the boundary or field intensity contour specified in Appendix II with respect to the class to which the station belongs, the field intensity of an interfering station (or the root-mean-square value of the field intensities of two or more interfering stations) operating on the same channel, exceeds for ten (10) percent or more of the time the value of the permissible interfering signal set forth opposite such class in Appendix II.

4. Interference to dominant clear channel stations: A station shall be considered as not capable of causing objectionable interference to a Class I clear channel station on the same frequency when it is separated from the dominant clear channel station by a difference of 70 degrees or more of longitude.

5. Objectionable interference on adjacent channels: It is recognized, in principle, that objectionable interference may be caused to a desired station when, at or within the specified contours of a desired station, the field intensity of the ground wave of an undesired station operating on an adjacent channel (or the root-mean-square value of the field intensities of two or more such undesired stations operating on the same adjacent channel) exceeds a value determined by the following ratio:

Separation between channels:	*Minimum permissible ratio of desired to undesired signals*
10 kc	1 to 0.5
20 kc	1 to 10
30 kc	1 to 50

For convenient reference, the maximum permissible values of interfering signals on such adjacent channels at specified contours are set forth in Appendix III, table I.

6. Application of standards to existing stations:

(a) For the purpose of estimating objectionable interference, all stations (other than those of Class II) shall be assumed to use the maximum power permitted to their respective classes. In this connection, the power of Class I–A stations shall be considered to be 50 kw or the actual power, if higher.

(b) After this agreement has been placed in operation a station thereafter assigned a channel already assigned to other stations shall not be considered as preventing existing stations from increasing their power to the maximum allowed their class, even though such power increase may limit the newly assigned station to a field intensity contour of higher value than that permitted its class.

7. Frequency stability: The operating frequency of each broadcast station shall be maintained to within 50 cycles of the assigned frequency until January 1, 1939, and thereafter the frequency of each new station or each station where a new transmitter is installed shall be maintained within 20 cycles of the assigned frequency, and after January 1, 1942, the frequency of all stations shall be maintained within 20 cycles of the assigned frequency.

8. Spurious radiation: The governments shall endeavor to reduce and, if possible, eliminate spurious radiations from broadcast stations. Such radiations shall be reduced in all cases until they are not of sufficient intensity to cause interference outside the frequency band required for the type of emission employed. With respect to type A–3 emissions (radio-telephony) the transmitter should not be modulated in excess of its modulation capability to the extent that interfering spurious radiations occur, and, with respect to amplitude modulation, the operating percentage of modulation should not be less than seventy-five (75) percent on peaks of frequent recurrence. Means should be employed to insure that the transmitter is not modulated in excess of its modulation capability.

E. DETERMINATION OF PRESENCE OF OBJECTIONABLE INTERFERENCE

1. Antenna performance: For the purpose of calculating the presence and the degree of objectionable interference, stations of the several classes shall be assumed to produce effective field, corrected for absorption, for one kilowatt of input power to the antenna, as follows:

Class of station	At 1 mile	At 1 kilometer
I	225 mv/m.	362 mv/m.
II and III	175 mv/m.	282 mv/m.
IV	150 mv/m.	241 mv/m.

In case a directional antenna is employed, the interfering signal of a broadcasting station will vary in different directions. To determine the interference in any direction, in the absence of actual interference measurements, the horizontal and vertical field intensity patterns of the directional antenna must be calculated and by comparing the appropriate vectors in the horizontal or vertical pattern with that of a nondirectional with the same effective field, the interfering signal toward any other station can be expressed in terms of kilowatts. This rating in kilowatts shall be applied in the use of mileage separation tables or in computing distances from the propagation curves or tables.

2. Power: The power of a station shall, for the purposes of notifications required by this Agreement, be determined in one of the following manners:

(a) By taking the product of the square of the antenna current and the antenna resistance (antenna input power).

(b) By determination of the station's effective field intensity, corrected for absorption, by making sufficient field intensity measurements on at least eight radials as nearly equally spaced as practicable and by relating the field intensity thus determined to the effective field intensity of a station having the antenna efficiency stipulated above for its class.

3. Methods of determining the presence of objectionable interference—General: The existence or absence of objectionable interference from stations on the same or adjacent channels shall be determined by one of the following methods:

(a) By actual measurements obtained in the method hereinafter prescribed;

or, with the mutual consent of the countries concerned:

(b) By reference to the propagation curves in Appendixes IV and V, or

(c) By reference to the distance tables set forth in Appendix VI.

4. Actual proof of existence or absence of objectionable interference: The existence or absence of objectionable interference may be proved by field intensity measurements or recordings made with suitable apparatus, duly calibrated, by Government engineers or other engineers as may be mutually acceptable to the Governments concerned. Such field intensity measurements shall be made in the manner and for the periods of time mutually agreed upon by the Governments concerned.

The contracting Governments agree to facilitate the making of the measurements by requiring the stations involved to remain silent or operate in the manner deemed necessary, and at such times as not to interrupt regular schedules.

5. Proof basd on propagation curves and distance tables:

(a) Sky wave curves: In computing the distance to the 50 per cent sky wave field intensity contour of a Class I station of a given power, and also in computing the 10 percent sky wave field intensity of an alleged interfering station, of any class and given power, at a specified distance, use may be made of the appropriate graphs set forth in Appendix V, entitled "Average Sky Wave Field Intensity Corresponding to the Second Hour after Sunset in the Recording Station, 100 Millivolt per Meter at One Mile (161 at one kilometer)."

(b) Ground wave curves: The distance to any specified ground wave field intensity contour may be determined from appropriate ground wave curves plotted for the frequency under consideration and the conductivity and dielectric constant of the earth between the station and desired contour. The frequency and the conductivity of the earth must be considered in every case and where the distance is great, due allowance must be made for loss due to curvature of the earth. A family of curves is necessary for this purpose. A graph for a conductivity of 10^{-13} is set forth in Appendix IV, entitled "Ground Wave Field Intensity vs. Distance for One Kilowatt Radiated From Short Antenna." Three frequencies in the standard broadcast band are given. For other frequencies and soil conditions (conductivity and dielectric constant) other curves are required. A conductivity of 10^{-13} is considered average and is used throughout in determining the ground wave value for computing the mileage separation tables.

(c) Distance tables: Table I shows the required day separation in miles between broadcast stations on the same channel. Table II gives the required distance in miles from the boundary of a country in which a Class I–A station is located for the daytime operation of a Class II station on the same channel in another country. Table III gives the required separation in miles between broadcast stations on adjacent channels during both daytime and nighttime. Table IV gives the required night separation in miles between broadcast stations operating on the same channel. The assumed conditions of operation are given in Appendix VI.

The tables are based upon the use of nondirectional antennas but, in case a directional antenna is employed at a particular station, it will be necessary to consider the radiation distribution of the directional antenna involved and to modify the mileage separation accordingly. The night separation tables for stations on the same frequency are computed from the skywave curve given in Appendix V. These curves are based on extensive measurements of the skywave produced by broadcasting stations and shall be considered as accurate in all cases unless proof to the contrary is available as set out in Section E 4. The mileage separation tables for the same channel during daytime and for adjacent channels day and night are computed from the groundwave curve in Appendix IV. Tables apply only in case the frequency is 1,000 kc and the assumed soil conductivity and dielectric constant prevail. Since these values vary in every case the tables for daytime and adjacent channel separation cannot be used except as a general guide. In any case under consideration an estimate of the mileage separation required may be made from the operating frequency and known or assumed soil conditions. To determine the interference accurately, measurements must be made in accordance with Section E 4 on the frequency under consideration or on another frequency and from the curves the values may be determined for the desired frequency.

F. MISCELLANEOUS

1. Engineering standards: The engineering standards set forth in this Agreement are subject to revision when justified by technical advances in the art, with the mutual consent of the governments parties to this Agreement.

III. NOTIFICATION AND EFFECT THEREOF

1. Initial notification: Each Government shall, as soon as possible after ratification of this Agreement, and in any event not later than 180 days prior to the effective date thereof, transmit to the other Governments

(a) A complete list of all broadcast stations actually in operation in its country in the standard broadcast band both as of the date of the signing of this Agreement and as of the date of transmitting said list, showing with respect to each station its call signal, location, frequency, power, and antenna characteristics, together with all changes authorized to be made with respect to said stations on or before the effective date of this Agreement, and the classification claimed for each such station.

(b) A complete list of all changes authorized to be made with respect to said stations after the effective date of this Agreement, the dates on or before which such changes are to be consummated, and the classification claimed for each such station under this Agreement when the proposed change has been consummated.

(c) A complete list of all new broadcast stations authorized but not yet in operation, showing with respect to each such station its call signal, location, frequency, power and antenna characteristics, the date on or before which each such station shall commence operation, and the classification claimed for it under the Agreement.

(d) The Governments agree that prior to the effective date of this Agreement, they will, so far as possible, resolve all conflicts that may arise between them as a result of the foregoing initial listings, and that, notwithstanding some such conflicts may remain unresolved, they will cooperate to the end that there be no delay in putting the provisions of this Agreement into full force and effect on that date.

(e) In resolving conflicts in the use of clear channels, and in the listing of Class I and Class II stations, the provisions of this Agreement and particularly of Appendix I shall be controlling. In resolving conflicts in the use of regional and local channels, and in the listing of Class III and Class IV stations, priority of use shall be recognized in each country with respect to stations which at the time of signing of this Agreement are in actual operation, which in substance conform to the definitions of said classes as set forth in this Agreement, and with respect to which no substantial change is made or proposed; a change of frequency in order to conform to the designation of channels in this Agreement shall not be deemed a substantial change.

2. Subsequent notifications: After the effective date of this Agreement and throughout the period during which it shall remain in effect, each Government shall promptly notify the other Governments by registered letter of all further changes in existing broadcast stations and of all further new broadcast stations, together with similar information with regard to each such change or new station, and the proposed date on which each such change is to go into effect and on which each such new station is to actually commence operation.

3. Effect of notification: Each Government may, within 30 days of receiving notification of any proposed change in the assignment of an existing station or of the authorization of a new station in another country, notify the Government of the latter country of any objection it may have thereto under the terms of this Agreement.

4. Conflict between notifications: To be valid, notifications of changes in the assignments of existing stations, or of authorizations of new stations must be such that the assignments proposed therein are in accordance with this Agreement and are such as not to involve objectionable interference to existing stations in other countries, assigned and operating in accordance with this Agreement. As between two or more notifications of changes or authorizations of new stations proceeding from different countries, after the effective date of this Agreement, priority in the date of mailing of notification shall govern.

5. Cessation of effect: (a) A notification of a proposed change in the assignment of an existing station or of an authorization of a new station shall cease to have any force and effect if, within one year of the date thereof, such change shall not have been actually consummated or such new station shall not have actually commenced continuous operation.

(b) In special cases in which circumstances beyond the control of the Administration concerned have prevented the completion of the change or the construction of the new station, the term of the original notification may be extended for a period of six months.

6. Bern Bureau: The foregoing notifications shall be made independently of and in addition to those which, under current practice, are sent to the Bureau of the International Telecommunications Union.

IV. Arbitration

In case of disagreement between two or more contracting Governments concerning the execution of this Agreement and dispute, if it is not settled through diplomatic channels, shall be submitted to arbitration at the request of one of the Governments in disagreement. Unless the parties in disagreement agree to adopt a procedure already established by treaties concluded between them for the settlement of international disputes, the procedure shall be that provided for in Article 15 of the International Telecommunications Convention of Madrid, 1932.

V. Ratification, Execution, and Denunciation

1. Ratification.—To be valid this Agreement must be ratified by Canada, Cuba, Mexico and the United States of America.

If and when three of said four countries shall have ratified and the fourth shall, through unavoidable circumstances, have been unable to ratify but shall have signified to those countries that have ratified, its readiness, pending ratification and as an administrative measure, to put the provisions of this Agreement (including the contents of Appendix I) into effect in whole or in part, then such country, together with those countries which shall have ratified, may, by administrative agreement between them, fix a definite date on which they shall give effect to such provisions, which date shall preferably be one year from the date of such administrative agreement.

The ratifications must be deposited, as soon as possible, through diplomatic channels, in the archives of the Government of Cuba. This same Government shall, through diplomatic channels, notify the other signatory Governments of the ratifications as soon as they are received.

2. Effect of ratification: This Agreement shall be valid only as between such countries as shall have ratified it.

3. Execution: The contracting Governments undertake to apply the provisions of this Agreement, and to take the steps necessary to enforce said provisions upon the private operating agencies recognized or authorized by them to establish and operate broadcast stations within their respective countries.

4. Denunciation: Each contracting Government shall have the right to denounce this Agreement by a notification addressed, through diplomatic channels, to the Government of Cuba, and announced by that Government, through diplomatic channels, to all the other contracting Governments. This denunciation shall take effect at the expiration of the period of one year from the date on which the notification was received by the Government of Cuba. This effect shall apply only to the author of the denunciation. This Agreement shall remain in force for the other contracting Governments but only as between such Governments.

VI. Effective Date and Term of the Agreement

1. Except for the provisions of Section 1 of Part III, Section 1 of Part V, and paragraph 3 of Table VI of Appendix I annexed hereto (which provisions shall go into effect immediately upon this Agreement becoming valid), this Agreement shall become effective one year after the date it shall have been ratified by the fourth of those Governments whose ratification is requisite to the validity of this Agreement. The Governments will cooperate to the end that, wherever possible, the provisions of this Agreement shall be carried out in advance of said effective date.

2. This Agreement shall remain in effect for a period of five years after said effective date.

VII. Adherence

This Agreement shall be open to adherence in the name of Newfoundland.

In witness whereof the respective plenipotentiaries have signed the Agreement in triplicate, one copy in English, one in Spanish, and one copy in French, each of which shall remain deposited in the archives of the Government of Cuba and a copy of each of which shall be forwarded to each Government.

Done at Habana, Cuba, on December 13th, 1937.

CANADA:
Laurent Beaudry.
C. P. Edwards.

CUBA:
Wifredo Albanés y Peña.
Andrés Asensio y Carrasco.
Nicolás González de Mendoza y de la Torre.
Alfonso Hernández Catá y Galt.

DOMINICAN REPUBLIC:
Roberto Despradel.
Máximo Lovatón P.

HAITI:
Justin Barau.

MEXICO:
Ignacio Galindo.
Salvador Tayabas.
Fernando Sánchez Ayala.
Rubén Fuentes.

UNITED STATES OF AMERICA:
T. A. M. Craven.

Attachments:
Appendix I. Priority of use of clear channels for Class I and II stations.
Appendix II. Protected service and interference.
Appendix III. Adjacent channel interference.
Appendix IV. Ground wave graphs.
Appendix V. Sky wave graphs.
Appendix VI. Mileage separation tables.
Appendix VII. Engineering requirements for use of regional channels by Class II stations.

Mr. KING. Mr. President, would this treaty interdict the transmission by Nazis in Brazil or Mexico of their doctrines into the United States without supervision?

Mr. PITTMAN. It would have no effect on that situation whatever. A very able analysis of this treaty by the Senator from Maine [Mr. WHITE] is attached to the report. He was appointed a subcommittee because of his peculiar knowledge of this subject, and he is just back from an international radio convention. I do not wish to go into the whole subject, but he analyzed the treaty, and he states that the chief advantage of the treaty is that it recognizes the frequencies which have been adopted by the United States. It is only through such recognition that we can prevent having conflicts with foreign countries.

It also provides for a regular permanent commission through which information to each country with regard to the laws passed in the respective countries may become known to the other countries. Those are the chief advantages of the treaty.

The PRESIDING OFFICER. The agreement is before the Senate and open to amendment. If there be no amendment to be proposed, the agreement will be reported to the Senate.

The agreement was reported to the Senate without amendment.

The PRESIDING OFFICER. The resolution of ratification will be read.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive H, Seventy-fifth Congress, third session, a North American regional broadcasting agreement between the United States, Canada, Cuba, Mexico, the Dominican Republic, and Haiti, signed at Habana on December 13, 1937.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution is agreed to, and the agreement is ratified.

INTER-AMERICAN RADIO COMMUNICATIONS CONVENTION

Mr. PITTMAN. Mr. President, I ask that Executive I be laid before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider Executive I (75th Cong., 3d sess.), an Inter-American Radio Communications Convention between the United States of America, Brazil, Canada, Colombia, Cuba, Chile, the Dominican Republic, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru, Uruguay, and Venezuela, signed at Habana on December 13, 1937, which was read the second time, as follows:

INTER-AMERICAN RADIOCOMMUNICATIONS CONVENTION

concluded at Havana, on December 13th, 1937, among the Governments of the States named below:

Brazil	Guatemala
Canada	Haiti
Colombia	Mexico
Cuba	Nicaragua
Chile	Panama
Dominican Republic	Peru
United States of America	Uruguay and Venezuela

The governments named above, recognizing the benefits of cooperation and mutual understanding resulting from the exchange of views with respect to radiocommunications, have designated the undersigned plenipotentiaries to the first Inter-American Radio Conference, held in the City of Havana, Republic of Cuba, who by common consent and subject to ratification, have concluded the following Convention, in conformity with the provisions of the International Telecommunications Convention of Madrid, 1932.

PART ONE. CONFERENCES

ARTICLE 1. OBJECTIVE

The contracting governments agree to meet periodically in conferences of plenipotentiaries for the purpose of resolving by common understanding such problems as may arise in the field of radiocommunications in the American continent.

ARTICLE 2. COMPOSITION OF THE CONFERENCES

The conferences shall be composed, as provided in the Internal Regulations of the Inter-American Radio Conferences, (Annex 1 of this Convention), of the delegates of all the Governments of the American Continent which agree to attend.

Representatives of institutions and organizations associated with radiocommunications, of enterprises or groups of enterprises and bodies or persons engaged in the operation of radio services may also attend, as observers, provided they are authorized by their respective Governments.

ARTICLE 3. VOTING

(A) Only one vote shall be had in the Conferences by each State that meets the following qualifications:

I. a permanent population;
II. a defined territory;
III. government;
IV. capacity to enter into relations with the other States.

(B) Countries or territories not possessing these qualifications may have voice but no vote in the conferences; but agreements resulting from the conferences shall be open for their adherence through the medium of their respective home governments.

ARTICLE 4. PLACE AND DATE OF CONFERENCES

The conferences shall be held at intervals not greater than three years. The country and the date at which each conference is to meet shall be fixed by the preceding conference. However, the date scheduled for a meeting may be advanced or postponed by the organizing government at the request of five or more participating governments.

The government of the country in which the conference is scheduled to be held, hereafter referred to as the organizing government, shall fix the place and the final date of the meeting and shall send out the invitations for attendance through the customary diplomatic channels, at least six months in advance.

ARTICLE 5. INTERNAL REGULATIONS FOR CONFERENCES

This convention has annexed Internal Regulations for the Inter-American Radio Conference (Annex 1) which establish the procedure to be followed at the meeting and which may be amended only by the affirmative vote of two-thirds of the states participating at the Conference in question.

PART TWO. INTER-AMERICAN RADIO OFFICE (O. I. R.)

ARTICLE 6. OBJECT

The contracting governments agree:

(A) To establish the Inter-American Radio Office (O. I. R.), as an Inter-American organization of a consultative character which shall centralize and facilitate, among the administrations of the American countries, the interchange and circulation of information relative to radiocommunications in all their aspects, and collaborate in the organization of the conferences mentioned in Part One of this convention; and

(B) 1. To communicate at the proper time to the Inter-American Radio Office all provisions of internal and international radio legislation and the regulations in force in their territories, and such amendments as may be introduced in these provisions; as well as statistical, technical, and administrative reports relative thereto; and

2. Specifically, to transmit to the OIR every six months an official list of the frequencies assigned by them to all broadcasting stations and to notify monthly all changes and additions thereto.

Such notification shall be made in accordance with the procedure adopted in the current General Radio Regulations annexed to the International Telecommunication Convention and shall also include:

(*a*) Power actually in use.
(*b*) Maximum contemplated power.
(*c*) Hours of transmission.

The required notifications referred to shall be made in all cases, independently of the usual notification sent to the Bureau of the International Telecommunication Union.

ARTICLE 7. FUNCTIONS

The Inter-American Radio Office shall be charged with:

(A) the preparatory work of conferences and the work resulting from their decisions;

(B) providing in accord with the organizing government concerned, the Secretariat of the conferences;

(C) the issuance of such publications as may be established by conferences;

(D) the publication and circulation of technical information other than that resulting from conferences, including the exchange of data relating to the accuracy and stability of frequencies, to interference or other disturbances observed in the territories of the contracting countries, and such other studies as may be carried on, such as the propagation of waves, the general characteristics of antennas, etc.; also the exchange of documents of a legal nature, treaties and general information designed for a better understanding and raising of the standards of radiocommunications in the American continent;

(E) the submission of an annual report of its work, which shall be communicated to all contracting governments;

(F) the performance of such other duties as may pertain to it or be assigned to it by the conferences.

ARTICLE 8. MAINTENANCE OF THE OFFICE

(A) The general expenses of the Inter-American Radio Office shall not exceed the sum of Twenty Five Thousand Dollars ($25,000.00) currency of the United States of America, per annum.

(B) In order to defray these expenses each of the American governments agrees to contribute in proportion to a certain number of units corresponding to the category to which it belongs, as provided in the Internal Regulations of the O. I. R. For this purpose six categories are established with the units assigned to each as shown below:

Categories:	I	II	III	IV	V	VI
Units:	25	20	15	10	5	3

(C) The general expenses will not include the expenses incidental to the work of conferences, which shall be borne by the organizing government.

(D) The funds required for the Office shall be payable half yearly in advance by the governments forming part of the Inter-American Radio Office. If any country is in arrears of payment the government of the country in which the Office is located shall advance amounts as required. The sums thus advanced must be reimbursed by the debtor governments as soon as possible and at the latest at the expiration of the fourth month following the date on which payments are due.

ARTICLE 9. SEAT AND SUPERVISION OF THE OFFICE

(A) The seat of the Inter-American Radio Office and appointment of Director will form a subject of the Agenda for each conference.

(B) The Government of the country where the Office has its seat shall exercise general supervision over its organization, budget, and finances and make the necessary advances of funds.

(C) The accounts of the Inter-American Radio Office shall be submitted by the Government where the Office is located to the next succeeding conference for approval.

(D) The Office is placed initially under the auspices of the Government of Cuba. Its headquarters shall be in the city of Havana.

ARTICLE 10. INTERNAL REGULATIONS FOR O. I. R.

This Convention has annexed Internal Regulations of the Inter-American Radio Office (Annex 2), which provide the details for

the internal administration of this organization and which may be amended only by the affirmative vote of two-thirds of the States represented at a conference.

PART THREE. SPECIAL PROVISIONS

ARTICLE 11. GENERAL PRINCIPLES

(A) The contracting Governments recognize the sovereign right of all nations to the use of every radio broadcasting channel.

(B) The American Governments, upon the sole condition that no intereference will be caused to the services of another country, may assign any frequency and any type of wave to any radio station under their authority.

(C) Nevertheless, the Governments recognize that, until technical development reaches a state that permits the elimination of radio interference of international character, regional arrangements are essential in order to promote standardization and to minimize such interference.

(D) For the solution of those problems which, because of special propagation characteristics and interference conditions of radio transmission in the various geographical zones require special provisions, the contracting Governments agree to divide the American continent into three regions, designated as the northern zone, the central zone, and the southern zone (Annex 3).

ARTICLE 12. BILATERAL AGREEMENTS

The contracting governments whenever they shall deem it desirable within the scope of this convention shall negotiate bilateral agreements concerning the operation of radiotelegraph stations as between their respective nations in order to facilitate direct communication.

ARTICLE 13. FREQUENCY MEASURING STATIONS

The contracting governments agree to establish frequency measuring stations as soon as possible.

ARTICLE 14. EXCHANGE OF INFORMATION

The contracting governments which have not undertaken to communicate data relating to radiocommunications to an Inter-American centralizing office, shall interchange with all the other American governments the data referred to in Article 6, paragraph B (2), of this Convention.

ARTICLE 15. SAFETY OF LIFE AT SEA AND IN THE AIR

The contracting Governments shall take appropriate measures to ensure the maintenance of an adequate radio service, operated or licensed by the Government for the safety of navigation by sea and air.

ARTICLE 16. OBLIGATION OF ALL COMMERCIAL AIRCRAFT TO CARRY RADIO EQUIPMENT

The contracting Governments agree that:

(A) All aircraft when operating on International scheduled services and carrying passengers shall compulsorily be provided with radio apparatus, both sending and receiving, which must be in efficient operating condition and in charge of properly licensed operators; and

(B) Aircraft used for the transportation of passengers on international scheduled services making journeys over the sea beyond seventy five kilometers from any coast, shall be able to transmit and receive on the frequency of 500 kc/s. for the purpose of establishing emergency communication with stations in the marine radio service.

ARTICLE 17. ESTABLISHMENT OF AERONAUTICAL RADIO STATIONS

The contracting Governments agree independently or in accord with neighbouring countries to take the steps necessary to establish a sufficient number of regional stations, operated or licensed by the Government, to furnish meteorological and safety information necessary for air traffic and aircraft guidance.

ARTICLE 18. EMERGENCY COMMUNICATIONS

Subject to the internal regulations of each country, any radio transmitting station, may, during a period of emergency in which normal communication facilities are disrupted as a result of hurricane, flood, earthquake; or similar disaster, carry on emergency communication with points other than those normally authorized.

ARTICLE 19. CULTURAL BROADCASTING

The contracting governments shall take the necessary measures in order to facilitate and promote the retransmission and exchange of international cultural, educational, and historical programs of the countries of the American continent by their respective broadcasting stations.

ARTICLE 20. PRESS TRANSMISSIONS TO MULTIPLE DESTINATIONS

The contracting Governments agree that:

(A) The respective governments shall encourage the rapid and economical transmission, dissemination and interchange of news and information among the nations of America;

(B) Informative publications and news agencies be granted the use and enjoyment of the advantages of press radio communications to multiple destinations, these being offered at minimum prices, for which the tariffs may be based on units of time devoted to the transmission, or other means similarly economical;

(C) The low rates and other advantages, deriving from the principles established in the foregoing paragraphs of this article be enjoyed by all regularly constituted news and information agencies, newspapers and other periodicals, broadcast stations, news reels, news by printer services, bulletin boards, and any other proper means which may be developed;

(D) Encouragement should be given to the use and development of devices and methods designed to prevent unauthorized interception of press radio multiple address transmissions.

ARTICLE 21. RETRANSMISSIONS

The contracting governments shall take appropriate measures to ensure that no program transmitted by a broadcasting station may be retransmitted or rebroadcast, in whole or in part, by any other station without the previous authorization of the station of origin.

The rebroadcasting station shall announce at suitable periods during the retransmission the nature of the broadcast, the location and the official call letters, or other identification of the station of origin.

ARTICLE 22. CLANDESTINE STATIONS

The contracting Governments agree to give mutual support in discovering and suppressing clandestine transmitting stations whenever this becomes necessary.

PART FOUR. GENERAL PROVISIONS

ARTICLE 23. ENTRY INTO FORCE OF THE CONVENTION AND RATIFICATION

(A) The present Convention shall be ratified by the contracting States in conformity with their respective constitutional procedures.

(B) Parts One, Three, and Four of the present Convention shall come into force on the first day of July, 1938, if at that date two ratifications or final adherences have been deposited with the government of the country where the conference was held. If two ratifications or final adherences have not been deposited on that date those Parts of the Convention shall come into force thirty days after the second ratification or adherence has been deposited.

(C) In order that Part Two of this Convention shall come into force, it will be necessary that the ratifications or final adherences deposited by the American governments shall represent, when added together, more than one-half of the contributory units established for the maintenance of the Inter-American Radio Office (O. I. R.), in accordance with Article 8, paragraph B, of this Convention, as classified in the Internal Regulations of the O. I. R. (Annex 2, article 7).

(D) The depository government shall notify, as soon as possible, the ratifications and adherences which are received to all the governments of the States of the American Continent.

ARTICLE 24. ADHERENCES

This Convention shall be open to adherence by all non-signatory American countries.

ARTICLE 25. DIVISIBILITY OF CONVENTION

The ratifications or adherences to the present Convention may refer to the totality thereof or to two or more of its parts; provided that, in every case Parts One and Four (Conferences and General Provisions) be ratified or adhered to.

ARTICLE 26. REPORTS OF RATIFICATIONS AND ADHERENCES

On June 1, 1938, and subsequently at intervals of six months, the depository government shall request those governments of the Americas which may not have ratified or adhered to this Convention, to report regarding such ratification or adherence. These reports shall be communicated to all the other governments of the American Continent.

ARTICLE 27. DENUNCIATION

(A) This Convention may be denounced in its entirety, or Parts Two and Three separately, by notice addressed to the depository government. This notice shall become effective one year after date of receipt thereof, and shall be effective only for the Government denouncing.

(B) The depository government shall notify all the governments of the States of the Americas of the denunciations received.

ARTICLE 28. LANGUAGES

The present Convention has been drafted in Spanish, English, Portuguese, and French, all of which shall be authentic.

ARTICLE 29. SPECIAL AGREEMENTS

The contracting governments reserve for themselves the right to make special or regional agreements which do not concern the governments in general. These agreements, however, must be within the limits of this Convention and the Regulations annexed thereto so far as concerns the interference which may result from such agreements with the services of the other countries.

ARTICLE 30. CODIFICATION

At future conferences all provisions of this Convention remaining unchanged shall be included with the new provisions that may be adopted.

ARTICLE 31. ARBITRATION

(A) In case of disagreement between two or more contracting governments concerning the execution of the present Convention, the dispute, if it is not settled through diplomatic channels, shall be submitted to arbitration at the request of one of the governments in disagreement.

(B) Unless the parties in disagreement agree to adopt a procedure already established by bilateral or multilateral treaties concluded among them for the settlement of international disputes or the procedure provided for in Paragraph (G) of this article, arbitrators shall be appointed in the following manner:

(C) (1) The parties shall decide, by mutual agreement, whether the arbitration is to be entrusted to individuals or to govern-

ments; failing an agreement on this matter, governments shall be resorted to.

(2) In case the arbitration is to be entrusted to individuals the arbitrators must not be of the same nationality as any one of the parties concerned in the dispute.

(3) In case the arbitration is to be entrusted to governments, the latter must be chosen from among the parties adhering to the agreement, the application of which caused the dispute.

(D) The party appealing to arbitration shall be considered as the plaintiff. This party shall designate an arbitrator and notify the opposing party thereof. The defendant must then appoint a second arbitrator, within two months after the receipt of plaintiff's notification.

(E) If more than two parties are involved, each group of plaintiffs or of defendants shall appoint an arbitrator, observing the same procedure as in Paragraph (D).

(F) The two arbitrators thus appointed shall agree in designating an umpire who, if the arbitrators are individuals and not governments, must not be of the same nationality as either of them or either of the parties involved. Failing an agreement of the arbitrators as to the choice of the umpire, each arbitrator shall propose an umpire in no way concerned in the dispute.

Lots shall then be drawn between the umpires proposed. The representative of an American government, not interested in the dispute, selected by the two arbitrators, will draw the lots.

(G) Finally, the parties in dispute shall have the right to have their disagreement settled by a single arbitrator. In this case, either they shall agree on the choice of the arbitrator, or the latter shall be designated in conformity with the method indicated in Paragraph (F).

(H) The arbitrators shall be free to decide on the procedure to be followed.

(I) Each party shall bear the expenses it shall have incurred in the investigation of the dispute. The cost of the arbitration shall be apportioned equally among the parties involved.

In witness whereof, the respective delegates have signed copies of this instrument, one each in Spanish, English, Portuguese and French, to be deposited in the archives of the Government of Cuba, which shall forward an authenticated copy thereof in each language to the other contracting Governments.

Done in the city of Havana, Republic of Cuba, on the 13th day of December, 1937.

RESERVATIONS OF BRAZIL

The Government of the United States of Brazil has authorized the Chief of its Delegation to the First Inter-American Radio Conference to sign "ad-referendum" the International Agreements just adopted by the Conference, under the reservation that the Government of Brazil will only ratify same, in case their provisions are not in conflict with the South American Agreement of Rio Janeiro and its Internal Regulations, nor with any other International Commitments already entered into by the Brazilian Government.

HAVANA, *December 13th 1937.*

BRAZIL:
The Brazilian Delegate signs "Ad-Referendum" with the reservations as stated above.
José Roberto de Macedo-Soares.

CANADA:
Laurent Beaudry.
C. P. Edwards.

COLOMBIA:
Jorge Soto del Corral.
Ricardo Gutiérrez Lee y Rivero.

CUBA:
Wifredo Albanés y Peña.
Andrés Asensio y Carrasco.
Nicolás González de Mendoza y de la Torre.
Alfonso Hernández Catá y Galt.

CHILE:
Emilio Edwards Bello.

DOMINICAN REPUBLIC:
Roberto Despradel.
Máximo Lovatón P.

UNITED STATES OF AMERICA:
T. A. M. Craven.

GUATEMALA:
Arturo Cóbar L.

HAITI:
Justin Barau.

MEXICO:
Ignacio Galindo.
Salvador Tayabas.
Fernando Sánchez Ayala.
Rubén Fuentes.

NICARAGUA:
Guillermo Arguedas.

PANAMA:
Ernesto B. Fábrega.

PERU:
Carlos A. Tudela.

URUGUAY:
César Gorri.

VENEZUELA:
Alberto Smith.

Mr. PITTMAN. Again, Mr. President, I wish to say that there is a report from the Senator from Maine [Mr. WHITE] attached to the report. He made a very careful analysis of the treaty and reported to the full committee, the full committee considered the treaty, and unanimously reported it. It has practically the same purpose as the other. It is an effort to prevent blanketing by superpower plants.

Mr. KING. What is the life of these treaties?

Mr. PITTMAN. They may be denounced at any time on one year's notice.

The PRESIDING OFFICER. The convention is before the Senate and open to amendment. If there be no amendment to be proposed, the convention will be reported to the Senate.

The convention was reported to the Senate without amendment.

The PRESIDING OFFICER. The resolution of ratification will be read.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive I, Seventy-fifth Congress, third session, an Inter-American Radio Communications Convention between the United States of America, Brazil, Canada, Colombia, Cuba, Chile, the Dominican Republic, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru, Uruguay, and Venezuela, signed at Habana on December 13, 1937.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution is agreed to, and the convention is ratified.

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 30 minutes p. m.) the Senate took a recess until tomorrow, Thursday, June 16, 1938, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 15 (legislative day of June 7), 1938

DIPLOMATIC AND FOREIGN SERVICE

Frederick A. Sterling to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Sweden.

FEDERAL POWER COMMISSION

Basil Manly to be a member of the Federal Power Commission.

FEDERAL HOUSING ADMINISTRATOR

Stewart McDonald to be Federal Housing Administrator for term of 4 years from June 30, 1938.

COLLECTOR OF INTERNAL REVENUE

James H. Latchum to be collector of internal revenue for the district of Delaware.

REGISTER OF LAND OFFICE

Loraine Rollins to be register of the land office at Evanston, Wyo.

FEDERAL EMERGENCY ADMINISTRATION OF PUBLIC WORKS

Kenneth A. Godwin to be regional director, region 6, of the Federal Emergency Administration of Public Works.

UNITED STATES DISTRICT JUDGE

Francis J. W. Ford to be judge of the United States District Court for the District of Massachusetts.

UNITED STATES CIRCUIT JUDGE

Leon McCord to be United States circuit judge, fifth circuit.

SUPREME COURT, TERRITORY OF HAWAII

Samuel B. Kemp to be an associate justice of the Supreme Court, Territory of Hawaii.

CIRCUIT COURTS, TERRITORY OF HAWAII

Harold E. Stafford to be third judge of the first circuit, circuit courts, Territory of Hawaii.

James Wesley Thompson to be judge of the third circuit, circuit courts, Territory of Hawaii.

Delbert E. Metzger to be judge of the fourth circuit, circuit courts, Territory of Hawaii.

Carrick H. Buck to be judge of the fifth circuit, circuit courts, Territory of Hawaii.

UNITED STATES ATTORNEY

J. Saxton Daniel of Georgia to be United States attorney for the southern district of Georgia.

PROMOTIONS IN THE NAVY

TO BE LIEUTENANT COMMANDERS

Herbert S. Duckworth
Harold E. Parker
William L. Freseman

TO BE LIEUTENANTS

Samuel P. Weller, Jr.
Edward Brumby
Edward E. Colestock
Edward N. Little

TO BE LIEUTENANTS (JUNIOR GRADE)

John M. Lee
James L. P. McCallum
Robert S. Burdick
Howard Z. Senif
Thomas F. Sharp
Cyrus C. Cole
Richard B. Lynch
Thomas S. Baskett
Roscoe F. Dillen, Jr.
Mason B. Freeman
William C. Abhau
Dewitt A. Harrell
William F. Petrovic
Ben W. Sarver, Jr.
Jesse B. Gay, Jr.
Ralph M. Metcalf
John N. Shaffer
Blake B. Booth
Clement E. Langlois
Edward H. Schutt
Evan T. Shepard
Anthony Talerico, Jr.
Walter A. Moore, Jr.
Grover S. Higginbotham
Noel A. M. Gayler
John R. Lewis
Kenneth L. Veth
William P. Gruner, Jr.
John W. Thomas
Clinton A. Neyman, Jr.
Donald N. Clay
John H. Maurer
John W. McCormick
J. C. Gillespie Wilson
John J. Baranowski
James R. North
Robert S. Mandelkorn
John D. Gerwick
Stephen W. Carpenter
Kenneth West
Omar N. Spain, Jr.
James M. Wolfe, Jr.
Melvin E. Radcliffe
John S. Fletcher
Keats E. Montross
David Nash
Raymond M. Parrish
Frederic W. Brooks
Chester A. Briggs
James W. Thomson
William T. Powell, Jr.
Eugene B. Fluckey
Vincent A. Sweeney
John H. Brandt
Thomas H. Henry
John S. Barleon, Jr.
Norman D. Gage
Harold J. Islev-Petersen
Frank E. Sellers, Jr.
William B. Wideman
Oliver D. Finnigan, Jr.
Eli T. Reich
Louis E. Schmidt, Jr.
John J. Foote
John J. Flachsenhar
Vincent A. Sisler, Jr.
Henry C. Tipton
Roy C. Klinker
William C. Thompson, Jr.
Sherwood H. Dodge
George E. Davis, Jr.
Edgar S. Keats
Frank McE. Smith.
Ross E. Freeman
Bruce P. Ross
John O. Curtis
Christian L. Ewald
Marion F. Ramírez de Arellano
John A. Heath
Alton E. Paddock
Russell H. Smith
Samuel F. Spencer
Matthew S. Schmidling
Arthur M. Purdy
Fenelon A. Brock
Joseph H. Wesson
Jefferson D. Parker
Jack M. Seymour
Philip F. Hauck
Robert E. Riera
John F. Murdock
Elbert M. Stever
George L. Conkey
Gordon E. Schecter
Frank K. B. Wheeler
Victor M. Gadrow
Franklin G. Hess
Carleton R. Kear, Jr.
Thomas D. McGrath
Warren J. Bettens
Frank B. Herold
Frederick M. Stiesberg
Nevett B. Atkins
Walter F. Henry
Charles B. Langston
Ted A. Hilger
John H. Cotten
Ralph J. Baum
Lloyd A. Smith
Thomas D. Shriver
George A. Crawford
Robert H. Prickett
Grafton B. Campbell
Briscoe Chipman
Maurice F. Fitzgerald
Thomas R. Mackie
Arthur V. Ely
Walter J. East, Jr.
William S. Guest
Eugene A. Barham
George Philip, Jr.
Robert W. Jackson
Samuel Nixdorff
John B. Crosby
Francis M. Gambacorta
William J. Germershausen, Jr.
Alan McL. Nibbs
Dwight L. Moody
Walker A. Settle, Jr.
Marshall H. Austin
Marcus R. Peppard, Jr.
Robert A. Phillips
Harold W. McDonald
Stanley W. Lipski
Frederick R. Matthews
James H. Brown
Everett H. Steinmetz
Robert Van R. Bassett, Jr.
Henry L. Muller
Manning M. Kimmel
John T. Probasco
William H. Hazzard
George H. Cairnes
Charles L. Harris, Jr.
LeRoy T. Taylor
Wilson R. Bartlett
Mark Eslick, Jr.
Ralph L. Ramey
Stephen H. Gimber
Turner F. Caldwell, Jr.
Carter B. Jennings
Bladen D. Claggett
Harrison P. McIntire
Richard E. Babb
Edwin H. Headland, Jr.
James S. Clark
Charles W. Consolvo
French Wampler, Jr.
Leonard J. Baird
Gerald L. Christie
John S. C. Gabbert
Nicholas G. Doukas
Ronald K. Irving
Wilson G. Reifenrath
Horace C. Laird, Jr.
William Swab, Jr.
Edward D. Robertson
John W. Payne, Jr.
Allan C. Edmands
Richard H. Burns
Joseph E. Dougherty
Doyen Klein
Cecil E. Blount
Girard L. McEntee, Jr.
John N. Ferguson, Jr.
James F. Fitzpatrick, Jr.
George S. Lambert
George T. Baker
Arnold H. Newcomb
John G. Downing
Richard M. Farrell
Edward W. Bridewell
Robert M. Hinckley, Jr.
William T. Samuels
Hubert B. Harden
Don W. Wulzen
Joe R. Penland
Sibley L. Ward, Jr.

TO BE COMMANDERS

John G. Farrell
Elbert C. Rogers

TO BE LIEUTENANT COMMANDER

Lowe H. Bibby

TO BE CHIEF MACHINIST

Nuel E. Blythe

TO BE CHIEF PAY CLERKS

Clark Dunn
Joseph H. Lillis

MARINE CORPS

Harry Schmidt to be colonel.
Miles R. Thacher to be colonel.
Maurice C. Gregory to be lieutenant colonel.
Andrew E. Creesy to be lieutenant colonel.
Ralph D. Leach to be major.
George W. McHenry to be major.
William L. McKittrick to be major.
Stanley E. Ridderhof to be major.
Morris L. Shively to be major.
Wayne H. Adams to be captain.
John H. Cook, Jr., to be captain.
Edward H. Forney, Jr., to be captain.
John A. White to be captain.
Edward J. Dillon to be captain.
Harold I. Larson to be captain.

POSTMASTERS

ALABAMA

Charles W. Sarver, Athens.
Elias B. Reid, Cherokee.

Bessie S. Combs, Fairfax.
Kate B. Patterson, Falkville.
J. Thomas Martin, Jacksonville.
Lawrence F. Howell, Moulton.
Olis O. Goode, Rogersville.
James A. Anderson, University.

ARKANSAS

Simpson A. Kemp, Hot Springs National Park.
William G. Jones, Cotton Plant.

CALIFORNIA

Frances L. Williams, Fall Brook.
Marvin S. Wick, Hermosa Beach.
William R. McKinnon, Livermore.
Minnie B. Pharr, Scotia.
Charles E. Conner, Torrance.
Louis J. McNeill, Tuolumne.

CONNECTICUT

Thomas H. Hillery, Hazardville.

DELAWARE

Daniel G. Conant, Rehoboth Beach.

FLORIDA

Kirby D. Rooks, Bonifay.
Eva R. Vaughn, Century.
LeRoy E. Diggans, Delray Beach.
Emma A. Laird, Greenville.
Julia E. Seabloom, Ormond Beach.
Leslie D. Reagin, Sarasota.
William P. McKeown, Sneads.
Cornelia Higgins, Warrington.

GEORGIA

Jennie I. Ingram, Townsend.

ILLINOIS

Jerry J. Zeman, Fox River Grove.
Amelia K. Fink, Frankfort.
DeCourcy Lloyd, Glencoe.
Porter J. Campbell, Hardin.
George W. Collins, Lombard.
John V. Barr, Mazon.
Clarence M. Stevens, Pecatonica.
Leon J. Walsh, South Beloit.
Rose S. Zalman, Stewardson.
Joseph Donald Cotter, Stockton.
Samuel T. Duncan, Tamaroa.
Hubert W. Darby, Tampico.
Oliver M. Colwell, Toulon.
George L. Hausmann, Vandalia.

INDIANA

Alva Davis, Arcadia.
Mary Williams, Attica.
Willis E. Payne, Borden.
Lawrence M. Welsh, Brownstown.
Alpha T. McKnight, Cicero.
Frank Ellett, Coatesville.
Ervin Sell, Columbia City.
Daniel V. Clem, Covington.
William G. Thomas, Frankfort.
Ellis B. Cates, Greentown.
Maurice L. Cory, Kingman.
Homer Stephens, La Fontaine.
Edwin W. Hanley, Michigan City.
Clarence C. Robertson, Nashville.
Dean I. Lauver, New Carlisle.
Ora Stiver, New Paris.
Lyman Thomas, Pennville.
William E. Etcheson, Roachdale.
Rose K. Hubers, Saint Meinrad.
Harvey W. Doering, Wakarusa.

IOWA

Margaret Audra Pearson, Ainsworth.
Auzman H. Blackmore, Alden.
Harry A. Northup, Audubon.
Opal V. Ocheltree, Bayard.
George P. Killinger, Carson.
Price G. Thompson, Casey.
Vern D. Freeman, Clarence.
Lawrence J. Roth, Fairfield.
Herman J. Schroeder, Fort Madison.
Edna M. McCabe, Hillsboro.
Herman L. Walker, Kalona.
Russell E. Whipple, Lehigh.
Michael R. Griebel, Lone Tree.
Alice A. Higgins, Orient.
Elmer D. Bradley, Missouri Valley.
Bert McKinley, Morning Sun.
Joe Goodman, Osceola.
James G. Floerchinger, Oxford.
Oscar C. Watts, Pisgah.
Amelia Sondag, Portsmouth.
Joseph P. Quinn, Riverside.
Lucy E. Newville, Titonka.
John F. Taylor, Villisca.
Paul Max Clark, Woodbine.

KANSAS

Carey Olson, Bazine.
Albert F. Cassell, Beverly.
Vaclav Sajner, Bison.
Gertrude R. Seitz, Bunkerhill.
William H. Danenbarger, Concordia.
Rosa B. Blaine, Copeland.
Cyrus H. Wadsworth, Cottonwood Falls.
Henry J. Kuckelman, Everest.
Rosa J. Munger, Hanover.
Ivan R. Mort, Hill City.
Lafranier M. Herrington, Kanopolis.
Arthur G. Long, Kingman.
Nellie F. Walsh, Mayetta.
Otis S. Lambeth, Moran.
Perry S. Kozel, Morrowville.
James J. Owen, St. John.
George F. Riley, Soldier.
Harry F. Geistfeld, Washington.
J. Raymond E. Simmons, Wellsville.
Ernest B. Hedge, Whiting.

KENTUCKY

Lou E. Holder, Calhoun.
Richard W. Wilson, Elizabethtown.
Willis Conley, Garrett.
Ralph E. Vaughn, Greensburg.
John A. Van Pelt, Kenvir.
Marie C. Hagan, New Haven.
Amelia B. Samuels, Lebanon Junction.
Joseph C. Pell, Lewisport.
John H. Mitchell, Salem.
Theophilus B. Terry, Sonora.
Homer B. Burks, Upton.

LOUISIANA

Victor E. Green, De Ridder.
Harry Preaus, Farmerville.
Clarence H. Bonin, Gueydan.

MAINE

Anna M. McLaughlin, Dryden.
Carroll A. Matthieu, Farmington.
Irenee Cyr, Fort Kent.
Sumner A. Fickett, Millbridge.
Howard H. Herrick, Rangeley.
Hildred M. Rider, Rockport.
Mary C. Thorpe, Sabattus.
Wesley E. Spear, Warren.

MARYLAND

John M. Pearce, Monkton.

MINNESOTA

James M. Brennan, Hinckley.
Arnold R. Krogh, Spring Grove.

MISSISSIPPI

William A. Pepper, Belzoni.
David W. Colbert, Columbia.
Woodward M. Herring, Inverness.
Beula P. Herrington, Mount Olive.
Virginia B. Duckworth, Prentiss.
Allen A. Edwards, Richton.
Henry Boswell, Sanatorium.
Robert E. L. McLain, Shelby.

MISSOURI

Owen W. Anglum, Ash Grove.
Charles C. Oliver, Bloomfield.
Robert E. Chaffin, Breckenridge.
Otis D. Kirkman, Cabool.
Cecil G. McDaniel, Cainsville.
Henry E. Roper, Bernie.
Mrs. Pearl Herndon, Blackburn.
Samuel B. McCollum, Bucklin.
John M. Warren, Cardwell.
Harrison R. Porter, Conway.
Mrs. Eliza Belle Lile, Cowgill.
Floyd L. Decker, Crocker.
Wilbur S. Scott, Deepwater.
Richard W. Marsden, De Soto.
Ora G. Moore, Eagleville.
Parker G. Wingo, Ellsinore.
Anvil A. Lewis, Eminence.
Sam B. Shackleford, Ewing.
William H. Titus, Excelsior Springs.
Rolla S. Cozean, Farmington.
Mrs. Birdie W. Brown, Forest City.
Robert Ray Kier, Grant City.
Miss Opal C. Ray, Gilman City.
Fred J. Yeomans, Hopkins.
Harrison S. Welch, Higbee.
C. O. Raine, Jr., Hayti.
Miss Charline Finley Gardner, Hardin.
Fred E. Ream, Green Ridge.
James P. Moore, Liberal.
Walter Manley, Liberty.
Benjamin R. Treasure, McFall.
Roswell P. Lane, Naylor.
John M. Moss, Nevada.
Walter E. Duncan, Newburg.
Andrew Earl Duley, Newtown.
Elisha Otis Bryeans, Oran.
Donald H. Sosey, Palmyra.
Eugene J. Echterling, Parnell.
Harold F. Hopkins, Polo.
Verne H. Gracey, Reeds Spring.
Fred H. Kurs, Savannah.
Orlo H. Bond, Sheridan.
John C. Hains, Slater.
Ernest C. Buehler, South St. Joseph.
Emmett S. Stewart, Sturgeon.
Flora E. Scott, Summersville.
Emmett R. Burrows, Van Buren.
Frederick L. Stafford, Windsor.
James E. Ferguson, Williamsville.

MONTANA

Ethel E. James, Broadus.
Engene T. Kirchner, Circle.
Roy W. Dorwin, Flaxville.
Charles A. Westphal, Forsyth.
Cleola Ralston, Glacier Park.
Joseph P. Sternhagen, Glasgow.
Joseph M. Astle, Hardin.
Henry C. Wilcox, Joliet.
Ethel C. Hockman, Kevin.
Marie D. Laramy, Malta.
Leanore K. C. Roderick, Outlook.
Peter J. Herbst, Plevna.
Lawrence H. Tooley, Red Lodge.
Rudolph P. Petersen, Rudyard.
Albert W. Schammel, Scobey.
Lucy B. Cullen, Wibaux.
Sarah C. Brady, Wilsall.
Ella V. Millsap, Winnett.
David R. Bowen, Worden.

NEBRASKA

Bert Winters, Broadwater.
Edith E. Fahrlander, Brule.
Harry R. Boesen, Cairo.
Curtis B. Benger, Callaway.
James B. Gordon, Cedar Rapids.
Arthur L. Willis, Central City.
Clair Grimes, Chambers.
William A. Horstman, Creighton.
Don Dey Ermand, Dalton.
Daniel F. Sheehan, Emerson.
John H. Holden, Gordon.
Henry T. Dunn, Harrison.
George H. Looschen, Hooper.
James C. Nelson, Mason City.
Mary Walsh Morrow, Merna.
Marie Weekes, Norfolk.
Almira R. Boblits, Oconto.
Frank D. Strope, Orchard.
Matthew T. Liewer, Osmond.
Cordes E. Walker, Page.
Martin Sorenson, Plainview.
William M. Goding, Potter.
Bert S. Amos, Sargent.
John J. Burns, Scotia.
Beth Clary, Seneca.
Josh B. Keene, Sumner.
John B. Karn, Stapleton.
Charles O. Kocina, Verdigre.
Wilhelm C. Peters, Wausa.

NEVADA

Edward D. Gladding, Virginia City.
Ralph H. Burdick, Tonopah.

NEW JERSEY

Rose B. Sokolowski, Alpha.
Ernest F. Rohn, Arlington.
Hiram S. McKeen, Avalon.
Frank Tilton, Avon by the Sea.
William L. Scheuerman, Basking Ridge.
John P. Euler, Belford.
Jane Jolliffe, Bernardsville.
Louis J. Bowlby, Bound Brook.
Richard P. Hughes, Burlington.
Edward W. Walker, Cranbury.
Philip L. Fellinger, East Orange.
Ethel H. McDonald, Englishtown.
Herbert E. Poulson, Far Hills.
William H. Thompson, Farmingdale.
Thomas R. Boyle, Florence.
Joseph A. Aloia, Garfield.
John F. Dugan, Garwood.
Louis C. Parker, Gloucester City.
John Netterman, Island Heights.
Thomas F. Curtis, Lakehurst.
James A. Cleary, Lambertville.
Benjamin J. Haulboskey, Leonardo.
John D. Bunn, Long Valley.
Patrick J. Whelan, Manville.
Edward J. Wagner, Marlton.
Raphael C. Devlin, Matawan.
Agnes Despreaux, Middletown.
Frank Martin, Midland Park.
John A. Wheeler, Monmouth Beach.
George M. Gibson, Moorestown.
James D. McErlane, Morris Plains.
Jeremiah B. Beaston, Mount Ephraim.
Katherine A. Cooney, Pedricktown.

Robert W. Kidd, Penns Grove.
John J. Quinn, Perth Amboy.
Mary B. Naughton, Port Monmouth.
Mervil E. Haas, Riverton.
Smith Kennedy, Roseland.
James E. Porter, Jr., Rumson.
Kathryn B. Donohue, Saddle River.
Joseph S. Sickler, Salem.
Jane L. Garland, Sea Bright.
Joseph S. Devlin, Sea Girt.
Allen J. Thomas, Scotch Plains.
Michael A. Carroll, South Bound Brook.
Thomas H. Hall, Vineland.
May W. Veitch, Wenonah.
Patrick J. Shott, Wildwood.
Clara Katz, Woodbine.

NEW MEXICO

Ray S. Soladay, Carlsbad.
Hezekiah Hall, Magdalena.
Beatrice C. Melton, Mountainair.
Aurora B. Pacheco, Old Albuquerque.

NEW YORK

Kenneth W. Hagadorn, Almond.
Mayme Meegan, Altmar.
William A. Gardner, Amsterdam.
James D. Cheesman, Andover.
W. Edward Sweetman, Ardsley on Hudson.
Charles Kaiser, Armonk.
Gerald Aldrich, Bemus Point.
Lyda H. Armstrong, Berlin.
Luke E. Burns, Black River.
Lillian O'Connor, Briarcliff Manor.
Francis J. Sinnott, Brooklyn.
Mildred E. Brown, Bliss.
John A. Holland, Brushton.
DeVerne A. Lewis, Canastota.
Thomas M. Townsend, Carmel.
Benjamin B. Tooker, Center Moriches.
Oscar D. Ayres, Central Valley.
Gerald S. Sweet, Chazy.
Vincent L. Keenan, Churchville.
H. Mae Nolan, Clark Mills.
Michael G. Gaffney, Clinton.
Frank Brancato, Clinton Corners.
Wentworth S. Colwell, Cold Spring.
Corliss R. Pitkin, Corinth.
Joseph C. Miller, Croton Falls.
Earl P. Talley, East Rochester.
George W. Sheahan, Elmira.
Jennie W. Jewell, Fishkill.
John J. McClory, Franklinville.
Henry A. Dye, Forestville.
Austin W. Stitt, Frewsburg.
James D. George, Gardiner.
Flora A. M. Humes, Great Bend.
Lloyd C. Vunk, Hagaman.
Anna G. Pendergast, Hall.
Agnes H. Mead, Hannibal.
Raymond C. Nellis, Hastings.
Joseph N. Peck, Honeyoye Falls.
Lawrence J. McNeil, Inlet.
Elloy R. Ganey, Jamestown.
James T. McConnell, Jamesville.
Albert J. Griffiths, Keuka Park.
Frank L. Egger, Larchmont.
John P. Young, Liverpool.
Benjamin R. Gerow, Liberty.
Gustav I. Gehweiler, Lake Ronkonkoma.
John W. Clark, Mahopac.
Andrew E. Ryan, Manchester.
William F. Agnew, Mayfield.
Milton S. Smith, Mayville.
Richard P. Stanton, Millbrook.
Zoa I. Van Gorder, Minetto.
Clayton C. Young, Moira.
Isidore Smith, Mountain Dale.
Thomas A. Banta, Newfane.
Frank J. Baltzel, Newark.
Roy Blanchard, Oneida.
Chester A. Miller, Oneonta.
Clarence A. Chamberlain, Orangeburg.
D. L. Palmer, Otego.
Francis P. Reilly, Penn Yan.
Elmer R. Chaffer, Point Pleasant.
Robert J. Henry, Port Ewen.
John J. Cassidy, Port Jefferson.
Hugo Kreitzberg, Port Jefferson Station.
Ruth E. Perrin, Potsdam.
Charles I. Lavery, Poughkeepsie.
Francis M. Daly, Pulaski.
Howard M. Curtis, Richfield Springs.
Herbert Zahorik, Roscoe.
Bertha E. Damon, Rushford.
Claude A. Bierman, St. Johnsville.
Morgan A. Lynk, Sharon Springs.
Harold E. Morrell, South New Berlin.
William J. Griffin, Jr., Starlake.
Jacob C. Kopperger, Stottville.
Frank Kilcoin, Swan Lake.
John H. Burke, Tarrytown.
John T. Clark, Tuxedo Park.
Frank B. Mead, Victor.
James D. Desmond, Waddington.
Chauncey H. McLean, Wallkill.
Fenton J. Taylor, Warsaw.
Edward D. Guyder, Weedsport.
Charles H. Widrick, Whitesboro.
Jeremiah F. Healy, Williamstown.
Frank M. Campbell, Wilson.
Mary Gallagher, Witherbee.
Nora B. King, Woodbourne.
John F. Maher, Woodridge.
Charles E. Meyers, Wurtsboro.
Charles R. Frank, Yorkville.

NORTH CAROLINA

William M. Jefferson, Belmont.
Wiley G. Hartzog, Boone.
Clarence H. Rosebro, Cleveland.
Annie C. Burns, Lawndale.
John V. Highfill, Mayodan.
William Samuel Somers, Reidsville.
Roy Prillaman, Stoneville.

NORTH DAKOTA

J. Benus Kinneberg, Leeds.
Suzanna A. Preszler, Medina.
Robert A. McLean, Niagara.

OHIO

Emmert H. Crim, Cleves.
Jessie K. Dilworth, Cortland.
Perry L. Heintz, Jackson Center.
Lois Black, McDonald.
Neile Stinebaugh, Republic.
Charles R. Gampher, Jr., Rossford.
Edward H. Richner, Twinsburg.
Charles M. Hogan, Wellston.

OKLAHOMA

Priscilla P. Edgar, Langston.
Sylvia M. Grace, Laverne.
Dennis F. Almack, Moore.

OREGON

Louis C. Bliem, Dufur.
J. Dayton McLucas, Hood River.
Madge Fortune Cook, Newport.
William A. Parsons, Waldport.

PENNSYLVANIA

James F. O'Brien, Allison Park.
Jesse C. Yoders, Clarksville.
Daniel J. Frantz, Jr., Coal Center.
Herman L. Levy, Daisytown.
James Nevant, Farrell.
Charles T. Bonner, Glen Riddle.
James O. Bergantz, Huntingdon.
Cornelius McCullough, Lansdowne.
Joseph C. Clark, Natrona.
William G. Loy, Newport.
Ralph B. Mushler, Norwood Station.
Dora Cowen, Roscoe.
James W. Casey, Rouseville.
Archer L. Laws, Sayre.
William D. McIntire, Stoneboro.
G. Frank Zerbe, Valley View.
Chester L. Boal, West Middlesex.
Francis G. Ackley, Wyalusing.

RHODE ISLAND

William H. Follett, Howard.
Elton L. Clark, North Scituate.

SOUTH CAROLINA

Joseph H. Chitty, Denmark.
William T. Hemingway, Hemingway.
Gertrude Parrish, Mullins.

SOUTH DAKOTA

William J. Nolan, Buffalo Gap.
Mattie E. Smith, Burke.
Gustave I. Honsey, Hecla.
S. Pearl Hutchinson, Hurley.
Charles H. Page, McLaughlin.
Harry Dettman, Mission.
William B. Boe, Presho.
Anna F. Dillon, Whitewood.
George M. Bailey, Winner.

TENNESSEE

Binnie H. Kinser, Alcoa.
Bernard R. Duncan, Linden.
Mary A. B. Dunn, Maryville.
Robert L. Oakes, New Tazewell.

TEXAS

Hunter H. McWilliams, Atlanta.
Joseph Y. Fraser, Colorado.
Rubye Alice Wilson, Elsa.
Grace L. McKay, Madisonville.
Lon M. Peeples, Milano.
Herbert W. Meurer, Muenster.
Marvin G. Prewitt, Ralls.
Kirby L. Scudder, Slaton.

UTAH

Wallace H. Sorensen, Richfield.

VERMONT

Gertrude L. Cutler, Cambridge.
Walter H. Beckwith, Chelsea.
Mabel M. Hemenway, Jeffersonville.
Laura L. Veyette, Quechee.
Cecelia S. Joslyn, South Hero.

VIRGINIA

Clarence H. Drinkard, Bristol.
Sidney H. Barnett, Bluefield.
Charley D. Lay, Coeburn.
Reginald B. Turner, East Falls Church.
Clarence M. Sale, Falls Church.
Mary F. Cunningham, Fort Myer.
Augustus W. Aston, Meadowview.
Arthur Gartrell, Middleburg.
David E. Bumpass, Jr., Mineral.
Solon Baach, Pocahontas.
Eugene P. Whitman, Pulaski.
Frank T. Witten, Tazewell.
Margaret M. Fulton, Wise.

WASHINGTON

George D. Magee, Aberdeen.
Warren H. Perrigo, Arlington.
Frank O. Keith, Battle Ground.
Vaughan Brown, Bellingham.
John E. Martin, Buckley.
Joseph F. Lavigne, Cusick.
W. Kenneth Kingman, Chelan.
Alex Huse, Cheney.
Joshua J. Peak, Davenport.
Floyd D. Tatman, Kalama.
Thomas H. Van Noy, Kelso.
Emma C. Cloke, Langley.
David P. Cunningham, North Bend.
Ralph H. Mitchell, Omak.
Walter C. Ketterman, Opportunity.
Ed J. Claiborne, Ridgefield.
Walter H. Gihring, Rockford.
Arthur H. Gerl, Wilbur.
Paul Rhodius, Sedro Woolley.
Jeane R. French, Skamokawa.
Donald S. Farver, Tonasket.
Connie C. Wall, Winlock.
Louis O. Cochrane, Yelm.

WEST VIRGINIA

Mrs. Maurice Raymond Walker, Bramwell.
Wilson P. Barlow, Buckhannon.
Clark E. Heckert, Cairo.
John C. Blanton, Freeman.
Clarence L. Perkins, Gassaway.
Carl Hinton, Hinton.
John L. Dunn, Kermit.
Williard I. Gulley, McComas.
Della A. Kelly, Montgomery.
Bess M. Gwinn, Thurmond.

WISCONSIN

Vernon A. Martin, Amherst.
Edwin Foley, Clinton.
Marie Gunn Dunham, Cumberland.
Ethel E. Welch, Gleason.
Roy E. Lawler, Gordon.
Gregory C. Flatley, Oconto Falls.
William Murray, Prescott.
Arthur Stein, St. Francis.
Wallace J. Milsap, Shawano.
Charles M. Dunn, Taylor.
Arnold A. Conklin, Vesper.
Roy D. Fahland, Webster.
James E. O'Leary, Wilton.

WYOMING

William H. Watson, Dubois.

REJECTIONS

Executive nominations rejected by the Senate June 15 (legislative day of June 7), 1938

POSTMASTERS

FLORIDA

Ira C. Williams to be postmaster at Dania, in the State of Florida.

Sidney E. Livingston to be postmaster at Homestead, in the State of Florida.

John W. Barrs to be postmaster at South Miami, in the State of Florida.

LOUISIANA

Charles E. Hearne to be postmaster at Chatham, in the State of Louisiana.