purposes; to the Committee on Military Affairs.

By Mr. VINSON of Georgia:

H. R. 4671. A bill to authorize a plant-protection force for naval shore establishments, and for other purposes; to the Committee on Naval Affairs.

By Mr. FOGARTY:

H. R. 4672. A bill to authorize postponement of payments of amounts payable to the United States by the Republic of Finland on its indebtedness under existing agreements between that Republic and the United States of America, dated May 1, 1923, May 23, 1932, and May 1, 1941; to the Committee on Ways and Means.

By Mr. IZAC:

H. R. 4673. A bill to provide for the advancement on the retired list of certain officers of the line of the United States Navy; to the Committee on Naval Affairs.

By Mr. STEAGALL:

H. R. 4674. A bill to extend the operations of the Disaster Loan Corporation and the Electric Home and Farm Authority, to provide for increasing the lending authority of the Reconstruction Finance Corporation, and for other purposes; to the Committee on Banking and Currency.

By Mr. TOLAN:

H. R. 4675. A bill to regulate private employment agencies engaged in interstate commerce; to the Committee on Labor.

By Mr. VINCENT of Kentucky:

H. R. 4676. A bill to accept the cession by the Commonwealth of Kentucky of exclusive jurisdiction over the lands embraced within the Mammoth Cave National Park; to authorize the acquisition of additional lands for the park in accordance with the act of May 25, 1926 (44 Stat. 635); to authorize the acceptance of donations of land for the development of a proper entrance road to the park; and for other purposes; to the Committee on the Public Lands.

By Mr. VOORHIS of California:

H. R. 4677. A bill to provide more adequate credit facilities for independent small business, to encourage the return of private capital to commercial-investment channels, to discourage monopoly, and restore opportunity for the individual; to the Committee on Banking and Currency.

By Mr. BLOOM:

H. J. Res. 181. Joint resolution to authorize the postponement of payment of amounts payable to the United States by the Republic of Finland on its indebtedness under agreements between that Republic and the United States dated May 1, 1923, May 23, 1932, and May 1, 1941; to the Committee on Ways and Means.

By Mr. TOLAN:

H. J. Res. 182. Joint resolution authorizing executive departments to aid select and special committees of either House of the Congress; to the Committee on Expenditures in the Executive Departments.

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 Rhode Island, memorializing the President and the Congress of the United States to consider their resolution with reference to House bills 6 and 1019, concerning tax on all fuel oil for the generation of heat and power; to the Committee on Ways and Means.

Also, memorial of the Legislature of the State of Massachusetts, memorializing the President and the Congress of the United States to consider their resolution with reference to taxes on incomes, inheritances, and gifts; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ANDERSON of New Mexico:

H. R. 4678. A bill for the relief of Mary S. Gay; to the Committee on Claims.

By Mr. BATES of Kentucky:

H. R. 4679. A bill for the relief of the dependents of James A. Fraley; to the Committee on Claims.

By Mr. CULKIN:

H. R. 4680. A bill granting an increase of pension to Harriett W. Cooke; to the Committee on Invalid Pensions.

By Mr. LELAND M. FORD:

H. R. 4681. A bill authorizing the President of the United States to present, in the name of Congress, a medal of honor to Charles A. McCoy; to the Committee on Military Affairs.

H. R. 4682. A bill for the relief of John D. Davis; to the Committee on War Claims.

By Mr. SASSCER:

H. R. 4683. A bill for the relief of Kenton L. Mullenax; to the Committee on Claims.

PETITIONS, ETC.

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

1002. By Mr. ENGLEBRIGHT: Senate Joint Resolution No. 15, relative to the improvement of the harbor at Crescent City, Calif.; to the Committee on Rivers and Harbors.

1003. Also, Assembly Joint Resolution No. 21, relating to conversion of fruit surpluses into alcohol; to the Committee on Agriculture.

1004. Also, Senate Joint Resolution No. 19, relative to memorializing the President and Congress to provide for the dredging of Bodega Bay and to reestablish harbor facilities thereat; to the Committee on Rivers and Harbors.

1005. Also, Assembly Joint Resolution No. 28, relative to encouragement of sugar-beet production in the United States; to the Committee on Agriculture.

1006. By Mr. FOGARTY: Memorial of the General Assembly of the State of Rhode Island and Providence Plantations, urging Congress to defeat two identical bills known as House bill 6, introduced by Representative BOLAND, of Pennsylvania, and House bill 1019, introduced by Representative FLANNERY, of Pennsylvania, which seek to place a 2-cent per gallon tax on the sale of fuel oil used for heating and for the generation of power; to the Committee on Ways and Means.

1007. Also, memorial of the General Assembly of the State of Rhode Island and Providence Plantations, urging Congress to pass the McNary bill (S. 869), to provide payment of annuities to blind persons; to the Committee on Banking and Currency.

1008. By Mr. GRAHAM: Petition of Butler County Assembly, No. 447, Slovak League of America, Inc., endorsing the recent address on the international situation by President Roosevelt as well as his address delivered to the Houses of Congress on the state of the Union; to the Committee on Foreign Affairs.

1009. By Mr. HARNESS: Petition signed by Paul H. Kutz, of Tipton, Ind., and 23 others, opposing Senate bill 860 and House bill 4000 on the ground that the enactment of these bills into law would establish an unwise and dangerous precedent and would be opposed to the general welfare of citizens of the several States and obstructive to the common defense of the United States; to the Committee on Military Affairs.

1010. By Mr. KRAMER: Petition of the Senate and the Assembly of the State of California asking that the United States Department of the Interior, fish and wildlife service, be memorialized to immediately adopt regulations permitting the feeding of migratory wild fowl on hunting clubs in the State of California for such period of time each year and under such regulations as may be advisable, and that provision be made by such fish and wildlife service for the raising by it of adequate quantities of grain or for the purchase of grain, if necessary, for the feeding of migratory wild fowl on wild-fowl refuges in this State; to the Committee on Interstate and Foreign Commerce.

1011. By Mr. O'NEAL: Petition of certain citizens of Louisville, Ky., opposing House bill 4000 and Senate bill 860; to the Committee on Military Affairs.

1012. By Mr. ROLPH: Petition of the State Lands Commission of the State of California, asking consideration of its resolution relating to position of the State of California with respect to submerged lands of California over which the United States of America proposes to assume jurisdiction; to the Committee on the Public Lands.

1013. By Mr. RUTHERFORD: Petition of sundry residents of Wayne County, Pa., opposing proposed legislation to restrict possession of firearms; to the Committee on the Judiciary.

1014. Also, resolution passed by the Presbytery of Lackawanna, Wilkes-Barre, Pa., urging Congress to amend or revise the Selective Service Act to provide living expenses for conscientious objectors while serving in the work camps which are a substitute for military camps; to the Committee on Military Affairs.

1015. By the SPEAKER: Petition of the class of 1896, New York University Medical Department, Dr. Hiram Williams, of Passaic, N. J., chairman, petitioning consideration of their resolution with reference to aid to Great Britain; to the Committee on Foreign Affairs.

SENATE

THURSDAY, MAY 8, 1941

Dr. Edward H. Pruden, pastor, First Baptist Church, Washington, D. C., offered the following prayer:

Our Father, we know that "the fear of the Lord is the beginning of wisdom," and at this noonday hour we look to Thee in deepest reverence and praise that Thou mayest grant to us that wisdom and understanding without which we cannot perform our duties intelligently or successfully. Confronted as we are with a world of confusion, may we look to Thee in every need, remembering that Thou art not only able to supply our needs but more anxious to grant our requests than we are to ask.

Give us, we pray Thee, the humble spirit, and may we, in the words of that wise man of old, be able to say, "Lord, I am as a little child; I know not how to go out or come in before this great people." May we be led by Thee in all things. Through Jesus Christ, our Lord. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Wednesday, May 7, 1941, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Megill, one of its clerks,

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

H. R. 4466. An act to authorize the acquisition by the United States of title to or the use of domestic or foreign merchant vessels for urgent needs of commerce and national defense, and for other purposes; and

H. R. 4669. An act making appropriations to supply additional urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1941, and for other purposes.

CALL OF THE ROLL

Mr. HILL. 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	Ellender	Norris
Aiken	George	Nye
Andrews	Gerry	O'Mahoney
Austin	Gillette	Overton
Bailey	Glass	Pepper
Ball	Green	Radcliffe
Bankhead	Guffey	Reynolds
Barbour	Gurney	Schwartz
Barkley	Hatch	Shipstead
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Taft
Bunker	Johnson, Calif.	Thomas, Idaho
Burton	Kilgore	Thomas, Okla.
Butler	La Follette	Tobey
Byrd	Langer	Truman
Byrnes	Lee	Tunnell
Capper	Lodge	Tydings
Caraway	Lucas	Vandenberg
Chandler	McCarran	Van Nuys
Chavez	McFarland	Wallgren
Clark, Mo.	McNary	Walsh
Connally	Maloney	Wheeler
Danaher	Mead	White
Davis	Murdock	Wiley
Downey	Murray	Willis

Mr. HILL. I announce that the Senator from Mississippi [Mr. HARRISON], the Senator from Tennessee [Mr. MCKELLAR], and the Senator from New York [Mr. WAGNER] are absent from the Senate because of illness.

The Senator from Idaho [Mr. CLARK], the Senator from Colorado [Mr. JOHNSON], and the Senator from Georgia [Mr. RUSSELL] are unavoidably detained.

The Senator from Utah [Mr. THOMAS] is addressing the National Association of University Extension Directors in Oklahoma City, and is, therefore, necessarily absent.

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

RESOLUTION OF MINNESOTA HOUSE OF REPRESENTATIVES ON THE DEATH OF SENATOR ERNEST LUNDEEN

Mr. SHIPSTEAD. Mr. President, I ask consent to have printed in the RECORD a resolution adopted by the Minnesota House of Representatives expressing the sorrow of that body and extending regrets and sympathy to the family of the late Senator Ernest Lundeen on his untimely death.

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

Whereas Almighty God, in His wisdom, called from this earth on August 31, 1940, the Honorable Ernest Lundeen, of Wayzata, Minn., who served as a Member of this House during the sessions of 1911 and 1931 and who later served as a Minnesota Representative in Congress and at the time of his death was serving as a United States Senator from Minnesota; and

Whereas he offered his life in the service of his country as a member of the Minnesota volunteers in the Spanish-American War; and

Whereas in his public life he was ever earnest and sincere and wholeheartedly devoted to the service of the best interest of the State and Nation; and

Whereas in his private life he was ever a kind and devoted friend and a gentleman in all his contacts with his fellowmen: Now, therefore, be it

Resolved by the House of Representatives of the State of Minnesota, That it hereby expresses its regrets at his untimely death and expresses its deep sympathy to his bereaved family and that a copy of the resolution as adopted be sent to the family as a mark of our esteem and token of appreciation for the public services he rendered.

LAWRENCE W. HALL,
Speaker of the House of Representatives.

Adopted by the House of Representatives, the 23d of April, 1941.

HARRY L. ALLEN,
Chief Clerk, House of Representatives.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate by the Vice President, or presented by Senators, and referred as indicated:

By the VICE PRESIDENT:

A resolution of the convention of the Texas Cotton Ginners' Association, assembled at San Antonio, Tex., favoring the prompt enactment of legislation to curb the alleged attempts of certain labor leaders to gain advantage for labor at the expense of the Nation during the present period of emergency; to the Committee on Education and Labor.

A resolution of Local Union No. 101, United Brotherhood of Carpenters and Joiners of America, Baltimore, Md., favoring the enactment of legislation to set a definite amount of compensation per month for those persons who have attained the age of 60 years, and also that the sum allowed per month be in accordance with the American standard of living; to the Committee on Finance.

A resolution of the Council of the city of Los Angeles, Calif., requesting that the United States render necessary aid and supplies to the people of the Irish Free State; to the Committee on Foreign Relations.

By Mr. JOHNSON of California:

A joint resolution of the Legislature of the State of California; to the Committee on Agriculture and Forestry:

"Assembly Joint Resolution 42

"Relative to memorializing the United States Department of Interior, Fish and Wildlife Service, to permit controlled feeding of migratory wild fowl on hunting clubs in the State of California, and to provide for the feeding of grain on migratory wild-fowl refuges in this State, in order to relieve farmers from severe losses to grain crops caused annually by such wild fowl.

"Whereas the rice-growing area of California is concentrated in the counties of Butte, Sutter, Glenn, Colusa, and other counties in the general area wherein is situate, the Sacramento Valley Migratory Wild Fowl Refuge and the Gridley Migratory Wild Fowl Refuge, and in this area many thousands of acres of land are producing rice, wheat, and other grains in great quantities; and

"Whereas the annual migrations of wild fowl from Alaska and Canada down the Pacific coast and into California are on the increase; and

"Whereas, by regulation of the United States Department of the Interior, Fish and Wildlife Service, no feeding of grain in permitted on hunting clubs and insufficient feed for migratory wild fowl is found in this State, with the exception of the said Sacramento Valley area; and

"Whereas the millions of wild fowl in their annual flights to this State congregate in said Sacramento Valley area and are thereby causing vast and increasing damage to grain crops grown therein, due to the fact that such wild fowl cannot find feed elsewhere; and

"Whereas no provision is made by the United States Department of the Interior, Fish and Wildlife Service, for the raising of grain on wild-fowl refuges by such service or for the purchase of grain in lieu thereof so that migratory wild fowl will not leave such refuges to feed on grain crops of adjoining landowners; and

"Whereas the great flight of wild fowl now concentrated in said Sacramento Valley area could be scattered and spread out over a large portion of the State, particularly around the San Francisco Bay area and in the San Joaquin Valley, if feeding of grain were permitted on flooded areas in hunting clubs under a permit system or under such regulations as the Fish and Wildlife Service might adopt; and

"Whereas such diffusion of the flight of wild fowl brought about by said regulated feeding and land flooding would be of inestimable value to the farmers; and

"Whereas such feeding of wild fowl on hunting clubs and such diffusion of flight would not result in an increased killing of such fowl by sportsmen under proper regulations as to feeding and the enforcement of reasonable shooting restrictions; and

"Whereas, the California Farm Bureau Federation and other farm groups, together with Associated Sportsmen of California, have gone on record as favoring the adoption of a program by the United States Fish and Wildlife Service as herein set forth; and

"Whereas the migratory wild-fowl situation in California differs from the problem existing in other parts of the country and warrants regulations suitable to the peculiar situation existing in this State: Now, therefore, be it

"*Resolved by the assembly and senate, jointly*, That the United States Department of the Interior, Fish and Wildlife Service, be memorialized to immediately adopt regulations permitting the feeding of migratory wild fowl on hunting clubs in the State of California for such period of time each year and under such regulations as may be advisable, and that provision be made by such Fish and Wildlife Service for the raising by it of adequate quantities of grain or for the purchase of grain, if necessary, for the feeding of migratory wild fowl on wild-fowl refuges in this State; and be it further

"*Resolved*, That the chief clerk of the assembly is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the United States Department of the Interior, and to the Chief of the Fish and Wildlife Service, and to the Senators and Representatives from California in the Congress of the United States."

(The VICE PRESIDENT laid before the Senate a resolution, identical with the foregoing, which was referred to the Committee on Agriculture and Forestry.)

By Mr. VANDENBERG:

A petition of sundry citizens of the Sixth Congressional District of Michigan, praying for adoption of the Townsend plan for old-age assistance; to the Committee on Finance.

A resolution of the Directors of the Manistee (Mich.) Board of Commerce, favoring the prompt enactment of legislation providing for development of the St. Lawrence River; to the Committee on Foreign Relations.

Petitions of sundry citizens of Oxford, Lake Orion, and Monroe County, Mich., praying

for the enactment of the bill (S. 860) to provide for the common defense in relation to the sale of alcoholic liquors to the members of the land and naval forces of the United States and to provide for the suppression of vice in the vicinity of military camps and naval establishments; to the Committee on Military Affairs.

LETTER FROM HIGHLAND PARK (MICH.) JUNIOR COLLEGE ON WAR AND THE INTERNATIONAL SITUATION

Mr. VANDENBERG. Mr. President, in the nature of a petition, I present a communication from the Student Council of the Highland Park Junior College at Highland Park, Mich., where, according to the covering letter, a very careful poll was taken of the students. From the letter I read this sentence:

The results, we feel, are fairly representative of all local attitudes prevailing, since our students are recruited from 75 schools in the greater Detroit area.

Differing from the Gallup poll, this presentation happens to include all the original ballots, so that one may inspect and intelligently conclude the value to be assessed to the referendum. I call attention to the fact that the students showed a 92 percent opposition to American entrance into the present World War. Sixty-four percent stated that they did not want war even if the defeat of England seemed imminent. Seventy-seven percent did not favor the use of American convoys; and 59 percent declined to aid Britain at the risk of war. I present the letter and exhibit as in the nature of a petition, for appropriate reference.

The VICE PRESIDENT. The letter and accompanying exhibit presented by the Senator from Michigan will be received and referred to the Committee on Foreign Relations.

SUPPRESSION OF VICE AND LIQUOR TRAFFIC IN VICINITY OF ARMY CAMPS—PETITIONS

Mr. CAPPER. Mr. President, I present for appropriate reference petitions from a number of Kansas citizens praying for the enactment of legislation to prohibit the sale of intoxicating liquors in or near Army training camps, and to provide for the suppression of vice in the vicinity of such camps. These petitions, bearing hundreds of signatures, are from residents of Minneapolis, Leonardville, Dickinson County, Redfield; from a dozen towns and communities in Greenwood County; from Bison; from Brown County; from Liberal, in the far southwest section of Kansas. They represent the earnest desire of a great majority of the people of Kansas that the sale of intoxicating liquors be prohibited in or near Army training camps, and that vice be suppressed in the vicinity of these camps—sentiments with which I heartily agree.

The VICE PRESIDENT. The petitions presented by the Senator from Kansas will be received and referred to the Committee on Military Affairs.

OPPOSITION TO PARTICIPATION IN WAR—MEMORIAL AND PETITION

Mr. NYE. Mr. President, I present a memorial signed by about 700 undergraduates of Princeton University, dated May 1, 1941, Princeton, N. J. The memorial reads as follows:

We, the undersigned, undergraduates of Princeton University, wish to register our protest against any use of the United States Navy for the purpose of convoying British ships during the present European war. We believe such convoying would place the United States actively in the war. We are utterly opposed to our military or naval participation in the defense of the British Empire.

I also present a petition, submitted by Mrs. Minnie E. Allen and other citizens, of Ames, Iowa, which prays for the enactment of Senate Concurrent Resolution 7, providing for an advisory war referendum.

I ask that the memorial and petition presented by me be referred to the Committee on Foreign Relations.

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

FEDERAL PARTICIPATION IN GENERAL ASSISTANCE GRANTS

Mr. DAVIS. Mr. President, I present a letter from Ray E. Hutter, secretary of the Cumberland County Board of Assistance, calling attention to the fact that their experience in Pennsylvania indicates that participation in general relief would be much sounder, for the reason that it permits standardization of conflicting State statutes regarding settlement and residence.

I ask that the letter, together with a resolution passed by the Cumberland County Board of Assistance, be printed as a part of my remarks and referred to the Committee on Finance.

There being no objection, the letter and resolution were referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

CUMBERLAND COUNTY
BOARD OF ASSISTANCE,
Carlisle, Pa., May 6, 1941.

Hon. JAMES J. DAVIS,
United States Senate,
Washington, D. C.

DEAR SIR: Enclosed is a copy of a resolution adopted by the Cumberland County Board of Assistance.

The members of the Board hope that you will urge an amendment to the Social Security Act, as suggested in this resolution. This would be of great benefit to the people of Pennsylvania, both from the standpoint of taxation and the service offered by the Department of Public Assistance.

Respectfully yours,
RAY E. HUTTER,
Secretary, Cumberland County Board of Assistance.

[Enclosure.]

At a meeting of the Cumberland County Board of Assistance held April 29, 1941, the following resolution was adopted by unanimous vote:

"Whereas Pennsylvania has assumed full financial responsibility for general relief since January 1, 1938; and

"Whereas experience in Pennsylvania indicates that Federal participation in general relief would be much sounder for the reasons that it would permit standardization of the conflicting State statutes regarding settlement and residence, for equalizing the burden of care for migrant workers and their families, and ameliorate the hardships now confronting the worker who migrates for a legitimate reason and becomes destitute; and

"Whereas a general relief provision in the Federal Social Security Act would ease the heavy burden now shouldered by the few States which have accepted the responsibility of providing reasonably adequate care for destitute residents not cared for by other Federal programs, and would promote a reasonable degree of uniformity in general relief provisions throughout the country; and

"Whereas the Social Security Act provisions, with respect to old-age assistance, aid to dependent children, and aid to the blind, affect thousands of families whose need for help does not differ substantially from that of destitute families not covered by these programs; and

"Whereas Federal participation in the cost of general relief, accompanied by Federal leadership in establishing reasonably equitable and uniform standards of administration in all States, alone will insure adequate general relief, vocational training, and related activities which contribute to the strength and morale of the country: Be it

"*Resolved*, That the Cumberland County Board of Assistance favors the broadening of the Social Security Act to include general relief; and be it further

"*Resolved*, That a copy of this resolution be forwarded to all Pennsylvania Members of the two Houses of Congress in Washington, and to all other county boards of assistance."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUGHES, from the Committee on Claims:

H. R. 327. A bill for the relief of Paula Liebau Anderson; without amendment (Rept. No. 265);

H. R. 336. A bill for the relief of Della B. Birnbaum; without amendment (Rept. No. 266);

H. R. 513. A bill for the relief of Paul T. Ward; without amendment (Rept. No. 267);

H. R. 682. A bill for the relief of Julius Springer; without amendment (Rept. No. 268);

H. R. 696. A bill for the relief of J. K. Love; without amendment (Rept. No. 269); and

H. R. 1678. A bill for the relief of W. A. Facht; without amendment (Rept. No. 270).

By Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs:

S. 1341. A bill authorizing a per capita payment of $10 each to the members of the Apache, Kiowa, and Comanche Indians in Oklahoma; with amendments (Rept. No. 271).

BILLS INTRODUCED

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

By Mr. BAILEY:

S. 1477. A bill to amend and clarify certain acts pertaining to the Coast Guard, and for other purposes; to the Committee on Commerce.

By Mr. LANGER:

S. 1478. A bill providing that no money due to persons in connection with national-defense contracts shall be detained by an officer of the United States except by injunction duly issued, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1479. A bill for the relief of Mary S. Gay; to the Committee on Claims.

By Mr. McCARRAN:

S. 1480. A bill to amend the act entitled "An act to authorize the leasing of public lands for use as public aviation fields," approved May 24, 1928, as amended; to the Committee on Public Lands and Surveys.

By Mr. PEPPER (for himself and Mr. CLARK of Missouri):

S. 1481. A bill to provide for the recognition of the services of the civilian officials and employees, citizens of the United States, engaged in and about the construction of

the Panama Canal; to the Committee on Interoceanic Canals.

By Mr. PEPPER:

S. 1482. A bill to provide for the retirement of any officer of the National Guard who has served an aggregate of 25 years in the National Guard and who has served as Chief of the Militia Bureau or Chief of the National Guard Bureau; to the Committee on Military Affairs.

By Mr. WALSH:

S. 1483. A bill to authorize the advancement of certain officers whose accomplishments have been cutstanding; to the Committee on Naval Affairs.

WITHHOLDING OF MONEY ON NATIONAL-DEFENSE CONTRACTS

Mr. LANGER subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD a statement which I am preparing in support of Senate bill 1478, which I introduced earlier in the day.

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

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated.

H. R. 4466. An act to authorize the acquisition by the United States of title to or the use of domestic or foreign merchant vessels for urgent needs of commerce and national defense, and for other purposes; to the Committee on Commerce.

H. R. 4669. An act making appropriations to supply additional urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1941, and for other purposes; to the Committee on Appropriations.

SECRETARY OF LABOR FRANCIS PERKINS

Mr. BYRD. Mr. President, I have been requested by the American Legion, in a letter which I shall read, to insert in the CONGRESSIONAL RECORD the resolutions adopted by the national executive committee of the American Legion in Indianapolis on May 2. The letter is as follows:

MY DEAR SENATOR BYRD: Enclosed please find two resolutions adopted by the national executive committee meeting of the American Legion, on May 2, at Indianapolis, Ind.; one calling for the resignation of the Secretary of Labor and the other forbidding strikes and lock-outs in industries.

I shall appreciate very much if you will have these two read into the CONGRESSIONAL RECORD for the information of the Members of Congress.

JOHN THOMAS TAYLOR,
Director, National Legislative Committee, the American Legion, Washington, D. C.

The resolution on the subject of the resignation of the Secretary of Labor is as follows:

Whereas it is essential at this time of grave emergency that there should be no lack of complete confidence in any officer of the Government if we are to attain full unity of purpose in this Nation; and

Whereas it is becoming increasingly obvious that there is a growing lack of confidence on the part of the American people in the abilities of the present Secretary of Labor to fully exercise the high responsibilities of that office; and

Whereas it appears that as long as the present Secretary of Labor is in office there will continue to be trouble in defense industries: Now, therefore, be it

Resolved by the national executive committee of the American Legion, That it is the opinion of this organization that the cause of national unity in national defense will be best served by the tender and acceptance of the resignation of the present Secretary of Labor.

The other resolution on the subject of forbidding strikes and lock-outs in defense industries is as follows:

Whereas for 19 years the American Legion, representative of the veterans of the war of 1917–18, have advocated universal service if war should ever again be our Nation's lot; and

Whereas if this Nation is to be spared and our way of life is to continue our sacrifices must be universal. There are no private rights which transcend public safety. There are no material profits which cannot be recaptured, and there is no wage situation incapable of adjustment after the work is done: Now, therefore, be it

Resolved by the national executive committee of the American Legion, that we demand of the national administration and the Congress legislation forbidding strikes and lock-outs in national-defense industry during the period of this national emergency.

Mr. President, since I urged on the floor of the Senate on April 25 the resignation of Madam Perkins as Secretary of Labor I have received a large number of communications from every State in the Union, likewise resolutions adopted by local posts of the American Legion, Veterans of Foreign Wars, and numerous other organizations, as well as many editorials. These indicate to me an overwhelming sentiment on the part of the American people that Madam Perkins should be replaced as Secretary of Labor by one who has the courage, the inclination, and the capacity to meet the vital responsibilities that are placed upon the Secretary of Labor in the successful accomplishment of national preparedness.

I hope that what appears to be an overwhelming public sentiment will induce the President of the United States to request the resignation of Madam Perkins so that the Labor Department can be immediately reorganized to serve as an asset and helpful influence in our defense program.

Strikes today have closed more than 20 plants throughout the country engaged in important defense production, and other strikes are imminent.

In the past 3 months strikes in defense industries alone have lost 1,577,816 mandays of production. In this time lost 1,402,480 latest Garand rifles could have been manufactured, or more than 5,000,000,000 rounds of ammunition.

In this hour of national peril any official of the Government who has vital responsibilities to perform, and who has been incapable of meeting those responsibilities in an effective way, should give way to someone better equipped to perform such duties.

I ask that the resolution be referred to the Committee on Education and Labor.

The VICE PRESIDENT. The resolutions will be so referred.

TRIBUTE BY BISHOP A. FRANK SMITH TO THE LATE SENATOR SHEPPARD

Mr. ANDREWS. Mr. President, those of the Senate who attended the funeral ceremonies of the late Senator MORRIS SHEPPARD in Texarkana on May 12 will remember the very impressive, timely, and beautiful tribute paid to Senator SHEPPARD and his life by Bishop A. Frank Smith, of Texas. He reviewed the long, useful, public career of Senator SHEPPARD in such a way, in my judgment, as to leave a lasting impression on everyone present.

At my request, Bishop Smith subsequently reduced to writing his extemporaneous tribute, and it has reached me only in the last few days, too late to be brought to the attention of the Senate and placed in the RECORD at the recent memorial session of the Senate.

I now ask unanimous consent to present this tribute, and ask that it be printed in the RECORD, and, if possible, included in the permanent memorial to Senator SHEPPARD.

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

MORRIS SHEPPARD was born in old Wheatville, Morris County, Tex., in the northeastern section of the State, 66 years ago; he was educated in the public schools of the neighborhood, in the University of Texas, and in Yale University, from which he received his degree in law. In 1898 he settled in Texarkana, Tex., and entered into the practice of his profession. In October of 1902, in his twenty-eighth year, he was elected to the Congress of the United States, succeeding his father, who had died during his third term, as the Representative from the First Texas Congressional District. There followed 10 years of service in the House, after which he was elected to the Senate of the United States, by the State Legislature of Texas, succeeding the Honorable Joseph Weldon Bailey. Four times was he returned to this office through the suffrage of his fellow citizens, and when he came to the end of his earthly career on April 9, 1941, he was dean of the Congress by length of service, while in the respect and affection of his colleagues and of the citizenry of America no man was his superior.

MORRIS SHEPPARD was born well. The best blood of the Old South met in his veins; he was possessed of a graceful body, a vigorous intellect, and a winsome personality. He was reared in an atmosphere of culture, of mental awareness, and of solid Christian piety.

Early in life he revealed that he was possessed of a soul and a character to match his physical and mental gifts. There was not much of this world's goods in his boyhood home during those post-Civil War years, and young Morris had to gratify his desire for a college education by making his own way, which he did in conspicuous fashion; and while he met his own needs, and asked nothing of any man, at the same time he developed a high sense of obligation toward life and his fellow man. For him every privilege brought a commensurate responsibility and noblesse oblige became the law of his life. This became evident early in his public career and was increasingly manifest to the day of his death. The character of one of the great figures of all history is delineated in Holy Writ in this sentence: "David served his own generation by the will of God." In no fitter terms can the life of MORRIS SHEPPARD be pictured.

How well he served his own generation is attested by his amazing capacity for detail, which has been a tradition for a generation among his constituents whose needs he cared for without reserve, while his uncanny ability to feel the pulse of public opinion, and to voice the feelings of the average citizen demonstrated his ability to "walk with kings, nor lose the common touch," and accounted for the fact that "the people heard him gladly."

That MORRIS SHEPPARD conceived his service to his generation in terms of the will of God is revealed by the types of legislation in which he was particularly interested. Always he gave instant response to every proposal which sought to elevate the social and deepen the spiritual status of men and women. It was for this reason that he actively supported woman suffrage. It was not a popular cause when he became its ardent champion, but that made no difference to MORRIS SHEPPARD. He had passionate faith in the inherent dignity of personality, and he believed that woman had the right and the capacity to stand beside her brother and her father, her sweetheart and her husband as an enfranchised citizen of this land of ours. For the same reason he sponsored legislation giving maternity aid to needy mothers and looking toward the reduction of infant mortality.

The cause with which the name of MORRIS SHEPPARD will be most prominently linked, however, is the prohibition of the manufacture and sale of intoxicating liquor. He did not associate himself with this movement through any excess of crusading zeal—there was nothing of the professional reformer in the makeup of MORRIS SHEPPARD. He envisioned a social order freed of the things that pollute; he believed that man could do more and be more without liquor, and in keeping with this belief, he was himself a teetotaler all his life. He believed that salutary legislation was necessary to enable man to rid himself of liquor, and so he fathered the eighteenth amendment. When the pendulum swung, and the amendment was repealed, he did not change his convictions one whit, nor did he keep silent for the sake of political expediency. The political annals of this Nation reveal no more inspiring sight than that of MORRIS SHEPPARD, alone and unafraid, stumping Texas against repeal, not because he expected to stem the tide, but because a mere change in popular support of a measure was no ground for a change of conviction upon his part. Popular support had not led him to champion prohibition, and the lack of popular support did not lead him to abandon it, for with him—

"Right is right, since God is God,
And right the day must win,
To doubt would be disloyalty,
To falter would be sin."

And be it said, to the everlasting credit of Texas, he was returned to the Senate when next he stood for reelection by a tremendous majority. Men who differed from MORRIS SHEPPARD on this question and others voted for him consistently because their faith in his integrity outweighed any difference of judgment between them. When he stood upon the floor of the Senate each year that Congress was in session, upon the anniversary of the adoption of the eighteenth amendment, as he did from the beginning till his death, and raised his voice against the liquor traffic, it was not as a lone representative of a lost cause indulging in bitter memories and biting invectives. Rather was it as a watchman standing upon the walls, sounding the trumpet that proclaimed the coming of another day, for MORRIS SHEPPARD believed profoundly that the change in prohibition sentiment was but temporary, and that the tide was sure to turn once more, and he had the patience to bide his time. And some day, when the manhood of America has arisen to the moral stature envisioned by him, the Nation will hail him anew as a prophet ahead of his day and with his feet planted upon the imperishable foundations of human progress.

When Senator SHEPPARD lost a battle, he did not retire to his corner and sulk, neither did he refuse to play the game. He was one of the most loyal party men in the Congress; he never sacrificed principle to party expediency; he was always a Christian first, an American second, and then a Democrat; yet his party regularity made him one of the most valued men in national life. His friendly disposition, his boundless energy, and his genuine love for hard work enabled him to accomplish tasks beyond the grasp of most men.

It was this faithfulness to duty, and his determination to go the second mile with respect to every obligation laid upon him, that probably cut short his days in a service that ranks among the greatest of his life. It is the irony of history that MORRIS SHEPPARD, the most irenic of men, who abhorred war and all its accompaniments, and who could have struck hands with every human being and said "My brother," should have been called upon, as chairman of the Senate Military Affairs Committee, to give the closing years of his life to the task of arming America as no other nation in history has been armed. He gave himself to this task with complete devotion, directing the passage of the Selective Service Act and the lease-lend bill through the Senate, and cooperating with the military authorities in such fashion that Gen. George C. Marshall, Chief of Staff of the United States Army, is reported to have said that the present state of efficiency of the Military Establishment is due largely to his energy and vision. He was determined that America should be armed, not for territorial aggrandizement, nor in the name of spurious racial arrogance, but in order that America might be able to speak in terms the dictators could understand, and to cry in the name of suffering humanity and for the sake of all that is sacred in life, "Thou shalt not, in the name and through the power of God." And never did MORRIS SHEPPARD more accurately voice the spirit of his fellow countrymen than when he took this position.

Did you not know it for yourself, you would expect to be told that such a man as Senator SHEPPARD was a devout believer in God. His was an unfaltering personal trust that made religion a matter of daily living. He was a consistent churchman, an official member of the First Methodist Church of his home city for 40 years, and a regular attendant upon divine worship from Sunday to Sunday in his Washington church home. He was as much at home in the pulpit as upon the political forum, and his services were in constant demand in religious assemblies all over the land.

Never did his cleanliness of life and spiritual devotion rise to greater heights than in his domestic relations. Delicacy forbids that we should do more than lift the curtain for a moment, to reveal the rare understanding and love that pervaded the SHEPPARD home. In December of 1909, MORRIS SHEPPARD was married to Miss Lucile Ferguson Sanderson, of Texarkana, Tex., and it was in the holiest sense a union till "death shall us part." Three daughters were born of this union. Complete understanding and faith, based upon love in a Christian setting, ruled this household, and the wife and daughters reciprocated in full the boundless love the husband and father manifested toward them. From this haven the intrepid warrior went forth, inspired anew to battle for the rights of men. In their grief today these loved ones are sustained by their precious memories, and their sure hope of seeing again in the Father's house that one whom they have "loved long since and lost awhile."

It is a significant and appropriate coincidence that we shall lay MORRIS SHEPPARD'S body away upon the eve of Easter Sunday. Tomorrow the Christian world will celebrate the fact of the empty tomb and of the risen Christ, He who said: "Because I live, ye shall live also." In this faith Senator SHEPPARD lived, and in this faith he died. Only this week does a great religious weekly in America carry an article from his pen. Why I Believe in Personal Immortality, doubtless his last utterance upon a religious theme. We can no more think of the grave as confining such a spirit as this than we can think of the Judean tomb as being the end of the Carpenter of Nazareth. Because He lives, and for the same reason, MORRIS SHEPPARD lives.

We had not expected him to go so soon, and the Nation can ill afford to give him up, but we can believe that he had rather have gone in full stride than to have remained with a broken body, for life to him was service, and death but an entrance to a fuller existence. With Robert Louis Stevenson he could say, "Glad did I live, and gladly die, and I laid me down with a will."

When Mark Guy Pierce, the great British preacher, lay dying he gave directions for his funeral. "Bury me from the altar of my church," he said, "where I have seen multitudes 'bury the old man to be raised a new creature in Christ Jesus.' Do not play the Dead March; play the Gloria. Pull out all the stops on the organ and sing, 'Praise God,' and I shall be singing with you." So would MORRIS SHEPPARD have given directions for his funeral could he have spoken, and it is not difficult to believe that we can hear him singing even now, with the great multitude of the redeemed, the song of Moses and the Lamb.

In a few moments we will return the remains of MORRIS SHEPPARD to the earth from which it came. The soil of his beloved Texas will hold his body in tender embrace "till the trumpet of the Lord shall sound and time shall be no more," but MORRIS SHEPPARD will not be there. Having cast aside the body which served him so well in this physical world, he has entered a fairer realm, where, possessed of a spiritual body, his indomitable will and tireless energy will be driving him on to serve, in that land, as here, "his generation by the will of God," for he is one of whom the seer wrote: "They who have earned the right shall enter in through the gates into the city, and they shall see God face to face, and his name shall be in their foreheads. There shall be no night there; and they need no candle, neither light of the sun; for the Lord God giveth them light; and they shall reign forever and forever."

CONVOYS—ADDRESS BY SENATOR NYE

[Mr. SHIPSTEAD asked and obtained leave to have printed in the RECORD a radio address delivered by Senator NYE on Wednesday, May 7, 1941, on the subject No Convoys; No War, which appears in the Appendix.]

NO FURTHER WITHOUT WAR—ADDRESS BY SENATOR NYE

[Mr. NYE asked and obtained leave to have printed in the RECORD an address delivered by him on Saturday, May 3, 1941, on the subject No Further Without War, which appears in the Appendix.]

ADDRESS BY SENATOR McCARRAN ON LONGEVITY BILL FOR POSTAL EMPLOYEES

[Mr. McCARRAN asked and obtained leave to have printed in the RECORD a radio address delivered by him on the postal employees longevity pay bill, on May 2, 1941, which appears in the Appendix.]

AMERICA—ADDRESS BY SENATOR BROOKS

[Mr. BROOKS asked and obtained leave to have printed in the RECORD an address delivered by him before the Chamber of Commerce of the United States on May 5, 1941, with the introductory remarks by James Kemper, president of the chamber of commerce, which appear in the Appendix.]

AID TO BRITAIN—ADDRESS BY SECRETARY OF WAR STIMSON

[Mr. SCHWARTZ asked and obtained leave to have printed in the RECORD a radio

address delivered by Hon. Henry L. Stimson, Secretary of War, on Tuesday, May 6, 1941, on the subject of aid to Britain, which appears in the Appendix.]

TRIBUTE TO THE LATE SENATOR SHEPPARD BY DR. CLINTON N. HOWARD

[Mr. CAPPER asked and obtained leave to have printed in the RECORD an editorial on the late Senator Morris Sheppard, written by Dr. Clinton N. Howard and published in The Progress, which appears in the Appendix.]

BROADCASTING REGULATIONS OF FEDERAL COMMUNICATIONS COMMISSION

[Mr. NORRIS asked and obtained leave to have printed in the RECORD a statement by James L. Fly, chairman of the Federal Communications Commission, dealing with broadcasting regulations of the Federal Communications Commission, which appears in the Appendix.]

EDITORIAL FROM WASHINGTON POST ON CHAIN BROADCASTING

[Mr. LEE asked and obtained leave to have printed in the RECORD an editorial from the Washington Post of May 8, 1941, entitled "Chain Broadcasting," which appears in the Appendix.]

ARTICLE BY DAVID LAWRENCE ON NEW BROADCASTING REGULATIONS

[Mr. GURNEY asked and obtained leave to have printed in the RECORD an article by David Lawrence, published in the Evening Star of Washington, D. C., of May 7, regarding the recent broadcasting regulation of the Federal Communications Commission, which appears in the Appendix.]

IS AMERICA TO GO TO WAR—EDITORIAL FROM CHICAGO TRIBUNE

[Mr. CLARK of Missouri asked and obtained leave to have printed in the RECORD an editorial from the Chicago Daily Tribune of May 5, 1941, entitled "Is America To Go to War," which appears in the Appendix.]

EDITORIAL FROM THE WASHINGTON TIMES-HERALD ON SECRETARY STIMSON'S SPEECH.

[Mr. NYE asked and obtained leave to have printed in the RECORD an editorial from the Washington Times-Herald of May 8, 1941, entitled "Our Secretary of War Outlines Our Naval Policy," which appears in the Appendix.]

PARTICIPATION OF THE UNITED STATES IN WAR

[Mr. SMATHERS asked and obtained leave to have printed in the RECORD a letter from Kenneth B. Walton, of Atlantic City, N. J., and an editorial from The Dartmouth, newspaper of Dartmouth College, which appear in the Appendix.]

EDITORIALS FROM MINNESOTA LABOR ADVOCATE, PORTLAND (OREG.) JOURNAL, AND SALEM (OREG.) CAPITAL PRESS

[Mr. HOLMAN asked and obtained leave to have printed in the RECORD an editorial from the Minnesota Labor Advocate; one from the Portland (Oreg.) Journal; and one from the Capital Press of Salem, Oreg., which appear in the Appendix.]

ARTICLE BY GEORGE D. RILEY ON BRITISH AND AMERICAN CIVIL SERVICE PLANS

[Mr. TOBEY asked and obtained leave to have printed in the RECORD an article by George D. Riley on British and American Civil Service plans, which appears in the Appendix.]

NOTICE OF HEARING ON NOMINATION OF HON. SHERMAN MINTON

Mr. HATCH. Mr. President, recently the Senate Committee on the Judiciary adopted a rule relating to judicial nominations. According to that rule, an opportunity to be heard must be given to anyone who desires to be heard either in behalf of or against a nomination for judge. Under that rule it is also required that 7 days' notice shall be given and published in the RECORD before the time of hearing.

In compliance with that rule of our committee, I now desire to make the following announcement:

The Committee on the Judiciary has received the nomination of Hon. Sherman Minton, of Indiana, to be judge of the Circuit Court of Appeals for the Seventh Circuit. As chairman of the subcommittee considering this nomination, and as required by rule I, which I have just mentioned, I announce that Thursday, May 15, has been set as the time for hearing this nomination in the Judiciary Committee room, at which hearing all interested parties will be given an opportunity to be heard. The hearing will be held at the hour of 10 o'clock in the morning. I may further say that the date set is the earliest possible date we could set and at the same time comply with the rule.

SENATOR FROM WEST VIRGINIA

Mr. CONNALLY. Mr. President, I move that the Senate proceed to the consideration of Senate Resolution 106, the resolution proposing the seating of a Senator from West Virginia.

The motion was agreed to; and the Senate proceeded to consider the resolution (S. Res. 106) seating Joseph Rosier as a Senator from the State of West Virginia, which is as follows:

Resolved, That Joseph Rosier, appointed by the Governor of West Virginia on January 13, 1941, to fill the vacancy created by the resignation from the Senate of the Honorable Matthew M. Neely, is entitled to be admitted to a seat as a Senator from West Virginia.

Mr. CONNALLY. Mr. President, the pending resolution relates to the controversy over the appointment by the Governor of West Virginia of a Senator of the United States to succeed former Senator Matthew M. Neely, who vacated his seat in the Senate by resignation.

As all Senators know, section 5 of article I of the Constitution provides:

Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business.

Mr. President, that grant of authority to the Senate to pass upon the qualifications and eligibility of its membership is a very high and responsible power, and the Senate in exercising that power, of course, ought to, and I am sure will be extremely careful that its action and its decision shall be influenced only by the law and the constitutional provisions, and that no element of prejudice or personal pique, or personal fondness on the one hand, or aversion on the other hand, or even political or party considerations, should operate to influence the mind or the vote of any Senator. I am assuming, Mr. President, that that is true, and I make no charges that any other considerations or any other influences than those I have mentioned will operate upon the mind of any Senator, because to me it is inconceivable that any Senator conscious of his own responsibility to his particular constituency, and conscious of that high responsibility to the country and to the Constitution which we have sworn to uphold, would lightly regard the discharge of this high function of selecting, in a way, and passing upon the title of those who sit in this Chamber.

The seventeenth amendment to the Constitution providing for the election of Senators—I shall not read it all—is well known to every Senator, but for the benefit of the RECORD it might be well to remind Senators that a portion of the seventeenth amendment reads as follows:

When vacancies happen——

I would pause a moment at the word "happen" because its construction and what it means will probably take on some little importance in the later discussion of this resolution——

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

Therefore there is not entire uniformity among the States as to the methods adopted by the legislature with respect to the authority conferred upon the governor. But in the State of West Virginia the State laws provide that when the vacancy is for a shorter period than 2 years and 6 months in the Senate, the governor may appoint for the remainder of the term, or may fill the vacancy. So in this case there is no difficulty in that regard.

The controversy arises from this sort of a situation. Governor Homer A. Holt was the Governor of West Virginia, whose term expired on the 12th day of January, as I recall. There is some contention that it lapped over a few minutes, or a few seconds, by an eyelash, a sort of a photographic finish, as it were, into the 13th of January, but under the law his term of office was to expire on the 12th day of January 1941.

Governor Holt and former Senator Neely were not politically friendly. By that I mean that in West Virginia there are two Democratic factions, Governor Holt belonging to one and former Senator Neely belonging to the other. Each was very anxious to appoint a Senator, for reasons that were satisfactory unto themselves. Senator Neely under a law in West Virginia—under the belief that there was such a law—formally resigned as United States Senator in a written resignation which he filed with Governor Holt. The reason for that action was that there is a statute in West Virginia providing that no State officer can perform the functions of the State office while holding any other office. In other words, he must be free to assume the office without holding another office.

Senator Neely's resignation provided that the resignation was to become effective exactly at midnight of the 12th-13th of January, the midnight intervening between those two dates. Prior, however, to the filing of the resignation by Senator Neely, Governor Holt was informed of the proposed resignation—the question having been raised during the campaign for governor in West Virginia, and having been somewhat a political issue—Governor Holt having been informed that Senator Neely was to resign, before the resignation had been filed with him undertook to fill the vacancy by a written appointment of Clarence E. Martin, the terms of that appointment being that the appointment was to fill any vacancy which might occur, no time having been fixed, because the resignation had not been filed, but Governor Holt undertook to make at least a prospective appointment effective whenever and however a vacancy in the United States Senatorship should occur. Later on we will discuss that question.

The committee concluded, and I think with good reason, that no prospective appointment can be made to take effect after the term of the appointing officer shall have expired, for a very sound reason, because if the word "happen" means anything it means that when the vacancy happens, whoever the authority is that has the power to fill the vacancy shall be entitled to make the appointment. In other words, he cannot project far into the future and fill a vacancy which, when it occurs, the man who is then in office has the power to fill.

It was on the 10th of January that Governor Holt undertook to make that prospective appointment. In the meantime Senator Neely's resignation reached the Governor, in which he resigned effective at exactly midnight, 12 o'clock on the midnight between the 12th and the 13th. Thereupon, on January 11, Governor Holt undertook to make another appointment of Mr. Martin. In that case he provided that this appointment is to take effect upon the effectiveness of the resignation of Senator Neely; that whenever his resignation was effective then this appointment should take effect. The committee concluded, which we will develop a little more fully later, that that appointment was not effective, because it was also prospective, and would have taken effect at a time when Governor Holt would no longer have been in office.

When midnight of the 12th–13th arrived each of the Governors, the outgoing Governor and the incoming Governor, showing a remarkable zeal for the performance of the duties and functions of their office, were up at 12 o'clock exactly. [Laughter.] They were up that night at 12 o'clock exactly.

So that we may chronologically keep matters in order, I will say that there is a law in West Virginia providing that no State officer may assume the duties of the office unless on or before the assumption of the office he shall have taken an oath which is prescribed in the statute. Senator Neely, at 11:35, 25 minutes before the arrival of midnight, acting, as he asserted, upon the authority conferred by that statute, took a qualifying oath as Governor. At 11:45 he took another oath, qualifying him, making him eligible for Governor.

Then, upon the arrival of 12 o'clock, Governor Neely took another oath as rapidly as he could take the oath. In the meantime, it is the contention of the Governor Holt faction and those who support the appointment of Judge Martin that when 12 o'clock arrived Governor Holt had anticipated the situation and had already prepared and written out a formal appointment, and that all he had to do was to write his signature on it; that he could write his signature more rapidly than Governor Neely could take the oath of office as Governor, and that therefore, in that little twilight zone of a fraction of a second, to be determined astronomically rather than legally or by any particular statutory fixing of the time, Governor Holt had the right to appoint the Senator, on the theory that under the law of West Virginia outgoing officers serve until their successors qualify, and that the successors may not qualify until they take the oath of office.

I do not care to consume a great deal of time, because most of the debate will probably be developed later by questions and answers. I wish to state in general outline the conclusions of the committee.

First, the committee concluded that the anticipatory or prospective appointments by Governor Holt were not valid, for the reason that they were to take effect after the expiration of his term of office.

There are some Senate precedents with relation to matters of that kind prior to the adoption of the seventeenth amendment, but there is no precedent for this particular case. Prospective appointments have been made before a Senator's term actually expired; but, as I now recall, in every case—with possibly one exception—the vacancy finally occurred within the term of the Governor who made the prospective appointment. So the committee concluded that the prospective appointments were invalid.

The question finally resolved itself into the simple question as to when the term of Governor Neely began and when the term of Governor Holt ended. The Constitution of the State of West Virginia provides that the Governor shall hold office for 4 years, and that the incoming official shall qualify on or before the first Monday after the second Wednesday in January. The point I am trying to make is that the term of office is not an absolutely mathematical 4 years. It is approximately 4 years; but the termination of the 4 years is definitely fixed by the first Monday after the second Wednesday in January. So there is no controversy between the contestants on that point. They both agree that under the law the term of the outgoing Governor ended at 12 o'clock, and that the term of the new Governor began at 12 o'clock.

The committee also concluded that Governor Neely had to possess a number of qualifications to be Governor. First, he had to be a candidate. Then he had to be elected by the people. Then, under the West Virginia law, the legislature had to canvass the returns and certify the results. All those things were necessary to his eligibility.

The committee also concluded that the taking of the oath was simply another process through which he must pass, under West Virginia law, to assume the duties of the governorship.

The committee also concluded that if there had been no statute requiring an oath, he would not have had to take the oath, but would have been elected Governor, and instantaneously and automatically upon the arrival of 12 o'clock he would have been translated from a Senator into a Governor by the same process, just as Senators who are appointed to other positions frequently do not resign, or, if they do, they resign effective upon their taking the other appointment. They are Senators today and judges tomorrow—at least I hope some of them will be. [Laughter.]

What I am trying to say is that there is no interregnum. There is simply a translation from one office into the other; and with the assumption of the duties of the second office the first office is automatically vacated.

We concluded that Governor Neely would have been Governor instantly and automatically at 12 o'clock without taking any oath, except for the statutory requirement that he take an oath. The very statute which requires that he take an oath provides that he may take the oath before assuming the office. So we concluded that when he took the oath at 11:45—not because he was assuming the office at 11:45 but because he was going through one of the processes necessary to make him eligible to assume the office upon the arrival of 12 o'clock—that oath, under the West Virginia statute, was sufficient.

There is a case in West Virginia construing that statute. I refer to the case of Conley against Thompson. In that case the court said:

> Under our constitution and laws an officer holds over until his successor is elected and qualifies; and when the public interest demands, he may even be compelled to continue in office that a hiatus therein may not be created.

Following that line of argument, the court then said:

> As suggested in the argument, we think we may take judicial notice that it has been the custom in this State for elective or appointive officers to qualify by taking the required oath and giving bond before the beginning of their terms of office.

The taking of the oath is simply a qualification for eligibility, just as becoming a candidate is a necessary prerequisite, just as submitting himself to the voters in an election is a necessary step in order to qualify a candidate as Governor. So the committee decided that in view of the oaths of Governor Neely, taken prior to the arrival of 12 o'clock, upon the arrival of 12 o'clock he instantly became Governor of the State of West Virginia. Consequently, becoming Governor at exactly 12 o'clock, the vacation of the senatorship having occurred instantaneously therewith, his appointment of Dr. Rosier at any time after 12 o'clock was legal and valid.

On the other hand, it was contended that under the statute which says that State officers may continue in office until their successors are qualified, the outgoing Governor held over for the few seconds which were necessary to write his name. There is a constitutional provision in West Virginia as to officers holding over, and I shall read it to the Senate.

Article IV, section 6, of the West Virginia Constitution provides as follows:

All officers elected or appointed under this constitution may, unless in cases herein otherwise provided, be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality, in such manner as may be prescribed by general laws; and unless so removed they shall continue to discharge the duties of their respective offices until their successors are elected or appointed and qualified.

Under that grant of authority to the legislature, the legislature enacted section 307 of the West Virginia Code, which provides as follows:

The term of every officer shall continue (unless the office be vacated by death, resignation, removal from office, or otherwise) until his successor is elected or appointed and shall have qualified.

Those are the statutes, and that is the constitutional provision upon which the supporters of Mr. Martin insist that Governor Neely had to take an oath of office, and that he could not take it until after 12 o'clock. That provision is of general application to all State officers; but in the constitution of West Virginia there is a special provision relating to the tenure of the Governor, and I will read it.

Article VII, section 16, of the West Virginia Constitution contains a specific provision relating to succession to the office of Governor in case of a hiatus in that office resulting from "failure to qualify." The provision is as follows:

SEC. 16. In case of the death, conviction on impeachment, failure to qualify—

Right there, I desire to suggest that the only possible basis upon which Governor Holt can contend that he held over is that at the time he undertook to make the other appointment Mr. Neely had failed to qualify—

failure to qualify, resignation, or other disability of the Governor, the president of the senate shall act as Governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of Governor the same shall devolve upon the speaker of the house of delegates; and in all other cases where there is no one to act as Governor, one shall be chosen by joint vote of the legislature.

That, being a special constitutional provision relating to the governorship, lifts it out, according to our contention, of the general constitutional provision which relates to all State officers in general; and the courts of West Virginia have so held.

In the case of *Carr* v. *Wilson* (32 W. Va.), this provision was construed to be an exception to the general hold-over rule. The court there said:

And, as to the general rule that all officers shall hold over until their successors are qualified that being a general rule would yield to a clause providing otherwise as to a particular officer, for instance, Governor, as there would be as to that officer, a provision applicable only to him, and as to him that particular provision would govern his particular case.

On search—

The court further says—

we find that section 16, article VII, of the constitution does, to the extent therein provided, take him out of the general rule by the language: "In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the president of the senate shall act as Governor until the vacancy is filled or the disability removed."

The court says:

I should say that under this provision, if General Goff—

This was a contest in West Virginia—

if General Goff had been declared upon the face of the returns elected and had failed to qualify—

That is the contention here—that Neely had been elected but had not qualified instantly upon the arrival of 12 o'clock. The court said:

if General Goff had been declared upon the face of the returns elected and had failed to qualify, the president of the senate would act as Governor, ousting Governor Wilson, for here would be a failure to qualify by the Governor elected and so declared, and under the language quoted, the president of the senate would come in. But the president of the senate can come into office of Governor, or rather, act as Governor, temporarily as president of the senate, only on the contingency—

And so forth, and so on.

If Governor Holt had any authority to hold over even for the split fraction of a second, it was because the man elected had then, at that moment, failed to qualify; and under this provision the president of the senate, upon the failure of the incoming Governor to qualify, would be authorized to act as Governor.

I think all Members of the Senate will agree that there cannot be two men—both the outgoing Governor and the president of the senate—who can have authority to act as Governor in such a contingency. There cannot be two. There is no double-headed arrangement. One or the other, either the outgoing Governor or the president of the senate, must first have the opportunity to take up the functions of the governorship. If there were two of them, there might be a situation in which each one of them would be seeing how fast he could get to the statehouse to assume the duties of Governor.

So it is our contention that this being a special constitutional provision regulating the performance of the duties of the governorship, it supersedes the general rule and lifts the governorship out and puts it in a special class, and that if the duly elected person fails to qualify—if a failure to qualify under these circumstances can be called a failure to qualify—the president of the senate would step in.

But I desire to submit to Members of the Senate this proposition: I have not examined the decisions and the law with great care, because we have had so much that we had to examine with care; but I lay down the proposition as a matter of common law and of sound public policy that when an official is elected to an office, and his term arrives, and he proceeds with all due diligence to qualify—whatever it takes to qualify, whether it is signing an oath, or holding up his hand, or doing anything else—when he proceeds with all due dispatch and diligence to do that, and does it, it then reverts to the beginning of his constitutional term. It would be unsound public policy, it would be contrary to all the finest political concepts, to have a little interregnum, that is not determinable by written records but is determinable by a stop watch, with someone sitting up at midnight to see whether John Smith crossed the "t" before Bill Jones put down the period.

So the old theory with which I think we are all familiar—and I think it is somewhat applicable in this case—the old theory that the law knows no fractions of a day, has had wide application throughout the country; and when a governor's term of office begins on a certain day, we all know that it is the usual custom that he is inaugurated at 12 o'clock noon; but when he is inaugurated he is governor for that entire day, back to the beginning of the day at midnight preceding. That is almost universally observed as a custom throughout the country. I have not lately examined the records, but Senators will remember the famous contest over the judges appointed by John Adams. The laws of the United States probably are not exactly like the laws of West Virginia; but when John Adams undertook to fill up all the judiciary appointments created under that legislation prior to the assumption of office by Mr. Jefferson, he did not wait until 11 o'clock, an hour before the inauguration exercises. He sat up at midnight, and had the appointments made prior to midnight, no doubt upon the theory that when midnight arrived he was out of office, and his term had ended.

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

Mr. CONNALLY. I yield.

Mr. CLARK of Missouri. I do not desire to interrupt the Senator if he is in the course of developing a point.

Mr. CONNALLY. It is quite agreeable to me to yield.

Mr. CLARK of Missouri. The Senator from Texas is also familiar with the fact, I assume, that it was formerly the invariable custom for the President of the United States to come to the Capitol and take his post in the so-called President's room, which is now used by the representatives of the newspapers, on the 4th of March.

Does the Senator from Texas contend that the acts signed by the President on the morning of the 4th of March were illegal? Because, if they were, a great many laws would be invalidated. If the theory of the Senator from Texas is correct, the President of the United States, who was sworn in at noon on the 4th of March, would have his term revert to midnight of the 3d of March, and therefore any signature by the outgoing President of the United States on the morning of the 4th of March would be illegal.

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

Mr. CONNALLY. I yield.

Mr. HATCH. The rule the Senator from Texas has just announced is, I think, supported by the authorities, and the situation which the Senator from Missouri points out is also taken care of by the self-same authorities. It is universally held that the outgoing official does have jurisdiction to perform whatever acts may be necessary to wind up the business of his administration. I do not think there is much conflict on that.

Mr. CLARK of Missouri. The question is when the administration ends. If the President of the United States comes in at midnight on the 3d, then, according to the theory just enunciated by the Senator from Texas, any act performed after that time, such as signing a bill, making an appointment, or anything else—any act performed on the morning of the 4th would necessarily be illegal and without authority, because the incoming President's term would revert to midnight of the 3d.

Mr. HATCH. Not at all. I have just said that the authorities hold that those acts which are necessary are valid for the outgoing Governor to perform, but he has no right to perform an act not necessary to wind up his own administration or necessary to the conduct of the business of the State or of the Federal Government. There is a clear distinction.

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

Mr. CONNALLY. I yield.

Mr. TYDINGS. I should like to ask the Senator from New Mexico, for he has studied the question and I have not—I am asking for information—suppose a Governor whose term would expire at 12 o'clock noon on a certain day were to pardon or parole a criminal under sentence, say, at 11 o'clock in the morning of his last day in office, would that be construed as a necessary act to wind up his administration or would the parole be valid or would it be invalid?

Mr. HATCH. I think it would be considered probably as part of the necessary functions of his office if there was occasion for it, but the jurisdiction is limited, I think, to the performance of necessary duties, necessary either to wind up the business of the old administration or necessary to protect the welfare of the State and its people. For instance, there might be a riot, and the new Governor had not qualified; the old Governor would certainly have the power to take care of situations of that kind. That is the purpose and reason of the hold-over provision.

Mr. TYDINGS. Will the Senator from New Mexico outline what, in his judgment, would be an illegal act on the part of the retiring Governor prior to the hour when the new Governor took the oath of office?

Mr. HATCH. I think the appointment of a United States Senator is not an act necessary to wind up the business of the old administration or to care for the welfare of the people of the State, and the particular instance the Senator has in mind is an example, in my opinion.

Mr. TYDINGS. Can the Senator give me any other illustration of an illegal act except the appointment of a United States Senator?

Mr. HATCH. Yes; there are several of them in the books.

Mr. TYDINGS. I should like to know; I have never studied the precedents; I am asking information.

Mr. HATCH. The doing of anything which is not necessary to wind up the affairs of the old administration or is not necessary to protect the welfare of the State as a whole. That is the general principle. As to the authorities, presently I shall be glad to read them to the Senator, covering that exact point.

Mr. CONNALLY. I thank the Senator from New Mexico and other Senators for the interruption. As I have said, I have not gone back and read the exact occurrences in the case of John Adams. I simply cited that as an incident. Of course it is not on all fours, because there are differences in the laws of West Virginia and in the construction of the Federal laws. Of course, the laws of West Virginia control the term of the Governor and when he becomes qualified. We have nothing to do with that; we have to follow the laws of West Virginia; but as to the Senatorship, when the vacancy occurred and as to when the new appointment should take effect, of course, the Senate has plenary authority and power.

I will say to the Senator from Missouri the "lame-duck" amendment provides that—

> The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended, if this article had not been ratified; and the terms of their successors shall then begin.

Mr. CLARK of Missouri. If the Senator will permit me, I am very familiar with that amendment to the Constitution, but I understood the Senator at the time I interrupted him to be adverting to the old common-law rule that there are no parts of days. I think the present practice of the Federal Government under the amendment referred to is perfectly clear and conclusive.

Mr. CONNALLY. Certainly.

Mr. CLARK of Missouri. But there was for many years great dispute under the old common-law doctrine the Senator from Texas was stating as to when the actual term of President of the United States ended.

Mr. CONNALLY. I will say to the Senator that, so far as I recall, there was nothing in the original Constitution as to when the term of the President should end, but it provided that the President should serve for 4 years, and provision was made for an inauguration, as I now recall, which did not take place until 1789. There may have been originally some provision as to when the Presidential term should end; I assume there was; but the present "lame-duck" amendment specifically provides that the term shall end at noon on January 20.

Mr. CLARK of Missouri. I think that is perfectly conclusive at the present time. I am simply referring to the common-law rule to which the Senator himself was referring.

Mr. CONNALLY. I did say that there is very ample authority for the proposition that a fraction of a day in a case of this kind is of no consequence.

If an officer, a Senator, or anybody else has been elected to an office, and the term begins at a certain time, and he acts with all due speed and diligence to qualify and assume that office, I think, under those circumstances, the qualification reverts back to the beginning of the term; otherwise there would be introduced a period of uncertainty, and it would be necessary to depend upon parole testimony if the question arose "When did he sign this bill? What moment by the clock was it?"

Mr. TYDINGS. Mr. President, I should like to ask the Senator, who has made a study of this question, suppose, as a matter of record, Mr. Neely had resigned as Senator from West Virginia at 10 o'clock in the morning on whatever day he became Governor, and was sworn in as Governor at 12 o'clock noon on the same day, is it the contention of the Senator from Texas that the former Governor could not act to fill that vacancy in the 2 hours elapsing between 10 and 12 o'clock because that would not be a necessary part of his duties as retiring Governor, but that the vacancy would continue and drift over into the term of the new Governor? Am I correct in that?

Mr. CONNALLY. I do not quite understand the Senator. He says if Senator Neely had resigned effective at 10 o'clock but he did not assume the duties of the office until 12 o'clock.

Mr. TYDINGS. Probably the Senator did not get what I said. I am taking a hypothetical case in order to see what the law is purported to be by the Senator from Texas and the Senator from New Mexico. Suppose Mr. Neely, as Senator from West Virginia, had resigned as United States Senator at 10 o'clock in the morning, and that he became Governor of West Virginia a few hours later, namely, at 12 o'clock noon. Is it the contention of the majority of the committee that the old Governor would have no right of appointment at all between the hours of 10 o'clock and noon—a lapse of 2 hours—because the appointment of a successor of Senator Neely would not be necessary, and therefore there would be a 2-hour hiatus when nobody could appoint a Senator from West Virginia until the new Governor had assumed his duties? Am I correct in that assumption?

Mr. CONNALLY. The Senator is assuming that the term started at midnight.

Mr. TYDINGS. No; at 12 o'clock noon.

Mr. CONNALLY. Of course, if the term does not begin until 12 o'clock, the outgoing Governor could appoint anybody up to 12 o'clock.

Mr. TYDINGS. Let me take a case where the term expires at midnight; let us assume that the Senator from West Virginia resigned his office at 11:30 o'clock p. m. on the last day of the term

fixed by law for the Governor of West Virginia, and that at midnight promptly the Senator from West Virginia became the Governor of West Virginia but had resigned half an hour previously his Senatorship from that State. Is it the contention of the Senator from Texas and the Senator from New Mexico, so that I may understand, that in the half hour elapsing between 11:30 p. m. and midnight the old Governor could not fill the vacancy?

Mr. CONNALLY. Certainly not. The old Governor could appoint during that half hour.

Mr. TYDINGS. He could?

Mr. CONNALLY. Certainly.

Mr. HATCH. Mr. President, in that instance clearly the vacancy would have arisen during the term of the Governor.

Mr. CONNALLY. Certainly.

Mr. TYDINGS. Let me make a further inquiry, because I am not on the committee, and I am absolutely "green" about this whole procedure, as I am sure most of the Senators are, and I am anxious to get the facts. Is it the contention here that the term of the Governor of West Virginia expired at midnight and that he made the appointment after midnight?

Mr. CONNALLY. That is correct.

Mr. HATCH. The vacancy occurred in the new term, not in the old term.

Mr. TYDINGS. And does the other side maintain that the Governor's term did not expire until the new Governor came in and actually was sworn in?

Mr. CONNALLY. I am glad to answer the question. I do not think the Senator from Maryland was in the Chamber awhile ago when I covered that point.

Mr. TYDINGS. I was not.

Mr. CONNALLY. These are the two contentions:

The contention of those who are supporting Mr. Rosier—the one whom Neely appointed—is that when 12 o'clock arrived the term of the outgoing Governor came to an end, and that Governor Neely immediately taking the oath, just as rapidly as he could take it, and having previously taken the oath, became the Governor precisely at midnight. On the other hand, it is contended that it took longer for him to take the oath than it took for the outgoing Governor to sign a certificate, and it is contended that under their law the outgoing Governor had a right to serve about half a second after the expiration of his term until Neely qualified.

Mr. TYDINGS. I see the issue now. I thank the Senator.

Mr. CONNALLY. But, furthermore, let me say to the Senator from Maryland that the only reason why Mr. Neely was required to take an oath to become Governor—because he had already been elected, he filled all the other qualifications, and the legislature declared that he was elected and qualified, was that the law of West Virginia required the taking of an oath. In the statute requiring the taking of the oath, however, it said that he must take the oath on or before assuming the duties of the governorship. He took the oath at 11:45, prior to 12 o'clock, which met the demands of the statute, according to our view. He then took another oath as a safety valve, I suppose, after 12 o'clock. So, if the oath was taken before 12 o'clock, our contention is that upon the arrival of 12 o'clock he automatically became Governor. On the other ground, we contend that if he had to take the oath after 12 o'clock, having taken it with all due speed and dispatch, as quickly as Whirlaway could take it, his assumption of the office reverted to 12 o'clock.

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

Mr. CONNALLY. I yield.

Mr. TYDINGS. I think the Senator has made the matter plain; but I should like to ask a further question, because evidently the whole thing turns on the 15 minutes surrounding 12 o'clock midnight.

Mr. CONNALLY. Oh, not that!

Mr. TYDINGS. Well, whatever length of time it is, but a very short while. Is it the contention of the Senator from Texas that from 12 o'clock midnight on, before it was physically possible for Mr. NEELY to have taken the oath in the new day, assuming that he had not taken it before, the old Governor or the new Governor held office?

Mr. CONNALLY. The new Governor.

Mr. TYDINGS. The new Governor. That is what I understood the Senator to say. I heard the Senator, and I merely wanted to recheck on the matter.

Mr. CONNALLY. I make that contention for several reasons; but, if the Senator has another question, let him go ahead and ask it.

Mr. TYDINGS. But suppose the new Governor had not taken the oath of office until the following day: In that event, who would have been Governor during the day preceding the taking of the oath by the new Governor?

Mr. CONNALLY. I discussed that question before the Senator came into the Chamber.

Mr. TYDINGS. I will read the Senator's statement in the RECORD. I shall not ask the Senator to repeat it.

Mr. CONNALLY. No; I shall be glad to repeat it. This is still another question.

Under the Constitution of West Virginia, upon which the minority rely, it is provided that all State officers may hold over until their successors qualify. That provision applies to all State officers. In the case of the Governor, however, there is a special provision that upon the failure of the incoming Governor to qualify, or if he is impeached, or if he is removed, the president of the senate shall act as Governor; not the outgoing Governor.

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

Mr. CONNALLY. Just a moment. That, being a special provision applying to the Governor, lifts him out of the general rule as to other officers, and makes a special rule in his case.

Mr. TYDINGS. Is that automatic?

Mr. CONNALLY. It is in the constitution.

Mr. TYDINGS. I mean, does the president of the senate become Governor automatically?

Mr. CONNALLY. He has to assume the duties. Anybody has to assume the duties of an office before he can discharge them; but, as to the Governor, the Constitution provides that in case of failure to qualify—that is the only reason that would apply as a result of waiting a day, that he had not qualified—or in case of impeachment or removal, the president of the senate shall perform the duties of the governorship.

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

Mr. CONNALLY. I yield, but I would rather get through with my statement first, because I know how controversial any yielding to the Senator from Kentucky would be. [Laughter.]

Mr. CLARK of Missouri. Mr. President, will the Senator yield to me?

Mr. CONNALLY. No; I have to yield first to the Senator from Kentucky.

Mr. CHANDLER. Mr. President, in this case there was no failure to qualify, and only in the event of failure to qualify would the statute to which the Senator referred apply. I do not want the Senator from Texas to limit us to one issue here. There are numerous issues and they will be developed during the course of the argument. He has undertaken to limit the matter to one issue. There are many more, and I do not want the Senate to try to decide the matter on any single issue.

Mr. CONNALLY. One good issue beats a whole flock of poor ones. The Senator says there is no question of failure to qualify. Let me ask him a question. Why did not Neely become Governor instantly upon the arrival of 12 o'clock?

Mr. CHANDLER. Because he could not.

Mr. CONNALLY. Wait, now; I will hold the Senator to the line.

Mr. CHANDLER. The Senator has asked me a question. Will he not let me answer it?

Mr. CONNALLY. Yes.

Mr. CHANDLER. Very well. Neely was United States Senator every hour and every second and every minute of the 12th day of January, and he voluntarily tried to get rid of the Senatorship. He did not want to be Senator any more, but he could not put down that office and pick up the other one until he divested himself of the first one; and when he did put down one office and pick up the other one he left the other fellow sitting in there [laughter], unless he was chain lightning. Of course, if he was, he could beat Whirlaway.

Mr. CONNALLY. The Senator from Kentucky says there is no question here about the matter of failure to qualify. If there was not any failure on the part of Neely to qualify for one-sixtieth part of a second, he became Governor automatically and instantaneously upon the arrival of 12 o'clock.

Mr. CHANDLER. Will the Senator yield?

Mr. CONNALLY. Just a moment. Let me answer half of the Senator's question before he puts another one. But the minority say that when 12 o'clock arrived, Neely did not become Governor. Why? Because he had not taken the

oath of office; because he had not qualified; and therefore, for that split second, the outgoing Governor continued—for what reason? Because Neely had not qualified. If he had already qualified, as we contend, by taking the oath before 12 o'clock arrived, upon his ceasing to be a Senator he instantly and automatically became Governor. Why anybody should want to do that, I do not know; but that would be the result. [Laughter.]

Mr. CLARK of Missouri. Mr. President——

Mr. CONNALLY. I yield to the Senator from Missouri.

Mr. CLARK of Missouri. I was intrigued by the explanation given by the distinguished chairman of the Privileges and Elections Committee a minute ago that he supposed Neely was taking three, four, or five oaths, as the case may be, simply as a safety valve. As a matter of fact, Neely's own explanation before the Senator's own committee was that he thought he was in a poker game, and he wanted as many aces as the other fellow had. In other words, he thought the other fellow already had four aces, and Neely was about to inject four additional aces into the game, according to his own theory. As a matter of fact, it appears from the record that Neely was playing bridge instead of poker, and he got the lead over in the wrong hand, and could not get back. [Laughter.]

Mr. CONNALLY. I readily accord the Senator from Missouri the position of an authority on both poker and bridge. [Laughter.]

Mr. CLARK of Missouri. Not at all; but I have observed the Senator from Texas at bridge sufficiently often to learn enough about the game to know that when the declarer gets in the wrong hand he cannot get back. What I really rose to ask the Senator, however, was this: On the Senator's theory of the old common-law doctrine that there are no parts of a day——

Mr. CONNALLY. That is not controlling in this case.

Mr. CLARK of Missouri. I understand, but the Senator announced that.

Mr. CONNALLY. I mentioned it as one of various issues here.

Mr. CLARK of Missouri. All I am trying to do is to find out the Senator's opinion about this proposition. If a part of a day reverts to a whole day, I call the Senator's attention to the resignation of Governor or Senator Neely, as the case may be:

I hereby respectfully tender you my resignation as a United States Senator from the State of West Virginia to become effective at precisely 12 o'clock midnight——

When—on the 13th? No.

on Sunday, the 12th of January 1941.

If the Senator's theory is correct, why does not that resignation revert for a whole day to the beginning of the 12th; and why was not the appointment already made by Governor Holt effective during that day when Neely's resignation was in force?

I frankly say that I do not agree at all with the Senator's theory about fractions of a day; but if it works in one case, why does it not work in the other?

Mr. CONNALLY. The whole question of the fraction could be forgotten, so far as this case is concerned. I merely mention that because there are court decisions on the point, one of which we will probably quote later on, and probably argument will be made on that theory.

I yield to the Senator from Kentucky.

Mr. BARKLEY. Is it not true as a matter of law that any man holding an office who resigns the office fixes the terms, and the moment when his resignation shall take effect?

Mr. CONNALLY. Certainly.

Mr. BARKLEY. A Governor, in accepting a resignation, cannot predate it, or have it become effective 1 minute before it has been stipulated in the resignation that it shall take effect.

Mr. CONNALLY. That is correct.

Mr. BARKLEY. So that that situation would not be analogous to any constitutional provision or any statutory provision as to whether there are fractions of days or not. If I resign, I fix the terms of my resignation. I say when it shall take effect, and neither the Governor nor any other officer accepting it, can change the terms upon which I resigned.

Mr. CLARK of Missouri. Mr. President——

Mr. CONNALLY. Let me make one statement, then I will yield.

Of course, the Senator from Kentucky is absolutely correct. Here is a man in the United States Senate, who does not have to resign at all unless he wants to. He can resign when and if he wants to, not when the Governor or someone else wants him to. When he resigns he can stipulate, if he desires, "This resignation shall be effective on a certain date, at a certain hour, at a certain minute."

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER (Mr. WALLGREN in the chair). Does the Senator from Texas yield to the Senator from North Carolina?

Mr. CONNALLY. I yield.

Mr. BAILEY. The Senator is arguing the right of a Senator or any other official to resign, and to fix the moment of his resignation. Is that the question here?

Mr. CONNALLY. That is the question a Senator propounded.

Mr. BAILEY. There is a law of West Virginia to this effect—and this is the common law, and the general law of the United States—that no man can hold two offices at the same time. No man can be Governor and Senator at the same time. The Senator agrees to that?

Mr. CONNALLY. Certainly.

Mr. BAILEY. Very well. Then, in order for the Governor-elect, Mr. Neely, to qualify as Governor, having taken the oath, in order to enter upon his duties and qualify as Governor, he must, prior to the moment of undertaking to do that, have divested himself of every quality of a Senator. That is regardless of his resignation. His very act creates a vacancy, and that vacancy is prior to the qualification as Governor. I should like to hear from the Senator on that point.

Mr. CONNALLY. The Senator propounds a question which in subtlety and wide understanding does credit to the Senators' reputation. The Senator contends that he has to divest himself of the governorship before——

Mr. BAILEY. Or the senatorship.

Mr. CONNALLY. Before what? Before assuming the duties of his new office?

Mr. BAILEY. Before undertaking to qualify. It is essential to qualification that he must be divested of every vestige of his qualities as a Senator and his prerogatives and his power. Otherwise he is disqualified to enter upon the office.

Mr. CONNALLY. I will answer the Senator. I did not assume the Senator was asking for information when he asked the question but that he was asking for an argument.

Mr. BAILEY. No; if I had wanted to potshot the Senator from Texas, I would have taken a shot at him when he spoke about Whirlaway just now. Whirlaway is a very slow starter, but is a pretty good finisher, and I think the Senator failed to make the proper distinction in his analogy between Whirlaway and this effort here.

Mr. CONNALLY. I am talking about speed.

Mr. BAILEY. I am very much interested in the views of my distinguished and very able friend, for whose views and capacity I have a profound and abiding respect.

Mr. CONNALLY. I thank the Senator.

Mr. BAILEY I have given this matter a good deal of thought, and when I propounded the question to the distinguished Senator I did so because it is the central question in my thinking. If the Senator could upset the premise of that question, I would then have to find some other ground on which not to vote for the Senator's report.

Mr. CONNALLY. I thank the Senator.

Mr. BAILEY. I started out in my thinking with the idea that I would pay no attention to this case, having many other things to do, and that I would be guided by the report of the committee. Unfortunately, however, the matter took hold of my mind, and I began to think about it, and I came down to just the issue I have suggested. And when we had provoked here this matter of the time of the resignation, I thought it would be appropriate for me to bring forward the thought, with a view to getting light from my distinguished friend. That is all I have to say. I am really not indulging in an argument. I was laying a foundation for discussion.

Mr. CONNALLY. I shall be glad to answer the Senator, so far as I can.

The Senator's contention is that there is some requirement of law somewhere that one must divest himself of his old office before he even undertakes to qualify for a new office. I think the law in West Virginia provides that upon assuming the duties of the office, the incumbent must qualify and take the oath before assuming the duties of office. There is no requirement whatever as to when that shall occur, except that one cannot hold both offices, as the Senator says, at the same moment. Very well. But if his transition from Senator to Governor is one of continuous process, he cannot hold two offices, he cannot be

both at the same time, and it is not our contention that he could be.

Let us assume the case of the Senator from North Carolina. Suppose tomorrow he were appointed to the Supreme Court of the United States, and went over and took the oath and assumed his duties. Would there be any hiatus? Would he not be translated from Senator to Supreme Court Justice without any interruption whatever? Would there be any time intervening in which he was neither Senator nor judge? Of course not. So it is our contention that when Senator Neely said, "I resign, effective immediately upon the arrival of 12 o'clock," and had then taken all that the law in West Virginia required him to take—the prequalifying oath before he assumed the duties of the office—it is our contention that when 12 o'clock arrived, he instantly became Governor of West Virginia.

I leave this further proposition to the Senator from North Carolina, which is not controlling in this case, but is a sort of a cornfield opinion of the Senator from Texas. My contention is that when a man's term of office begins at a certain hour, at a certain time, and with all due dispatch, all human dispatch, he proceeds to take the necessary steps and qualify, that qualification reverts to the beginning of his term. Otherwise, in every case of succession in any office there would be a twilight period during which we would be relying upon parole testimony as to what the outgoing Governor or outgoing judge did, or what the incoming one did, and what happened.

Let me dispel one other claim made by the opponents. They say that if Senator Neely undertook to take at 11:45 o'clock the oath which was required of an incoming Governor, he thereby vacated the senatorship. He could not vacate the senatorship by assuming an incompatible office, because he could not assume the office of Governor at that time; he could not assume it until 12 o'clock. The outgoing Governor was still Governor of West Virginia until 12 o'clock. So Neely's mere taking of the oath was simply preliminary, qualifying himself to be Governor. There were other qualifications. Under the West Virginia Constitution, one must be so many years old to become Governor. That is merely one of the qualifications. He must have that qualification before he is inaugurated.

Mr. BARKLEY. Mr. President, will the Senator yield? I do not want to interrupt the Senator's line of thought.

Mr. CONNALLY. Certainly, I will yield.

Mr. BARKLEY. With respect to the taking of the oath and the assuming of the duties of the office for which the oath is taken, is there not a difference between the mere act of taking the oath that when you do assume the duties of the incoming office you will perform the duties to the best of your ability, and the assumption of those duties?

Mr. CONNALLY. Certainly.

Mr. BARKLEY. All over this country men who are elected to office frequently take the oath before the actual beginning of the term. I recall that in my case, for instance, I was prosecuting attorney of my county years ago. I was elected judge of the county court. The term began on the first Monday in January. My term as prosecuting attorney ended at the very moment my term as judge began on the first Monday in January. On Saturday beforehand I took the oath of office as judge that when I assumed the office on Monday I would discharge the duties of that office to the best of my ability, but I did not automatically vacate the office of prosecuting attorney at all.

Mr. CONNALLY. Not at all.

Mr. BARKLEY. Now, in the case of the West Virginia statute, it seems that any incoming officer is required to take the oath on the day when he assumes the office, or beforehand. That is naturally supposed to apply to all incoming officers. That certainly would not mean that anybody else elected Governor, besides a United States Senator, could take the office beforehand but a United States Senator could not do it; that if he did, he vacated the office of United States Senator. The Legislature of West Virginia cannot determine when a Senator vacates the office if he is elected to a State office. While it is unusual, as the Senator from Texas suggested a while ago, for a man to go from Senator to Governor, and that it is much more usual for a man to go the other route, from Governor to Senator, yet it can be done and it has been done.

So Senator Neely was required to take the oath not later than the day on which he assumed office, but he was permitted to take it at any time before that date after he received his certificate of election. It seems to me that there is no more reason why a United States Senator should be required to resign and have his resignation take effect before he can even hold his hand up and swear that when he becomes Governor he will discharge the duties of his office, than that any other officer should be required to do so. Suppose the attorney general of West Virginia had been elected Governor, instead of Senator Neely, and his term as attorney general expired at the very moment when his new term as Governor would begin. Certainly under the law and under the Constitution of West Virginia he was permitted to take the oath before the date on which he assumed the office, but certainly he would not automatically vacate the office of attorney general by taking the oath to become Governor hours later or days later.

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

Mr. CONNALLY. I yield.

Mr. BAILEY. I think my friends seem to miss just what I have in mind. It probably is my fault. I am going to restate it. An essential, indispensable qualification for office, since the law proscribes the holding of two offices by one man, is the divestment of the office held, the utter divestment, before entering upon the office about to be taken. It is not a matter of assuming. It is a matter of divesting. That is the qualification.

Here is one case in point. Senator Holt, of West Virginia, was elected to the Senate when he was under 30 years of age, and he came here when the session opened in which ordinarily he might have qualified, still under 30 years of age. The question was immediately presented to the Senate as to whether we would vote to seat him. I looked into the matter at that time and made a decision for myself, and I am citing it now because it is perfectly consistent with the position I am taking now. I said, "If Senator Holt presents himself here for the oath of office, not having become 30 years of age, I shall vote against him, because he is clearly disqualified by the law; but if he waits until he is 30 years of age I shall vote for him to take his seat because then he is qualified."

By analogy, since the law denounces the holding of two offices by one man, absolutely prohibits it as being opposed to public policy, and it is opposed to public policy for the very profoundest reasons, we are not going to have a concentration of power in the hands of individuals in this country; we are not going to permit a man to be both Senator and Governor; we will never permit a man to be President and judge and legislator—since that is the law, whenever Senator Neely, being Senator, set out to become Governor, having been elected, having taken the oath, it was indispensable to his qualifications, and it is indispensable to the maintenance of the public policy, that he should stand there on the threshold of the new office utterly divested, even though it be for a moment, but utterly divested of every character, quality, privilege, and power of a Senator, and there was a vacancy.

I do not think that what has been said here has been sufficient to upset that argument. It is not a matter of assuming office. It is not a matter of an oath. It is a matter of the indispensable necessity of the divestment of yourself of one office before you take on the vestment of another.

I think I have made my position clear, and I will rest there.

Mr. BARKLEY. Mr. President, I do not want to interfere with the Senator, of course——

Mr. CONNALLY. I yield.

Mr. BARKLEY. But the reference by the Senator from North Carolina to former Senator Holt, of West Virginia, it seems to me, does not present an analogous situation. A United States Senator, to become a Senator, must present himself here and be given the oath here in our Chamber. He must be accepted. That is not true, probably, of any other officer. The Governor of Texas has appointed a Senator to succeed the late Senator Sheppard. He is not a Senator, because he has not presented himself here before the bar of the Senate and taken the oath, and he cannot take the oath down in Texas. He must be here to take it. It is a peculiar rule with respect to Senators. But does not the Senator from North Carolina, for whose legal ability we all have the profoundest respect, and for whose sincerity and character we have a great admiration, recognize a difference between assuming the office of Governor, or any other office, and the mere taking of the oath of office that when he does assume it he will perform the duties acceptably?

Mr. BAILEY. I have dismissed the oath, I may say to the Senator. By

statute you can take the oath in West Virginia prior to taking the office, and I think the oath is in terms of the future—"I do solemnly swear that I will."

Mr. BARKLEY. Yes.

Mr. BAILEY. That does not trouble me. I have passed that all by. The thing that lodges in my mind is just what I said before, and I will now repeat it and not repeat it again. In order that I may be invested with the character, the quality, the functions, the powers, and the privileges of the office of Senator I must have been divested of every quality, character, function, power, and privilege of any other office that I had theretofore, and in the moment of investment with one office and divestment of the other there is necessarily a vacancy. Senator Neely gave notice in his resignation of that vacancy. The then Governor of West Virginia, acting upon that notice, made the appointment in futuro, to take effect in the moment of that vacancy. That is the argument that persuades me, and I will thank the Senator to throw any light he can on it.

Mr. BARKLEY. If I may suggest to the Senator from North Carolina, the fact that the Senator from West Virginia resigned, effective instantly at 12 o'clock, when his term as Governor would begin, and the mere fact that 15 minutes before that he took an oath of office that when that instant arrived, at 12 o'clock, he would perform the duties of Governor did not, in my judgment, make a single moment when former Senator Neely occupied two offices.

Mr. CONNALLY. That is the point exactly.

Mr. BARKLEY. His resignation as Senator took effect immediately at 12 o'clock, and his term as Governor began exactly at 12 o'clock. The fact that he took an oath of office a few minutes before that would not in any way vest him with the habiliments of both Senator and Governor.

Mr. CONNALLY. Mr. President, I should like to have the attention of the senior Senator from North Carolina if I may. I shall try to answer the Senator. He has asked certain questions, and I shall try to answer them.

The Senator from North Carolina makes the suggestion that before Neely could become Governor he had to divest himself of the senatorship. I do not know how long that period of divestment would have to last; but a year is made up of flashes of time like that. If he divested himself of the duties of Senator and at the same moment assumed the duties of Governor, I cannot see why he was not just as well divested as though he had spent an hour somewhere divesting himself. I am not trying to be flippant. I want the Senator to listen to me.

Mr. BAILEY. I am listening.

Mr. CONNALLY. The law of West Virginia is not quite in the language in which the Senator from North Carolina evidently believes it is. The law of West Virginia says that no executive officer, including the Governor, "shall hold any other office during his term of service."

What does that mean? It means that while he is Governor he may not hold any other office—that of Senator or any other.

Mr. BAILEY. Therefore he must be divested of any other office.

Mr. CONNALLY. The Senator uses the word "divest." I do not know that there is any particular sanctity about the word "divest." I am trying to get down to the facts.

Mr. BAILEY. I will say to the Senator that there is a sanctity in the words "vest," "divest," and "invest." I use the word in its strict historical legal meaning.

Mr. CONNALLY. I respect the Senator's views.

Mr. BAILEY. It is not a matter of time, such as an hour, a day, or a year. It is a divestment which leaves a vacancy.

Mr. CONNALLY. The divestment could be instantaneous, could it not?

Mr. BAILEY. Yes; but it leaves a vacancy.

Mr. CONNALLY. Exactly.

Mr. BAILEY. There is bound to be some lapse. There is bound to be a vacancy. Senator Neely must have been divested of the office of Senator before he could become Governor. It is like coming in the door. I must cross the threshold before I get through the door.

Mr. CONNALLY. That is correct, but the threshold is an invisible line.

Mr. BAILEY. It may take one one-hundredth of a second, but I stand on the threshold. I am not in the door until I come in. There is a moment when I am out, and there is a moment when I am in. As the Senator says, I might take an hour to come in. It makes no difference whatever whether it takes an hour or a year.

Mr. CONNALLY. That is the point I am getting at. I am glad to hear the Senator admit that the process might be instantaneous.

Let us see if Senator Neely did not divest himself of the office of Senator. How does one divest himself of the office of Senator? He divests himself by resignation. Senator Neely did resign, and he stipulated the exact moment the resignation was to take effect. He said—

> At midnight of the 12th–13th of January I divest myself of the senatorship.

When that second arrived he was divested of the office. By the same act he said—

> When that time arrives, my term as Governor begins. I will take the oath in anticipation, as the statute of West Virginia permits and commands, and instantaneously upon my divestment, which happens exactly at 12 o'clock, I automatically become Governor.

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

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

Mr. CONNALLY. I yield.

Mr. CHANDLER. The Senator is mistaken, because what the former Senator from West Virginia actually said was, "I want my resignation to be effective precisely at 12 o'clock midnight." When he undertook to qualify as Governor by taking the oath, he said, "I did it instantly after midnight." There is considerable difference between "instantly after" and "precisely at."

Mr. CONNALLY. The Senator from Kentucky is talking about the third oath, which admittedly was taken after 12 o'clock; but Senator Neely had already taken two oaths before that time, which he was authorized and permitted to do, and which, according to our contention, removed the necessity of taking another oath. Upon the arrival of 12 o'clock he automatically became Governor.

The law of West Virginia simply says that the Governor shall not hold any other office during his term of service. When did the term of Neely as Governor begin? It began at midnight of the 12th–13th. Has he undertaken after that time to hold any other office? The term of the Governor began at 12 o'clock midnight. Neely has not undertaken, after the arrival of 12 o'clock midnight, to perform any duties as Senator. He has not undertaken to hold any other office during his term as Governor. He assumed the office and the functions of the office immediately upon the arrival of 12 o'clock.

The Senator from North Carolina is an able lawyer, in addition to being a statesman. He is a real statesman, and I have a very high admiration for him, both personally and officially. Let me make a suggestion to the Senator from North Carolina. This is a new matter which may not have been called to his attention.

If Governor Holt, the outgoing Governor, had any authority to appoint a Senator in the fraction of a second between the expiration of his term——

Mr. BAILEY. He had already made the appointment.

Mr. CONNALLY. Does the Senator contend that the Governor could make an appointment to take effect after the expiration of his term?

Mr. BAILEY. Oh, no. I said that the term had expired. The vacancy occurred and the Governor of West Virginia had notice. He had received the resignation. Then he made the appointment.

Mr. CONNALLY. Before the expiration of his term?

Mr. BAILEY. No. The appointment was to take effect upon the vacancy; and the vacancy occurred.

Let me go a little further——

Mr. CONNALLY. The Senator introduces new elements before we get through with others.

Mr. BAILEY. I will leave the matter right there.

Mr. CONNALLY. I am glad to yield.

Mr. BAILEY. I think the Senator is correct. Let us finish this point before we get to another.

Mr. CONNALLY. I am willing to yield to the Senator, if it takes all day.

If the outgoing Governor had any authority to make this appointment after the vacancy occurred, which was after 12 o'clock, he had to do it as the hold-over Governor. I think the Senator from North Carolina will agree to that. He had to make the appointment as a hold-over Governor, holding over until his successor qualified.

Mr. BAILEY. I say that upon receiving the resignation of Mr. Neeley as Senator, the Governor made the appointment to take effect upon the occurring of a vacancy, and the vacancy occurred in the moment of divestment; but there was a

lapse of time in addition, to which I shall call the Senator's attention later in the argument. However, I should rather dwell on the point now under consideration, if the Senator wishes.

Mr. CONNALLY. The Senator from North Carolina has now gone back to the old prospective appointment. Practically all the authorities agree—and the committee was in general agreement, I think—that no Governor may make a prospective appointment to a vacancy when that vacancy is to occur after the expiration of the term of the Governor.

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

Mr. CONNALLY. I have promised to yield to the Senator from Iowa. I now yield to him.

Mr. GILLETTE. Mr. President, I wonder if the Senator from Texas will help me to understand the position of the committee. The Senator from Texas has said that Senator Neely took an oath 15 minutes before 12 o'clock, and that he also, with all due dispatch, took an oath after the hour of 12 o'clock. Under the statute he must take the oath before he is qualified to act. Which of these oaths is it the contention of the committee qualified him to act and make the appointment?

Mr. CONNALLY. So far as that is concerned, the committee concluded that, since the laws of West Virginia authorized and allowed and directed him to take the oath any time before he assumed the office, either or all of them qualified him, because the law says he must take the oath on or before assuming office. The committee concluded that when he took that oath, it being merely a necessary qualification or the establishment of an eligibility, he was not undertaking to assume the office of Governor, because the old Governor held over until 12 o'clock, but that did qualify him to assume the duties of the office upon the arrival of 12 o'clock.

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

Mr. CONNALLY. I will yield in a moment.

Let me suggest to the Senator from Iowa and the Senator from North Carolina that all these oaths are in futuro. A person takes an oath that he will do thus and so in the future; there is nothing that he can do except to promise that in the future he will perform the duties of the office honestly and to the best of his ability.

So there is nothing incongruous or incompatible with the theory of allowing him to take the oath a few minutes before the actual beginning of the assumption of his office, because when he takes that oath he simply swears that when he does assume the duties of the governorship he will perform them according to the constitution and laws, and so forth and so on.

I now yield to the Senator from Kentucky.

Mr. CHANDLER. Mr. President, the distinguished chairman of the Committee on Privileges and Elections speaks for nine members of the committee. There were eight members of the committee who joined in the minority views, so it is a very close question. There is no member of the committee, unless my judgment is in error, who did not believe that the Governor could make a prospective appointment when the vacancy would most certainly occur within his term. That is the case here.

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

Mr. CONNALLY. I yield.

Mr. LUCAS. In answer to the question asked by the Senator from Iowa, I think perhaps a little further information should be developed upon the question of the oath. I am not sure that the Senator from Iowa was present when the chairman of the committee was explaining the number of oaths that were taken by Senator Neely.

Mr. GILLETTE. Yes; I heard all the statement by the Senator from Texas, I am happy to say.

Mr. LUCAS. I understand he did take a fourth oath, too, at the inaugural exercises; but that is more or less immaterial. But Mr. Neely was attempting, as I viewed the evidence and listened to the testimony very carefully, to protect himself from a legal standpoint, just as Governor Holt was attempting to protect himself in making three appointments upon three different occasions. One of those appointments is valid and the other two are invalid, so far as appointments are concerned; and the oath upon which the committee relied in reaching the conclusion they did reach was the oath which Senator Neely took at 11:45, which met the last qualification under the West Virginia statute for him to assume the duties of governor precisely at the hour of 12 o'clock midnight, when his resignation became effective upon its own terms, and simultaneously and instantaneously, by his resignation as Senator and the expiration of the term of Governor Holt, Mr. Neely became governor. There was no interregnum, in my opinion, or any hiatus there, as I view the evidence and under the decisions as I have found them, which I shall discuss in my own time.

Mr. GILLETTE. Mr. President, will the Senator yield for a moment?

Mr. CONNALLY. I yield.

Mr. GILLETTE. I thank the Senator from Illinois. My reason for propounding the inquiry was that I listened to the argument by the chairman of the committee that an oath could be taken and qualification could be made on or before the assumption of the duties of the office, and that an oath was so taken at a quarter to twelve, but I also heard the Senator argue that Mr. Neely had proceeded with all due dispatch to take an oath subsequently, and present the argument that, having taken it with all due dispatch, it reverted to the hour of 12 o'clock, and qualified him. I was interested in knowing which oath, in the view of the committee, actually qualified him.

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

Mr. CONNALLY. In just a moment. I will say to the Senator from Iowa that I did say that for myself I adhered to the theory that when the officer's term starts, and when he with all due dispatch undertakes to qualify himself, I think the qualification reverts to the beginning of his term. But there is no necessity, as I see it, for one to put his finger upon any particular oath. All the oaths were practically the same; and if any one of them was valid of course Mr. Neely became Governor at exactly 12 o'clock. All the oaths are in future; all of them mean that when a man assumes the duties of office—and, under the statute, the oaths have to be taken before the man assumes the duties of office—they all mean that when a man begins to act as Governor he will do certain things; so there is no incompatibility between that and the other theory.

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

Mr. CONNALLY. I yield.

Mr. CHANDLER. I desire to say to the Senate that Mr. Neely took an oath at 11:35 and took another oath at 11:45 and took another oath instantly at 12 o'clock midnight, and he filed that at 12:50 a. m.; and under the circumstances the committee dealt him a much better hand than he was even dealing himself; because he did not file the oaths in the office of the Secretary of State until January 25, and he did not put them on record. They were slipped in the record in the absence of the clerk, and no one ever identified them. They just showed up after we started discussing the case.

Mr. CONNALLY. Let me say, Mr. President, that those are matters which I do not care to discuss, because they are immaterial, and are not vital to this matter. For that matter, Governor Holt made three different appointments of the same man; and if the taking of several oaths is something to be ridiculed as inconsistent with due propriety, of course the making of three different appointments is subject to the same charge. I do not care to discuss the matter.

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

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

Mr. OVERTON. Mr. President, I wish to inquire of the able chairman of the committee whether I am correct in the statement of the facts and of the law which I am about to make. Mr. Neely, being elected Governor, had the right, under the West Virginia statute, to take the oath either on the 13th, which was the day when his term of office began, or before that date.

Mr. CONNALLY. That is correct.

Mr. OVERTON. He could take the oath at any time after election, or up to the day that his term began.

Mr. CONNALLY. The Senator is correct.

Mr. OVERTON. I take the position that the moment he took an oath, after his election and before January 13, when his term began, he put himself in the position that when midnight of the twelfth arrived he was qualified, having taken the oath, and he automatically, as it were, became Governor.

I further understand that Mr. Neely as Senator, had tendered his resignation to take effect at midnight of January 12.

Mr. CONNALLY. The Senator is correct.

Mr. OVERTON. So that according to the resignation submitted, Mr. Neely, as Senator, went out at midnight of the twelfth, and a vacancy arose.

I further understand that Mr. Holt's term expired, I think, the first Monday after the second Wednesday in January—at any rate, it was the 13th of January.

Mr. CONNALLY. That is correct.

Mr. OVERTON. So at midnight of January 12, Mr. Holt's term as Governor expired. Therefore three things happened simultaneously at midnight of January 12: Holt ceased to be Governor; Neely ceased to be a United States Senator; Neely became Governor; and there was a vacancy to fill by reason of his resignation from the United States Senate. It seems perfectly clear to me that Neely was the Governor when the vacancy occurred or at the instant it occurred and had the right to make the appointment. Am I right in that conclusion?

Mr. CONNALLY. I thank the Senator. He has stated it much more clearly and more logically than I could possibly do.

Mr. OVERTON. I thank the Senator.

Mr. CONNALLY. I agree with the Senator in every respect, and I thank him for that contribution to the debate.

Mr. President, I have no disposition to hold the Senate——

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

Mr. CONNALLY. I desire to conclude my remarks, but I want to yield to all Senators and I yield now to the Senator from Maine.

Mr. WHITE. I am not sure but that the questions asked by the Senator from Louisiana [Mr. OVERTON] and the answers made by the Senator from Texas have answered the question which was in my mind. I did want to make clear my understanding of the position of the committee. Do I rightly understand that it is the contention of the majority of the committee that the qualifying oath may be taken before the assumption of the office and that it also may be taken as well before the term may constitutionally begin?

Mr. CONNALLY. That is the conclusion of the committee. I will read to the Senator the law of West Virginia on that point if I can find it.

Mr. WHITE. I remember hearing the Senator read or say that the oath might be taken before the assumption of the office. The question in my mind was whether that meant that it could be taken before the term, either under the statute or under the constitution, could begin, whether it was not limited to taking the oath after the term had constitutionally begun but possibly before the newly elected Governor had sought to assume his office.

Mr. CONNALLY. I should like to refer the Senator to the decision of the Supreme Court of Appeals of West Virginia in the case of State ex rel Conley against Thompson, in which the court said:

> As suggested in the argument, we think we may take judicial notice that it has been the custom in this State for elective or appointive officers to qualify by taking the required oath and giving bond before the beginning of their terms of office.

"Before the beginning of their terms of office." I think that answers the Senator's question.

Mr. WHITE. I think that answers it.

Mr. CONNALLY. That is the decision of the West Virginia court.

Mr. President, probably during the discussion there will arise matters incidental to what the Senator from Texas has undertaken to discuss. The committee spent a great deal of time on this case; it held exhaustive hearings, and I think, on the whole, the committee undertook to approach the question impersonally and purely from a legal and constitutional standpoint.

In conclusion, let me say that the committee came to the view that Senator Neely had a right to stipulate when his resignation should take effect, and that he did stipulate that it should take effect at midnight on the 12th–13th of January. We also concluded that prospective appointments by the outgoing Governor to fill vacancies which could not occur during his term but must occur during the term of some subsequent Governor were not competent, that they were ineffective, because they deprived the legitimate authority who ought to make the appointment when the vacancy happened of the power to make it.

We also came to the conclusion that the term of Governor Holt, of West Virginia, expired at midnight, and that, under the special constitutional provision if, because of the failure of the new Governor to qualify, somebody else should act as Governor, the president of the senate and not the outgoing Governor would have the authority to perform the functions of the governorship.

We also concluded that the only reason on earth that Mr. Neely or anybody else would have to take an oath to entitle him to assume the duties of office would be that the statute requires the taking of the oath, and the very statute which requires the taking of the oath specifically provides that it may be taken on or before the beginning of the term. So we concluded that when Senator Neely took the oath at a quarter of 12 o'clock he had complied with the statute, because the statute says an officer can take the oath before assuming the duties of his office, and, under the decision of the court, that might be before the beginning of his term. So when Neely took the oath of office at 11:45 o'clock p. m., it was purely prospective; it meant "When I assume the duties of Governor I promise to do these things." It does not have to be instantaneous with the assumption of the duties of the office at all. The one taking the oath simply promises that when he undertakes to act as Governor he will act according to the law and the constitution, and so on, and so forth.

We came to the conclusion, therefore, that Neely, by taking the oath and having fulfilled all the other requirements of eligibility upon the arrival of 12 o'clock instantly and automatically became Governor; that, having already resigned effective at that same moment, there was no conflict between the senatorship and the governorship, and that under the law of West Virginia which said that he could not perform the duties of any other office while he was Governor there was no violation because he laid down the duties of the senatorship and assumed the duties of the governorship at the same moment, and, therefore, there could be no conflict.

Mr. O'MAHONEY. Mr. President, I desire to ask the Senator whether he has cited the statute which fixes the termination of the Governor's term and the beginning of the new one? I do not seem to find it in either report.

Mr. CONNALLY. I have a publication here which I will hand to the Senator which contains it; it is a printed memorandum. I think if the Senator will consult this pamphlet—I cannot put my finger on the place at the moment—he will find the statute there. The term of the Governor ends on the first Monday after the second Tuesday in January.

Mr. O'MAHONEY. That is a constitutional provision?

Mr. CONNALLY. That is the provision of the Constitution of West Virginia.

Mr. O'MAHONEY. Does the constitutional provision fix the hour?

Mr. CONNALLY. No; I think not.

Mr. O'MAHONEY. It merely fixes the date.

Mr. CONNALLY. That is the way I recall it.

Mr. O'MAHONEY. Then, the term of Governor Neely began on a certain Tuesday.

Mr. CONNALLY. That is correct.

Mr. O'MAHONEY. And it is the contention of the committee that his term began at the very beginning of that day?

Mr. CONNALLY. That is correct.

Mr. O'MAHONEY. That is to say, immediately after the preceding midnight?

Mr. CONNALLY. That is correct.

Mr. O'MAHONEY. Therefore, that when, by permission of the statute, he took the oath of office qualifying for the governorship before midnight it became effective immediately at midnight?

Mr. CONNALLY. That is correct.

Mr. O'MAHONEY. Was his qualification dependent upon any other facts?

Mr. CONNALLY. Nothing else. In every other respect he had done all the necessary things. He had been elected; the legislature had canvassed the returns and declared him elected, and he had gone through all the other processes.

Mr. O'MAHONEY. What about the question of filing the oath?

Mr. CONNALLY. That question is in the case. Those who support the other candidate insist that the oath should have been filed and that it was not effective until it was filed. There was an oath subsequently filed; it took about 50 minutes; but the committee took the view that that statute was directory in its nature, and that if an oath had never been filed, if the Governor had done all that he could do by taking the oath he was Governor immediately. But the oath was filed. In a case of that kind where one is merely going to file something which may take some time, such as filing a deed, we took the view that when the oath was ever filed its validity

related back to the time of taking the oath.

Mr. O'MAHONEY. Is there any West Virginia decision construing the provision of law with respect to the filing of the oath of office?

Mr. CONNALLY. I do not recall as to that. The Senator from Illinois [Mr. LUCAS] probably can answer the Senator's question.

Mr. LUCAS. In answer to the question of the Senator from Wyoming, there is a case—I think the Qualls case. In that particular case, decided by the Supreme Court of West Virginia, the court was pursuing a special statute dealing with a certain specific office involving a municipality. In that case the court held, as I recall, that, in view of the provision in the special statute, the municipal officer in question must, after he was elected, qualify by taking the oath and giving bond and filing them both within a period of 10 days thereafter; otherwise he would forfeit the office. In this particular case the elected official failed either to take the oath or to furnish the bond, and the office was forfeited, and a new official was appointed.

Mr. O'MAHONEY. Did the statute contain the provision for forfeiture?

Mr. LUCAS. It did. In this case there is nothing in the Constitution of West Virginia which says that if the Governor-elect fails to file the oath, there shall be any forfeiture of office. The constitution does not even require that the new Governor give a bond. I will say to the Senator from Wyoming that there is a section of the constitution which I am going to discuss in my argument dealing with that very question; and at that time I shall deal with it at some length. My contention is that there is no law in West Virginia or anywhere else which deals with the particular section of the constitution under which the Governor took the oath and under which he qualified, and this section of the constitution specifically prohibits any statutory qualification.

Mr. O'MAHONEY. Is there any provision of the West Virginia Constitution, or of the West Virginia statutes, which specifically sets forth what a Governor shall do to qualify?

Mr. LUCAS. Nothing other than taking the oath; that is all.

Mr. O'MAHONEY. And is that in the report?

Mr. LUCAS. I do not know whether it is in the report or not.

Mr. CHANDLER. Mr. President, will the Senator from Texas yield?

Mr. CONNALLY. If the Senator from Illinois has concluded.

Mr. LUCAS. I have.

Mr. CONNALLY. I thank the Senator from Illinois for answering the query of the Senator from Wyoming.

Mr. CHANDLER. Mr. President, with the permission of the Senator from Texas, I desire to say to the Senator from Wyoming that the minority of the committee is in sharp disagreement with the views expressed by the Senator from Illinois, and we merely want to have an opportunity at some future time to explain the position of the minority on that point.

Mr. CONNALLY. I think I can assure the Senator from Kentucky that he will have ample opportunity to explain these matters.

Mr. President, I had reached the point where I had stated that the taking of the oath by Senator Neely in the method provided by the statute, which he would not have had to take at all except for the requirement of the statute, made him qualified; and that upon the arrival of the hour of 12 o'clock midnight he instantly and automatically became Governor, because he assumed the duties of the office at that time. Our opponents contend—I do not think very seriously—that if that were true, the taking of the oath by Governor Neely at 11:45 was an abandonment of his seat in the Senate. We, of course, do not agree to that, because the terms of the resignation specifically provide when the resignation is to become effective, and certainly that would be controlling. That cannot be true on the ground that Mr. Neely assumed the duties of an incompatible office, because he could not assume the duties of the governorship until 12 o'clock, because the outgoing Governor held over until 12 o'clock; and he could not, by taking over the duties of an office to which he was not entitled, assume the duties of an incompatible office.

So, on the whole record, the committee has concluded that Mr. Rosier, appointed by Governor Neely, in whose term as Governor the vacancy occurred, is entitled to be seated; and we submit Senate Resolution 106 to the Senate, and ask for its adoption.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Megill, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 3205) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1942, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. LUDLOW, Mr. O'NEAL, Mr. JOHNSON of West Virginia, Mr. MAHON, Mr. CASEY of Massachusetts, Mr. TABER, Mr. KEEFE, and Mr. RICH were appointed managers on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 4183) making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SNYDER, Mr. TERRY, Mr. STARNES of Alabama, Mr. COLLINS, Mr. KERR, Mr. MAHON, Mr. POWERS, Mr. ENGEL, and Mr. CASE of South Dakota were appointed managers on the part of the House at the conference.

SENATOR FROM WEST VIRGINIA

The Senate resumed the consideration of Senate Resolution 106, seating Joseph Rosier as a Senator from the State of West Virginia.

The PRESIDING OFFICER. The question is on agreeing to the resolution submitted by the Senator from Texas [Mr. CONNALLY].

Mr. CHANDLER. Mr. President, I have an amendment in the nature of a substitute for Senate Resolution 106 which I offer at this time and ask to have read.

The PRESIDING OFFICER. The amendment, in the nature of a substitute, offered by the Senator from Kentucky will be read.

The CHIEF CLERK. It is proposed to strike out all after "*Resolved,*" and to insert in lieu thereof the following:

That Clarence E. Martin, appointed by the Governor of West Virginia to fill the vacancy created by the resignation from the Senate of Matthew M. Neely, is entitled to be seated as a Senator from West Virginia.

Mr. CHANDLER obtained the floor.

Mr. DANAHER. Mr. President, will the Senator yield to me in order that I may suggest the absence of a quorum?

Mr. CHANDLER. I yield for that purpose.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Ellender	Norris
Aiken	George	Nye
Andrews	Gerry	O'Mahoney
Austin	Gillette	Overton
Bailey	Glass	Pepper
Ball	Green	Radcliffe
Bankhead	Guffey	Reynolds
Barbour	Gurney	Schwartz
Barkley	Hatch	Shipstead
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Taft
Bunker	Johnson, Calif.	Thomas, Idaho
Burton	Kilgore	Thomas, Okla.
Butler	La Follette	Tobey
Byrd	Langer	Truman
Byrnes	Lee	Tunnell
Capper	Lodge	Tydings
Caraway	Lucas	Vandenberg
Chandler	McCarran	Van Nuys
Chavez	McFarland	Wallgren
Clark, Mo.	McNary	Walsh
Connally	Maloney	Wheeler
Danaher	Mead	White
Davis	Murdock	Wiley
Downey	Murray	Willis

The PRESIDING OFFICER. Eighty-four Senators having answered to their names there is a quorum present.

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

Mr. CHANDLER. I yield.

Mr. O'MAHONEY. Before the conclusion of the remarks of the Senator from Texas I rose to address an inquiry to him, and after the question had been answered, the Senator from Kentucky indicated that he wanted in his time also to make answer to the question which I had in mind. If it is convenient for him I shall explain what I have in mind so that he may answer the question in his own good time. I should be very glad to have the Senator from Texas listen also to a repetition of the question.

I have before me the report of the majority. On page 4 it says:

Section 270 of the West Virginia Code of 1937 also provides in part—

Then appears what purports to be a quotation:

The oaths required by section 3 of this article shall be taken after the person shall

have been elected or appointed to the office, and before the date of the beginning of the term, if a regular term.

If that is a correct quotation from the statute, it seems to be a direct and explicit instruction to the person who is elected or appointed to office, if he is elected or appointed to a regular term, to take the oath of office before the beginning of the term.

If that be true, and if it be the fact that Governor Neely took the oath of office before the beginning of his term, in accordance with the provisions of the statute—and this is the question I should like to have the Senator from Kentucky discuss in his time—it would seem to me that the term of the new Governor would begin instantly upon the termination of the preceding term. Therefore I also ask, what is the provision of the statute or of the constitution with respect to the ending of one term and the beginning of another term? It seems to me that in the answers to these questions lies the whole case.

Mr. CHANDLER. If the Senator from Wyoming will indulge me, at a later time in my remarks I will undertake to answer the question.

Mr. President, this is known as the West Virginia senatorial election dispute or controversy. It is always a matter of regret to any Senator when he finds it necessary to disagree with the chairman of his committee. The Senator from Texas [Mr. CONNALLY], who has just preceded me, has made a great argument for his side. He is the chairman of my committee. There were nine members of the committee who voted with him, including the Senator from Texas. There were eight Senators in opposition. There was one Senator who requested that he have the right, when the question should come to the Senate floor, to change his mind if the arguments which would be presented in the future indicated to him that he should follow another course.

I agree, Mr. President, that the Senate of the United States is the judge of its own membership. It can seat a prospective candidate, or refuse to seat him, and from its order there is no appeal.

I should like to recount the facts, as I understand them, and then undertake to apply the law of West Virginia to the facts which we have at hand, and I think I have a right to ask that the Senate do what in justice it ought to do in consideration of all the circumstances.

I agree with the Senator from Texas that no political considerations should be involved. I would hate to think that any Senator would vote to seat a man, or deny him a seat, because he happened to vote on the wrong side or because he was connected with the wrong side.

At the outset of this controversy, at the request of the distinguished chairman of the Committee on Privileges and Elections, I was assigned to the task of undertaking to look up the law and giving it to the committee, without knowing either of the applicants, because they were both wholly unknown to me when this controversy arose. I reported back to the committee that I had examined the constitution and the laws of the State of West Virginia, and it was my deliberate judgment that Mr. Clarence Martin, was entitled, under the law, and under the Constitution of West Virginia, to be seated as a Senator from that State.

I want to pose some questions now, and not do as some Senators of whom the Senator from Missouri [Mr. CLARK] complains, but will stay here and undertake to answer those questions if it takes all afternoon.

Mr. President, I want someone to tell me, if he can, when this vacancy occurred, and then tell me who was Governor when it occurred, and I think therein lies perhaps the story.

Of this I am certain: The attorney general of West Virginia, when he came before the committee, said, and I quote his words contained in a direct message or an opinion to the Governor of West Virginia—

> As we have seen, it was necessary that you should cease to be a United States Senator before you were eligible to qualify as Governor of the State of West Virginia.

On three occasions I repeated the question. On three occasions he made the same answer. On one occasion the Senator from New York [Mr. MEAD] asked him the question, and he made the same answer to the Senator from New York.

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

Mr. CHANDLER. I yield.

Mr. CLARK of Missouri. Since the Senator has mentioned the appearance and the testimony and the various briefs of the attorney general of West Virginia, it seems to me it would be important to bring out the fact that there was nothing in the duties, constitutional or statutory duties, of the attorney general of West Virginia, which made it necessary for him to be a participant in this hearing, was there?

Mr. CHANDLER. No; not that I know of.

Mr. CLARK of Missouri. So that he, by appearing here and filing various briefs, in effect appeared as the attorney for the claimant, Dr. Rozier; is that not correct?

Mr. CHANDLER. That is correct, sir.

Mr. CLARK of Missouri. In other words he did not appear in his official capacity as Attorney General of West Virginia, but as the partisan of one of the claimants?

Mr. CHANDLER. I understand the answer to that is that Governor Holt, the outgoing Governor of West Virginia, when asked why he had not submitted the matter to the Attorney General of West Virginia, who was also his attorney general, expressed the belief that it was not proper for the attorney general to act under the circumstances, and he did not take the matter up with him at all.

He was questioned by the Senator from New York [Mr. MEAD];

> It was your contention and it is your contention that Senator Neely had to quit, give up the office of Senator before he could qualify for the office of Governor?
>
> Mr. MEADOWS. Yes, sir.

I emphasize the word "qualify," because later they undertook to change it, just as they undertook to file oaths upon which they did not originally rely.

Then here is another matter which is significant. Governor Neely at another point candidly stated, and I will read his remarks:

> I am convinced that the weight of authority is to the effect that one must divest himself of his Federal office before he can properly perform the duties of the Governor of his State.

It is not contended that Governor Neely undertook to perform the duties of Governor of his State until after he was qualified. Mr. President, I have had a calendar placed on the wall of the Senate Chamber. I placed in the RECORD a certificate of the financial clerk of the Senate of the United States to the effect that Senator Neely was paid as a United States Senator for the first 12 full days of the month of January; and if he was a United States Senator every day during the first 12 days of January, then I submit to the Senate that he could not be a United States Senator and a Governor at the same time. He must divest himself of the senatorship before he could assume the governorship. I am encouraged by the statement made by the distinguished Senator from Georgia [Mr. GEORGE], who was chairman of the Committee on Privileges and Elections for so many years, and I am fortified in the belief that the former chairman was right, and the present chairman is wrong, that a man who cannot hold two incompatible offices ought not to be permitted to control them, and the issue on that point is clear.

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

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

Mr. TYDINGS. The Senator has pointed out that Senator Neely drew his pay for the first 12 days of January. So that we can follow his argument, is it the Senator's contention that the term of the old Governor expired on the 12th, or the 11th, or the 13th?

Mr. CHANDLER. I will give the law of West Virginia, as I understand it. The constitution of West Virginia says:

> All officers elected or appointed under this Constitution, may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality, in such manner as may be prescribed by general laws, and unless so removed they shall continue to discharge the duties of their respective offices until their successors are elected, or appointed and qualified. (Constitution of West Virginia, art. IV, sec. 6.)

Then in order to make it effective, a law was passed in 1937 which was stronger than that, and which provides:

> The term of every officer shall continue (unless the office be vacated by death, resignation, removal from office, or otherwise) until his successor is elected or appointed, and shall have qualified.

In the case of failure to qualify, which is not this case, then the special situation referred to by the Senator from Texas obtains.

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

Mr. CHANDLER. Yes; I yield.

Mr. TYDINGS. Did Governor Neely take the oath as Governor of West Virginia for the first time on the 12th, the 11th, or the 13th?

Mr. CHANDLER. Governor Neely took the first oath at 11:35 on the 12th day of January.

Mr. TYDINGS. Which was Sunday.

Mr. CHANDLER. That was Sunday. He took it at 11:35.

Mr. TYDINGS. At night?

Mr. CHANDLER. At night. I want to call this to the attention of the Senate: The contention has been made by the Senator from Texas, that at 12 o'clock midnight the Governor was up. I want to say that the Senator was also up at that time. They were both up at the same time, and if any guilt attaches to that, everyone who was up that night around midnight was guilty. [Laughter.]

Mr. TYDINGS. Then Governor Neely took the oath again on the morning of the 13th, which was Monday.

Mr. CHANDLER. He took an oath at 11:35.

Mr. TYDINGS. 11:35 p. m.?

Mr. CHANDLER. 11:35 p. m. on Sunday. He took another oath at 11:45, and he undertook to say in those two oaths that he was not abandoning the Senatorship.

Let me answer the Senator further. He let those two oaths stay temporarily; and after we started the hearing before the Senate he took them to the office of the secretary of state in West Virginia and filed them on the 25th of January, and had somebody take them there and slip them into the record. The clerk, Mr. Raymond Barnett, will testify that nobody ever identified them, nobody talked about them, and nobody ever knew they were there until they just turned up in the record.

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

Mr. CHANDLER. I yield.

Mr. TYDINGS. It is quite obvious that one of the three oaths which the Senator from West Virginia took as Governor was the right, legal, binding oath, and that the other two were either no good or superfluous.

Mr. CHANDLER. He did better than that. He took four oaths. He took another in the afternoon, which has disappeared. I do not know what happened to it. He took one instantly after midnight. I will ask the Senator from Vermont [Mr. AUSTIN] if that is not a correct statement.

Mr. AUSTIN. That is correct.

Mr. CHANDLER. He took one instantly after midnight. He sent a resignation to the Governor of West Virginia, Governor Holt, and he said, in effect, I want to quit being a United States Senator, and at precisely 12 o'clock midnight I am out. On the 10th day of January Governor Holt, anticipating that perhaps Neely would qualify as Governor, named Clarence Martin to be United States Senator from West Virginia. On the 11th of January he received Senator Neely's resignation, the resignation of which I spoke a moment ago. It was delivered to the Governor's office at Charleston, W. Va., by Arthur Koontz, Democratic national committeeman from that State; and there was nothing in the world for the Governor of West Virginia to do but to sign it and put on it the time he received it.

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

Mr. CHANDLER. I yield.

Mr. TYDINGS. How did the resignation read?

Mr. CHANDLER. The Senator can look it up in the record. I shall be glad to read it to the Senator.

Mr. TYDINGS. If I may interrupt the Senator, did the resignation of Senator Neely as United States Senator, delivered to the Governor of West Virginia on Saturday, January 11, state that he resigned as of that date, or as of midnight of the 12th, or as of the time of becoming Governor? Just what did the resignation say?

Mr. CHANDLER. I shall be glad to read it to the Senator:

> I hereby respectfully tender you my resignation as a United States Senator from the State of West Virginia to become effective at precisely 12 o'clock midnight on Sunday the 12th of January 1941.
>
> Very respectfully yours,
>
> MATTHEW M. NEELY.

There was a little postscript or a place for the Governor to fill in the time and sign his name. The Governor did fill in the time, 1:30 in the afternoon, signed his name, and sent it back to Senator Neely. Then he again appointed Mr. Clarence Martin.

Mr. TYDINGS. Let me ask the Senator from Kentucky one further question, and then, so far as I am concerned, I think I shall have the essential facts to enable me to follow his argument.

Is it the contention of the Senator from Kentucky that when Mr. Neely took the oath as Governor for the first time, which he says was at 11:35 p. m. on the night of Sunday, January 12, that oath was a good oath, and thereupon he was qualified to become Governor of the State?

Mr. CHANDLER. He was not; but I do think it was sufficient to get him out of the United States Senate.

In that connection I have a case which I wish to read. It is the case of Bunting versus Willis.

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

Mr. CHANDLER. I yield.

Mr. TYDINGS. As I understand the case, the Senator from Kentucky makes the contention that Senator Neely, by taking the oath of office at 11:35 p. m. on Sunday night, January 12, whether that oath was good or not, put himself in the position of attempting to qualify and exercise the office of Governor, which he could not do if he maintained that he was a United States Senator. Is that the contention of the Senator?

Mr. CHANDLER. Yes. Mr. President, I have practiced doing many things. I have been the Governor of my State, but I never practiced getting ready for it by taking oaths. I have practiced for baseball, fooball, basketball, and track, but I never heard of a man practicing getting ready to be Governor; and I never heard of taking oath after oath and calling it practice. [Laughter.]

The oath which former Senator Neely took at 11:35 did not make him Governor. It could not have made him Governor because he was still a United States Senator. But if it operated to have him get rid of the senatorship, he drew pay after that.

In the case of Bunting against Willis a man who had a lucrative Federal office was elected sheriff of his county in Virginia. The court did not know of the other office. He qualified and then undertook to perform the duties of his office. When the suit was filed, the court threw him out of office and said he had violated it, and would not let him get back in. The court took the office away from him.

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

Mr. CHANDLER. I yield.

Mr. TYDINGS. When did Governor Holt appoint a United States Senator to take Governor Neely's place? Was it after Senator Neely had first taken the oath of office, at 11:35 p. m., or was it before that time?

Mr. CHANDLER. Governor Holt first appointed Clarence Martin a United States Senator from West Virginia on the 10th, in anticipation of a vacancy which he had reason to believe would occur in his term. Then, when he received the resignation, he appointed Mr. Martin to fill the vacancy which he knew was going to occur in his term.

Mr. TYDINGS. How soon after he received the resignation did he make the appointment?

Mr. CHANDLER. Right away; on the 11th. He appointed Mr. Martin once on the 10th, once on the 11th; and then around midnight of the 12th, just as the clock was crossing the line, he appointed him again. The reason he filed the appointments the way he did was because he was asked, "What are you going to rely on?" He said, "I am going to rely on every one of them. I am entitled to whichever one is good."

Senator Neely did not rely on his oaths. He took one at 11:35 and another at 11:45. I am reminded of the fellow who wanted to have his cake and eat it, too.

Mr. TYDINGS. It sounds like taking medicine. [Laughter.]

Mr. CHANDLER. It is like taking medicine. If you eat your cake, it is gone. All my life I have tried to keep things and consume them, too. It cannot be done. If a thing is consumed, it is gone.

I want the Senate to know exactly what was done.

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

Mr. CHANDLER. I yield.

Mr. CLARK of Missouri. I wish to advert to the reference which the Senator made a moment ago to the oath taken by Governor, or Senator, Neely—as the case may be—at 11:35 on the night of the 12th of January. Is it or is it not a fact that the law of West Virginia requires, as part of the qualification of a Governor, that his oath be filed in the office of the secretary of state?

Mr. CHANDLER. He must file it; and there is no exception known to the people of West Virginia or any of its courts. If the Senator wishes me to take up that point now, out of order, I shall be glad to do so.

Mr. CLARK of Missouri. I should like to have the Senator answer a question. He is a member of the committee. The chairman of the committee is now present, and I should be glad to have him explain the matter. It is a matter that intrigues me very much in reading the record of the hearings before the Senate Committee on Privileges and Elections.

I find that at a hearing on January 16, 1941, certain exhibits were included in the record. To my astonishment I found that among the exhibits included in the record of January 16 was the certificate of the secretary of state of West Virginia, dated January 25—9 days later—certifying to the filing in the office of the secretary of state of the oath taken by Governor-elect Neely at 11:35 on the night of the 12th, which, according to West Virginia law, should have been filed as one of the prerequisites to his qualification for office.

Mr. CHANDLER. I challenge any Senator to stand on this floor and state when those two oaths got into the record, and who put them there.

Mr. CLARK of Missouri. I have read the record from end to end, ordering the inclusion nunc pro tunc, as of January 16, of a certificate issued by the secretary of state on January 25.

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

Mr. CHANDLER. I yield.

Mr. HATCH. We want to be fair to both parties.

Mr. CHANDLER. I am anxious to do so.

Mr. HATCH. The Senator from Kentucky will recall that when the hearings were finished I happened to be presiding that day, and both contestants requested permission to file statements and exhibits, and to correct statements previously made. We told them to go ahead and file anything they wanted to file.

Mr. CHANDLER. I am sorry my friend from New Mexico cannot answer the question as to how those exhibits got into the record. They got into the record before that time, and I told the Senator from New Mexico about it. I thought it was a horrible breach of etiquette and of the fitness of things to have things slipped into the record in that way. I do not sanction such procedure. They were slipped into the record.

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

Mr. CHANDLER. I yield.

Mr. CLARK of Missouri. Does not the Senator see a very essential difference between blanket authority to include at a later stage in the proceedings a certificate issued on January 25, 1941, which might be a vital issue in the authenticity of the qualification of the Governor-elect, and the inclusion of it as a part of the proceedings of January 16, 9 days before it was issued by the secretary of state?

Mr. CHANDLER. Mr. President, I had not intended to deal with that matter at this point, but the Senator from Maryland asked whether or not it was necessary that the Governor of West Virginia file his oath before he was qualified.

I desire to say to the Senator that it is absolutely essential; as a practical proposition, he must do all the law requires him to do before he is qualified to act as Governor. I do not know of any Governor who ever undertook to make appointments before he had first taken his oath and then put it on the books. When I became Governor of my State the first thing I did was to take the oath and put it on the books, and then appoint an adjutant general so I could be in charge of the army in the event anything happened. [Laughter.] That is the procedure.

I desire to call attention to the Qualls case. It is said that the proposition is a legal one. Not only is it a law of West Virginia pertaining to every officer, but in that case the reference is to two members who were elected to the board of education. They took their oaths but they did not file them; and after they waited so long as to indicate uncertainty, and the county superintendent did not know whether they were going to file them or not, he made two more appointments, to take their place. The court held that the provision with reference to filing oaths was not directive, it was mandatory, and that the failure to file the oaths disqualified them.

Listen to this:

Certificates of the oaths of all other officers shall be filed and preserved in the office of the secretary of state.

That is the Code of West Virginia, 1931. The Qualls case was decided on the 16th day of January 1923.

It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath, as provided in this section.

I have two letters which I received on the matter from judges of the West Virginia Supreme Court who participated in the decisions and helped write the opinion, and I desire to read them to the Senate and to let Members of the Senate know what they say:

I have been informed—

This is from Judge Lively, whose offices are in the Security Building, Charleston, W. Va.:

I have been informed that the opinion of the supreme court of appeals of this State in the case of *Quall* v. *Board of Education* (92 W. Va. 647), holding that the oath of office of a member of the board did ipso facto make him a member until that oath was filed with the proper officer, has been questioned as not a true concept of law.

Listen to this:

I was a member of the court at the time of the decision and participated in it. The court was unanimous in holding—

It was not a split opinion; it was a unanimous opinion—

and that decision stands as the law of West Virginia today and is based on reason and precedent. I think the legislature later carried that decision into a statute—

It did; the legislature later carried the decision into the statute I just read—

thus solidifying the public policy of this State in that regard. While that case dealt with membership on a board of education, the principle of the decision was not intended to be limited thereto, but the decision declared the public policy of the State of West Virginia with respect to the qualifying for public office and the necessity of the filing of the oath, whatever the office might be.

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

Mr. CHANDLER. I yield.

Mr. LUCAS. Let me ask the Senator from Kentucky whether that is a matter of record?

Mr. CHANDLER. That is my own proposition. I did not put that in the record; I do not have to put it in any record. I am putting it in this RECORD.

Mr. LUCAS. I understand that, but this is the first time I have heard of it.

Mr. CHANDLER. Oh, well, the Senator will hear a lot of things from me that he did not hear before. [Laughter.]

Mr. LUCAS. I can appreciate that.

Mr. CHANDLER. I will give the Senator a powerful lesson before he gets out of here; he knows that I am good and powerful competition.

Mr. LUCAS. I know that we shall see a lot of the Senator as long as he stays here. But the opinion is a very important one and it comes, as I understand it, from the judge of the Supreme Court of West Virginia.

Mr. CHANDLER. That is correct.

Mr. LUCAS. I wondered why, in a case of that kind the judge of the Supreme Court of West Virginia was not called before the committee to testify.

Mr. CHANDLER. I cannot answer that but I will put in the letter.

Mr. LUCAS. May I ask how the Senator obtained the letter?

Mr. CHANDLER. I sent for it. I would have gone for it if necessary.

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

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

Mr. CHANDLER. I yield to the Senator from Maryland and then to the Senator from Missouri.

Mr. TYDINGS. I should like to ask the Senator this question: On the 12th day of January 1941, which was Sunday, what was there when the day commenced for the Governor-elect of West Virginia, Senator Neely, to do? What was it necessary for him to do that he had not already done up to that time in order to become Governor of West Virginia?

Mr. CHANDLER. He had to get rid of the senatorship which he had.

Mr. TYDINGS. Yes; but I mean exclusive of that.

Mr. CHANDLER. He had to take an oath.

Mr. TYDINGS. Is that all?

Mr. CHANDLER. No; he had to file it in the proper office before he could act as Governor.

Mr. TYDINGS. That is what I desired to ask the Senator.

Mr. CHANDLER. Yes.

Mr. TYDINGS. In other words, is it true or not that on the 12th day of January the only thing that Governor-elect Neely had to do, insofar as qualifying for Governor was concerned, outside of resigning from the Senate, was to take an oath as provided for by the statutes and constitution of West Virginia, and file it with the secretary of state? Is that true?

Mr. CHANDLER. I will answer the question of the Senator from Maryland, but I shall have to use a few more words in order to do so. My contention is that on the 12th day of January, all day, Homer Holt was Governor of West Virginia——

Mr. TYDINGS. I did not ask the Senator that.

Mr. CHANDLER. I ask the Senator to wait for a moment; I have to say that in order to get to what I desire to tell the Senator. Matthew Neely was United States Senator all day; Matthew Neely wanted to be Governor, and he was elected Governor. He wanted to find out any possible way on earth to make a valid appointment, and I do not think he did. It is my contention that the only effect of the 11:35 oath which Matthew Neely took was to make Holt's appointment of Martin effective just as soon as he took it—just "bang."

Mr. TYDINGS. I do not think I made myself entirely clear to the Senator. I am not for the moment concerned with the resignation of Senator Neely, or the time, or whether Governor Holt had the appointive power or not. What I desire to know is this: On the morning of the 12th of January 1941, what still had to be done so that Mr. Neely would become Governor of West Virginia, assuming there was no Senatorship concerned in it at all.

Mr. CHANDLER. If there had not been any Senatorship concerned in it, of course, he would have gone down to the Statehouse at noon on Monday and held up his hand and taken the oath, and then filed it in the office of the secretary of state. Then he would have been Governor.

Mr. TYDINGS. So that is the answer?

Mr. CHANDLER. Yes.

Mr. TYDINGS. The only thing he would have had to do would have been to take the oath and file it, if he had not been Senator?

Mr. CHANDLER. Yes; if he had not been Senator.

Mr. TYDINGS. Am I correct in that?

Mr. CHANDLER. Yes; I think so.

Mr. TYDINGS. Then, as I recall, the Senator testified that at 11:35 p. m. Senator Neely did take the oath, which was the one remaining thing for him to do.

Mr. CHANDLER. Yes; but does the Senator know what he did when he took that oath? He put on the oath a notation to this effect: "I do not mean this. I am taking this oath, but I do not want to get rid of my senatorship until I appoint the other Senator." He wrote that right on the back of the paper containing the oath, qualifying it. Oh, he was as clever as could be, but he was not clever enough. He appointed a Senator of his own State.

Mr. TYDINGS. But I mean the one remaining thing he had to do, after having taken the oath, was to file it with the secretary of state. Did he file it?

Mr. CHANDLER. He signed it at the instant of midnight.

Mr. TYDINGS. But he did not file it until the 25th?

Mr. CHANDLER. No; not until the 25th of January; and if it takes that to make him Governor, then he did not become Governor until the 25th of January, 13 days after he took the oath.

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

Mr. CHANDLER. I yield to my colleague.

Mr. BARKLEY. Who had custody of the oath? Whose duty was it to file it with the secretary of state?

Mr. CHANDLER. It was his duty. If he lets anybody else get it, that is his bad luck.

Mr. BARKLEY. I suppose that is a question of law.

Mr. CHANDLER. That is correct.

Mr. BARKLEY. I suppose it is a question of law, and not simply a physical fact as to who had it in his pocket.

Mr. CHANDLER. That is the law of West Virginia.

Mr. BARKLEY. Does the law require that the man who takes it shall file it, or that the man who administers it shall file it?

Mr. CHANDLER. The law requires that the man who takes the oath shall file it.

Mr. BARKLEY. If that be the case, and on the 13th, with his hand raised to Almighty God, and before the assembled multitude, he took the oath and swore to it, "So help me God," I suppose——

Mr. CHANDLER. He said it.

Mr. BARKLEY. Is it my colleague's contention that before he could act as Governor of the State he had to leave the platform, go to the office of the secretary of state, and file the oath?

Mr. CHANDLER. It not only is your colleague's contention but it is the law of West Virginia. I did not make it; it is the law of West Virginia.

Mr. BARKLEY. Is it my colleague's contention?

Mr. CHANDLER. It is your colleague's contention and it is the law of West Virginia.

Mr. BARKLEY. Now let me inquire about the oath taken before midnight.

Mr. CHANDLER. There were two.

Mr. BARKLEY. I do not care about that. I suppose he pursued the theory that if the outgoing Governor could make three appointments of Senator he could take three oaths.

Mr. CHANDLER. That may be.

Mr. BARKLEY. So it is a question of which one, if any, is valid. Is it my colleague's contention that the oaths taken prior to midnight on the 12th were invalid and a nullity so far as the Governorship was concerned?

Mr. CHANDLER. If they were valid to make him Governor they made him Governor and United States Senator at the same time and he drew pay for both, and he disqualified himself for the whole business.

Mr. BARKLEY. Let me say that no oath taken before 12 o'clock could make him Governor before 12 o'clock.

Mr. CHANDLER. He was not Governor until he qualified. He could not make himself Governor any day or hour or minute, and, according to the law of West Virginia, the Governor of West Virginia, who was there, continued to be Governor until his successor was elected or appointed and "shall have qualified," as the law of West Virginia provides.

Mr. BARKLEY. Mr. President, will my colleague yield there?

Mr. CHANDLER. Yes, sir.

Mr. BARKLEY. Is it my colleague's contention that by the taking of any number of oaths prior to 12 o'clock midnight on the 12th the Senator from West Virginia thereby became Governor before 12 o'clock?

Mr. CHANDLER. He could not be Governor so long as he was United States Senator. He held the United States senatorship. He himself said, "I have got to get rid of the senatorship." He wanted to get rid of it, but when it came to the time to get rid of it, he did not know how to do it. It reminds me of the story of the big colored man who said to the little colored man that he never got so tired of any one thing in his life but he could not put it down.

I do not know how short the time was, but there was an interval; in that interval the Governor of West Virginia, who was there, made the appointment, and when Neely became Governor, which he did when he filed his oath at 12:50 a. m. January 13, in my opinion, he undertook to make an appointment when there was no vacancy, for it had already been filled.

Mr. BARKLEY. Will my colleague yield further?

Mr. CHANDLER. I yield again.

Mr. BARKLEY. My colleague does not contend, does he, that Neely was Governor of West Virginia for one second before 12 o'clock or midnight?

Mr. CHANDLER. He was not Governor until 12:50 a. m., when he filed his oath in the office of secretary of state. He filed on the 25th day of January two more oaths he had taken. So, apparently, he thought that was necessary.

Mr. BARKLEY. Regardless of what he thought, I am trying to get at the law. He was not Governor from 11:35 on Sunday night, the 12th of January, until the hour of 12 o'clock; between those times he was not Governor.

Mr. CHANDLER. He was not Governor so long as he was Senator. That is my answer and continues to be my answer.

Mr. BARKLEY. If he had not been a Senator——

Mr. CHANDLER. He got paid for being a Senator for 12 days in January.

Mr. BARKLEY. He got paid up to midnight of the 12th.

Mr. CHANDLER. He got paid all day of the 12th.

Mr. BARKLEY. He was a Senator all day on the 12th.

Mr. CHANDLER. And he got paid for it.

Mr. BARKLEY. Nobody complains about that. He was Senator all day; he was not Governor and did not get paid as Governor until midnight of the 12th or 13th.

Mr. CHANDLER. I did not say he did.

Mr. BARKLEY. Let me ask the Senator, if the oath he took at 11:35, 11:45, or 11:59, or at any other time before 12 o'clock was a nullity so far as making him Governor was concerned, how can it be a valid oath so far as divesting himself of his title as a United States

Senator? It is either null or it is valid; it is either a good oath or it is not good. If it could not be good as to the governorship, how could it divest him of his title as Senator?

Mr. CHANDLER. My colleague knows much about many things that he has not had time in the same length of time to learn as much about this case as I know. [Laughter in the galleries.]

Mr. BARKLEY. I yield to my colleague when it comes to multiplicity of speech.

Mr. CHANDLER. Mr. Neely undertook to avail himself of 11:35 and 11:45 oaths. If one takes advantage of the benefits, then, if they limit him, he has got to accept the limitation.

Mr. BARKLEY. Those oaths were bound to be good for all purposes if they were good for any purposes at all; and, if they were null and void so far as the governorship is concerned, they were bound to be null and void as to the senatorship. The Senator is contending that there was a split second; he cannot contend that there was a split oath.

Mr. CHANDLER. It was a split second, and we split it.

Mr. BARKLEY. The Senator is trying to split the oath, too, as well as the second. [Laughter in the galleries.]

The PRESIDING OFFICER. The Chair wishes to admonish the occupants of the galleries that they are guests of the Senate and as such guests should not indulge in audible laughter or conversation.

Mr. TYDINGS. Mr. President——

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

Mr. TYDINGS. Assuming that the then Senator from West Virginia, Mr. Neely, had resigned to take effect at midnight on Sunday, January 12, and had taken the oath of office at midnight on January 12, that both events happened at the very identical instant, is it the contention of the minority that it is possible for him to cease being a United States Senator and to begin being a Governor in one instant, simultaneously, or is it the contention of the minority that there must be some interval, no matter how small?

Mr. CHANDLER. It does not make any difference what the contention of anybody is, let us see what he actually did. I do not want to contend something; I have the facts on my side. One makes contentions if the facts do not support him. I want the Senate to understand exactly what happened.

Mr. TYDINGS. Let me put it in this way: Assuming that the two oaths which the Senator from West Virginia took before midnight on Sunday, the 12th, were no good, then is it the contention of the Senator from Kentucky that when he took the oath at 12:10, as I recall, 10 minutes later in the morning——

Mr. CHANDLER. No, instantly after he made his resignation.

Mr. TYDINGS. Let us say 1 minute after.

Mr. CHANDLER. I am not a lexicographer; I am not an expert on English grammar or the derivation of words; but I think I know the difference between a fellow who says, "I want to quit precisely on the dead-level stroke of 12 o'clock precisely," and one who says, "an instant afterward, I took the oath as Governor." There is a difference between "precisely" and "an instant after." He got himself into that; nobody else did that—but he did not get to be Governor under any stretch of the imagination until 12:58 a. m., January 13, 1941, when he filed his oath in the office of secretary of state; and then he did not believe in that because he went into those back oaths and 12 or 13 days after the 13th he put those on record.

Mr. ADAMS. Mr. President——

Mr. CHANDLER. I yield to the Senator from Colorado.

Mr. ADAMS. I wish to make an inquiry. The senior Senator from Kentucky, as I caught his remarks, seemed to be of the opinion that an oath taken at 11:35, if it was effective for one purpose, must be effective for both. It is my understanding that the right of a Senator to separate himself from his senatorial office is entirely distinct from his going into office as Governor. It was entirely appropriate and entirely legal if Senator Neely saw fit to resign the Senatorship at 11:35 p. m., but it would not follow that he would have to become Governor at 11:35 p. m. If the taking of the oath at 11:35 was the equivalent of a resignation as Senator, then, by taking the oath he by implication resigned his office as Senator, but by having taken the oath as Governor, it would not be a necessary implication that he became Governor at the instant he separated himself from the senatorship. Am I correct in that?

Mr. CHANDLER. He had to divest himself of the Senator's office. He knew that; everybody he talked to told him he had to do that. I never saw a man so struggle in all my life to get rid of something he had and did not want.

Mr. ADAMS. Let me make myself clear. It was quite possible for Senator Neely to have ceased to be Senator at 11:35. If the act of taking the oath was by implication a resignation of the senatorship, then he would have been out of the senatorship, regardless of when he became Governor.

Mr. CHANDLER. All right; and if he was out, the appointment on the 10th was good, the appointment on the 11th was good, and Clarence Martin became, by appointment of Governor Holt, United States Senator; and when Neely qualified at 12:50, if he did, and filed his oath of office in the office of the Secretary of State, the vacancy had been filled, and Martin was Senator. There was not any vacancy left for him to fill.

Mr. ADAMS. I am still in doubt whether or not the Senator considers that there is any basis for feeling that taking the oath of Governor at 11:35 could be construed as an implied resignation of the senatorship, so that there was a period between 11:35 and midnight when there was a vacancy in the senatorship.

Mr. CHANDLER. This is the question, it seems to me: A vacancy occurred, because it is still existing, in the office of Senator from West Virginia. It occurred in the term of somebody. Who was Governor of West Virginia when the vacancy occurred?

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

Mr. CHANDLER. Yes.

Mr. CLARK of Missouri. I do not think the Senator from Kentucky has yet touched on the point which was raised, as I understood, by the Senator from Maryland and also by the Senator from Colorado; that is, whether the mere taking of an oath for an incompatible office did not, ipso facto, divest the then Senator Neely from his office as United States Senator, even though he did not by that fact become Governor, because his term did not begin until 25 minutes later. In other words, I have heard very high authority, the man who was himself concerned—namely, the distinguished Senator from Texas [Mr. CONNALLY]—express on this floor, concerning his own action, the opinion that when he himself was a Member of the House of Representatives during the late World War, and took an oath as major in the United States Army, he thereby by that act had taken an oath for an incompatible office, and vacated his seat as Representative from Texas, if the Governor of Texas had seen fit to treat that as a vacancy. Is not that what the Senator said? That is my recollection of his statement.

Mr. CONNALLY. The Senator is partially correct and partially incorrect. I did not distinguish between the taking of the oath and the assumption of the office.

Mr. CLARK of Missouri. I agree with that.

Mr. CONNALLY. I said that I construed my assuming to act as an officer of the Army as an abandonment of my seat in the House of Representatives. I certainly did not mean just the taking of the oath.

Mr. CLARK of Missouri. I was quoting from recollection what the Senator said on this floor; but I am calling to the attention of the Senator from Kentucky what seemed to me the point being made by the Senator from Maryland and the Senator from Colorado, that by the mere act of taking the oath for an incompatible office there is very strong legal probability that the Senator from West Virginia at that time vacated his seat in the Senate, even though he was not then eligible to take the office of Governor.

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

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

Mr. TYDINGS. A moment ago the Senator said that neither Mr. Neely nor Governor Holt could, of course, have filled the so-called vacancy in the United States Senate until there was a vacancy.

Mr. CHANDLER. When did it occur? That is the question.

Mr. TYDINGS. The whole point is, Did it occur under Governor Holt, or did it occur under Governor Neely? Obviously, it seems to me, it could not have occurred under Governor Neely, because it must have occurred before he became Governor. Otherwise he would have been both United States Senator and Governor together. That was the reason why I asked the Senator a moment ago

the hypothetical question whether or not a man could, in a single instant, without the lapse of even a flying split second, cease to be United States Senator on the one hand and at the same instant, without any loss of time or interval whatever, become Governor.

Mr. CHANDLER. He could not do it.

Mr. TYDINGS. It was the intention of Senator Neely to try to accomplish that feat. Now, therefore, if that could not be done, obviously Mr. Neely could not appoint, because when he became Governor he was not a United States Senator, and therefore he stopped being United States Senator before he became Governor.

Mr. CHANDLER. This is a rather homely illustration, but I hit upon it when we first started the discussion of this question. I said, "Here is a man who holds the senatorship. Here is another man who has the Governor's office." The man who has the Senator's office wants to put it down and wants to be Governor, and he cannot do it until he divests himself of the office of Senator. He said he would have to divest himself of it. The Attorney General of West Virginia said—

> As we have seen, it was absolutely necessary for you to divest yourself of the office of United States Senator, or cease to be a United States Senator, before you could qualify as Governor of West Virginia.

When he put down that office, which he did at some time, he did not pick up the second office just as soon as he put down the first one. He left a man in the Governor's office; and the law says that until he did all things necessary to qualify himself as Governor of his State, he could not be Governor. He could not be both Governor and Senator. The vacancy did not occur in his term. It occurred in the term of Homer Holt, and Homer Holt named Clarence Martin, and Clarence Martin is entitled to have this seat. It is just, it is fair, and the Senate ought to do it.

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

Mr. CHANDLER. Yes, sir; I yield again.

Mr. TYDINGS. The new Governor's term began on the 13th of January at some time. In order that the argument may be straightened out, suppose Governor Neely had not taken office for a week, until the 20th of January: Would not Governor Holt have held over until his successor qualified?

Mr. CHANDLER. He most certainly would have done so under the constitution and the law of West Virginia, because the 1937 West Virginia Code says so, and he did not know until a few days before the question came up whether or not Neely was going to quit the United States Senate, and nobody else knew, because Neely was not certain enough that he could quit the United States Senate and get the governorship and control this appointment. I desire to repeat that I do not think it is right to permit a man to control two offices when he cannot hold two, because they are incompatible.

Mr. GILLETTE. Mr. President——

Mr. CHANDLER. I yield to the Senator from Iowa.

Mr. GILLETTE. I have just been reading the hearings, and there is a reference in them to the West Virginia law which I quote:

> Certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state.

Has the Senator any West Virginia law which makes filing the certificate a prerequisite to qualification for the office?

Mr. CHANDLER. Yes, sir; Qualls and Burdette against Board of Education of Curry District, Putnam County, West Virginia, and others.

Mr. AUSTIN. There is a code provision, found on page 235.

Mr. CHANDLER. I have the code provision.

Mr. AUSTIN. It is in the hearings at page 235.

Mr. GILLETTE. Will the Senator read that provision?

Mr. CHANDLER. I wish the Senator from Vermont would do so. I have not it handy.

Mr. AUSTIN. Code, chapter 2, article 2, section 10 (e)—

> An officer shall be deemed to have qualified—

this answers the question when an officer does qualify.

Mr. GILLETTE. That is what I want.

Mr. AUSTIN—

> An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the authority and discharge the duties of his office.

Mr. CHANDLER. Does that answer the Senator?

Mr. BARKLEY. Mr. President, is that the law, or a decision?

Mr. AUSTIN. That is the code, chapter 2, article 2, section 10 (e), copied on page 235 of the hearings, at the middle of the page.

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

Mr. CHANDLER. I yield to the Senator from Iowa, and I desire to express my appreciation to the Senator from Vermont.

Mr. GILLETTE. Will either the Senator from Kentucky or the Senator from Vermont cite either the Constitution or the statutes of West Virginia which say what it is necessary for an officer to do before he can assume the office? What the Senator has just read says that he must perform all that it is necessary for him to do. Has the Senator anything that says what it is necessary for him to do?

Mr. AUSTIN. Yes. The Senator from Iowa read the other part of the Code which related to the filing of oaths of office. I will re-read it. I will read the two together. Then it will be clear, I think. I am reading from page 236 of the hearings:

Code, chapter 6, article 1, section 6:

> Certificates of oaths * * * certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state. * * *
>
> It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath as provided in this section.

Now I read the other one with it.

Code, chapter 2, article 2, section 10 (e):

> An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the authority and discharge the duties of his office.

It needs no comment at all. The code answers the question.

Mr. BARKLEY. Mr. President, will my colleague yield?

Mr. CHANDLER. In just a moment. The Senator from Vermont will agree that the decision in the Qualls case was followed by these judges in order to make it effective, and I was discussing, when I was interrupted a while ago by the question of the Senator from Illinois, the opinion of the judges of the court who helped write the opinion, and if I may be permitted, I should like to finish that, while I am on that point; then I will yield to my colleague.

I refer now to Mr. James A. Meredith, of Fairmont, W. Va., who was a member of the supreme court at the time this case was decided. He says that it clearly holds that one elected or appointed to an office in this State is required to do two things in order to qualify him, namely, take the oath of office and to file it with the designated officer. These requirements are not merely directory but they are mandatory and this is clearly the effect of the decision in the Qualls case.

The laws of West Virginia were revised. A man named Sperry and others undertook to revise the law, and to make the code law they were getting ready to write in West Virginia in 1931 correspond with the opinion in the Qualls case, because they said that ought to be the law and was the law.

The Qualls case was one where two members were elected as school commissioners. They took their oaths and did not file them, and after a delay and a failure to file, the county superintendent appointed two fellows in their stead. The court held that those elected were not entitled to have the offices because they had failed to file their oaths, that the provision was not directory, that it was mandatory, and that they were out of office, and that the other two appointees of the superintendent of instruction were entitled to the offices.

Mr. Sperry said:

> The object * * * was not to change existing law, but to state in concise, unambiguous language that law as interpreted by the supreme court of appeals in the case of the State, ex rel., and others, against Board of Education of Curry District, Putnam County, and others, decided January 16, 1923, and reported in West Virginia Reports, volume 92, page 647.

That was the law of West Virginia. Those men slept on their rights. They were guilty of laches, as the Senator from Maryland suggests, and they slept so long that when they woke up, others were in their places.

Now I yield to my colleague.

Mr. BARKLEY. Mr. President, is it not the theory that the filing of the certificate in the proper office is notice to the public that the particular person is entitled to hold the office, just as if one

writes me a deed to some property, and I have it in my possession, but do not take it to the courthouse and have it recorded, if later he sells the property to someone else, I have no right against the grantee, because I have not filed my deed in the office of the clerk so as to give notice to the public that it is my property.

But that is not the question I desire to ask the Senator. I want the Senator from Vermont also to take heed of this. The section which has been read says:

It shall be the duty of every person who takes an oath—

In the Constitution of West Virginia the language is "make oath," but the code says "take oath." I do not know that there is any legal difference between those terms, except that probably it might be construed that to "make oath" one might have to sign a written oath, whereas if one "takes" an oath, he raises his hand and swears a thing, without any written document having to be signed.

Be that as it may, the section reads:

It shall be the duty of every person who takes an oath of office to procure and file.

That presupposes that someone else has possession of that oath, that certificate, because if the officer taking or making the oath had it in his possession, as was indicated a while ago by the Senator from Kentucky as a requirement, that the person taking the oath had to himself take it and file it—if he had it in his possession from the time he made it, he does not have to procure a certified copy of it from someone else. I assume this language quoted shows that the oath is in the possession of someone else, and that it was required to be in the possession of the officer who administers the oath.

If the Governor, in this instance, had to procure from that person a certified copy of the oath—and it would have to be certified by the officer administering it, because the Governor could not certify to his own oath—suppose that by some act of God or by any intervention between the actual taking or making of the oath and any given hour later, without the fault of anyone the oath is destroyed, is burned up, or is lost, or the person who administered it is killed, or something happens which makes it impossible for the incoming officer to secure a certified copy of the oath, then in what position would the officer be? Would he be denied the right to hold the office because of those circumstances?

Mr. AUSTIN. May I answer?

Mr. BARKLEY. Yes.

Mr. AUSTIN. Mr. President, I understand from the decision in the West Virginia case that if there intervened rights of others, the effect of the accident referred to would be the loss of the office. Assume that such intervention had not occurred, and that the officer had exercised part of his duty. I have no doubt at all that a court would sustain those acts as acts of a de facto officer, and if that person who was a de facto officer, having discovered the loss, cared enough for his office to make it de jure, he could do it immediately and become a de jure officer upon filing.

Mr. CHANDLER. Under the secondary-evidence rule observed by the courts, if one cannot do the best thing, he has to do the next best thing; but that did not happen in this case.

Mr. BARKLEY. It was not the case of an election. No man can become a de jure Governor of a State, even where by some act of God he is prevented from filing with the secretary of state the written oath which he has taken, because a Governor cannot be appointed; he must be elected, unless in a case like that of the constitutional provision of West Virginia, under which, where he fails to qualify, the president of the senate automatically assumes the governorship during any interval of failure. But in the case cited by my colleague, it is the case of an appointment.

Mr. CHANDLER. Oh, no; my colleague is mistaken. The men were elected. I have the case here. The two men were elected. I will ask the Senator from Vermont if that is not the case.

Mr. AUSTIN. I will not undertake to testify to that, because I cannot remember.

Mr. CHANDLER. I will read the case; I have it.

Mr. BARKLEY. I am seeking information as to whether they were elected by the people or whether they were appointed by someone in authority.

Mr. CHANDLER. They were elected by the people.

Mr. BARKLEY. I will not ask the Senator to delay his remarks on that account. We can look that up later. I got the impression from what he said that these were appointive officers, and that because the previous appointees had failed to file their oaths of office, the appointing power appointed other officers in their stead. I may be under the wrong impression.

Mr. CHANDLER. No. Kiff and Neal were duly elected to the office of commissioner of the board of education, to fill vacancies. They later took their oaths, but they failed to file them. Then the superintendent of public instruction appointed two men in their places.

Mr. BARKLEY. That is the point; that is what I thought. The original two were elected.

Mr. CHANDLER. That is correct.

Mr. BARKLEY. They failed to file their oaths, so that the public or anyone would have notice that they were elected. Then later some appointing power appointed two men to succeed them.

Mr. CHANDLER. That is correct.

Mr. BARKLEY. And the court upheld that appointment.

Mr. CHANDLER. The statute says in section 9 of chapter 10:

If any person elected or appointed to an office fails to qualify within the time prescribed by law, the office shall be deemed vacant.

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

Mr. CHANDLER. I yield.

Mr. TYDINGS. As I follow the junior Senator from Kentucky, it seems to me that in opposing the majority report he lays down the premise that if that report were sound it could be only because the Governor of West Virginia, Mr. Neely, became Governor before he resigned as United States Senator. Am I correct in that?

Mr. CHANDLER. That is correct.

Mr. TYDNGS. And that would be a physical impossibility?

Mr. CHANDLER. It could not happen.

Mr. TYDINGS. That the only way he could fill an office during his term as Governor would be in the case of a vacancy that was made during his term as Governor, or which had not been filled by the preceding Governor. Is that correct?

Mr. CHANDLER. That is correct.

Mr. TYDINGS. And that Governor Neely could not fill this office because obviously he had to cease being United States Senator before he was Governor.

Mr. CHANDLER. He most certainly had to. The Senator from Maryland has accurately stated the case.

I have first relied in this case upon the fact that the vacancy occurred during the term of Governor Holt; that he was authorized to fill the vacancy; that he did fill it; and appointed Clarence Martin United States Senator from West Virginia; that when Neely became Governor there was no longer any vacancy, it had already been filled; that Neely not only had to take the oath, but he had to file it; he had to qualify, and, as the Senator from Vermont said, and as I have heretofore said, he had to do all things necessary, and the things necessary were to take the oath and to file it in the office of the secretary of state.

Let us consult the precedents of the Senate of the United States. The United States Senate has passed on matters of this kind many times. I do not know why my distinguished friend, the Senator from Texas [Mr. CONNALLY] did not read the leading case on this subject, which came from his own State, the Chilton case in 1891.

Mr. John H. Reagan, who was elected Senator from Texas for the term of 6 years from March 4, 1887, resigned his office, the resignation to take effect on June 10, 1891. The Governor, after the receipt of the resignation of Mr. Reagan, appointed Mr. Horace Chilton to fill the vacancy, the appointment to take effect on the 10th day of June 1891. The certificate bears date April 25, 1891. The appointment was made presently, to take effect in the future, and within the term of the appointing power of the Governor undertaking to make the appointment. December 7, 1891, and after the 10th day of June Mr. Chilton appeared and took his seat, and on the same day his credentials were referred to the Committee on Privileges and Elections. That committee reported on January 25, 1892. The committee made a rather exhaustive study of the cases that had gone before in the Senate of the United States. That committee reported:

So far as the precedents are concerned, it appears that in three cases persons so appointed have been admitted to their seats without question; that Mr. Tracy was admitted and Mr. Lanman rejected, where the executive made the appointment in anticipation of a vacancy, there being a discussion in the Senate, but no satisfactory evidence of the grounds of the judgment.

The decision was not made on that ground in those two cases, one favorable, one unfavorable to my contention. It was made on some other ground. It was not made on the ground that the Governor in office did not have a right to anticipate a vacancy occurring in his office and making the appointment. The report continues:

> That in one case, that of Mr. Sevier, a person so appointed has been admitted, when the validity of the appointment was questioned, upon other grounds, without raising this question specifically; and that in modern times the practice has been uniform for the Senate executive to delay appointment until the actual happening of the vacancy; * * * that where the power is given to fill vacancies in public offices it has been the uniform practice to permit resignations of such offices to be made, to take effect at a future day, and to hold that the appointing power is entitled to make the appointment in advance to fill the vacancy, to take effect when the resignation becomes operative, unless the language of the constitution or statute provision under which authority is exercised forbids such construction.

It was held that the same rule should be applied to the case of resignations and vacancies in the Senate, and that therefore Mr. Chilton was entitled to retain his seat.

January 27, 1892, the resolution reported by the committee was agreed to (Contested Election Cases, vol. I, p. 48).

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

Mr. CHANDLER. I yield.

Mr. LUCAS. Of course, the Senator knows that in every one of the precedents cited the appointing power still remained the Governor of the State. Not only when the appointee took the office, but even when he took the oath of office, the appointing Governor was still the Governor of that State, and that there was no such change made as we have in this case. I should undertake to say that there is not a single Senate precedent which the Senator has cited that is on all fours with the present case.

Mr. CHANDLER. It is difficult to find a case on all fours with the present case. The other side, however, did not cite a single precedent. It stayed religiously away from doing so. I am at least willing to give the Senate the benefit of its own decisions.

Mr. LUCAS. It is perfectly all right for the Senator to quote decisions, but I undertake to say that there is not a single Senate precedent or a single Senate decision that has been handed down by the United States Senate with respect to the appointment of Senators, that comes anywhere near squaring with the facts in the present case. There has never before been a case in which the sole question was whether the outgoing or the incoming Governor had the power to make the appointment. This is the first time such a situation has arisen.

Mr. CHANDLER. We always have a first case. This is an unusual case.

Mr. LUCAS. That is why I say the precedents cited do not square at all with the facts in the present case.

Mr. CHANDLER. Let me answer the question, and then I will yield further to the Senator from Illinois. I cited the Senate decision in a case where a Governor is in office, and a vacancy will occur in his term, and that is the case here.

Mr. LUCAS. Well——

Mr. CHANDLER. Let me answer the Senator first, and then I will yield to him.

Mr. LUCAS. Pardon me.

Mr. CHANDLER. The Governor knows the vacancy will occur in his term. He is the Governor. He has the right to anticipate the vacancy that will occur in his term. He did anticipate it in this case. He made the appointment, and the Senate ought to confirm it, because according to its own rule that is one of the things that a Governor who is in office when a vacancy occurs in his term is entitled to do. He can fill the vacancy during his term. Governors always do that. They make appointments so long as they remain in office, until someone else is qualified to make the appointments. Everyone who has the power to make appointments to fill vacancies does so. So does the President of the United States.

Mr. LUCAS. Mr. President, will the Senator again yield?

Mr. CHANDLER. I yield.

Mr. LUCAS. Of course, the sole question is—and the Senator and I agree on this matter—whether Governor Holt had the power to make the appointment, and did make the appointment, while serving as Governor of West Virginia.

Mr. CHANDLER. The vacancy occurred in his term.

Mr. LUCAS. That is where we disagree, and that is the sole question here, and that is why I say the precedents cited do not apply.

Mr. GEORGE and Mr. AUSTIN addressed the Chair.

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

Mr. CHANDLER. I yield first to the Senator from Georgia, and then I shall yield to the Senator from Vermont.

Mr. GEORGE. Mr. President, I wish to ask the able Senator from Kentucky if Senator Neely's resignation as Senator did not have to be a completed act within the term of Governor Holt?

Mr. CHANDLER. Yes, sir; and he knew it.

Mr. GEORGE. Because he resigned to Governor Holt.

Mr. CHANDLER. Yes. What did he do it for?

Mr. GEORGE. He resigned to divest himself of the office, of course, and it must have been a completed resignation. It could not have been a partial resignation.

Mr. CHANDLER. The Senator is correct.

Mr. GEORGE. Very well. His resignation was handed to Governor Holt some time prior to midnight of January 12.

Mr. CHANDLER. It was handed to him on the 11th day of January.

Mr. GEORGE. On the 11th day of January, but it specified that it should become effective precisely at 12 o'clock on January 12.

Mr. CHANDLER. At precisely 12 o'clock.

Mr. GEORGE. Therefore the resignation, in order to be a resignation at all, must have been a completed act, a completed resignation. It was offered to Governor Holt, and Governor Holt, prior to midnight, made an appointment, did he not?

Mr. CHANDLER. Yes, sir.

Mr. GEORGE. Prior to midnight—not exactly at midnight, although he did say that in the first moment after midnight he made a second appointment, or a third; but prior to that time he actually made an appointment.

Mr. CHANDLER. Yes.

Mr. GEORGE. After Senator Neely's resignation had been received by him, conditioned to become effective precisely at midnight, or at 12 o'clock, he then made his appointment.

Mr. CHANDLER. Yes, sir.

Mr. GEORGE. To become effective precisely at that time.

Mr. CHANDLER. Whenever his resignation became effective.

Mr. GEORGE. Exactly.

Mr. CHANDLER. Whenever his resignation became effective, then the appointment was made?

Mr. GEORGE. Yes; exactly. Then does not the whole case boil down to this, that the appointment of Governor Holt was a continuing act? It became effective immediately upon the completion of the resignation by Senator Neely of his seat in the Senate.

Mr. CHANDLER. That is quite correct.

I now yield to the Senator from Vermont.

Mr. AUSTIN. My question was intended to be asked on the same point. I have only one further question to ask, and that is, Does not the Senator from Kentucky understand that in order for a Senator of the United States to make an effectual resignation, there must be an authority having the power to fill the vacancy to whom he must go in order to tender his resignation for the purpose of having it accepted?

Mr. CHANDLER. The Senator from Vermont is exactly correct, and the hearings will bear out abundantly all he has said. Senator Neely had to resign to somebody if he was going to resign at all, and he elected to resign, and he resigned to the only person in the world he could resign to, the Governor of West Virginia, and when he gave the Governor his resignation it had to be effective, and he could not be Senator and Governor at the same time.

Mr. AUSTIN. He could not have made an effective resignation if he had gone to the President of the United States and said, "I tender my resignation," could he?

Mr. CHANDLER. No. If he could, he would have done it.

Mr. AUSTIN. The only man alive and in office who was qualified to receive the tender of that resignation was Governor Holt, was he not?

Mr. CHANDLER. That is exactly correct.

Mr. President, the Members of the Senate have been most charitable and generous toward me. I now wish to conclude. I do not believe that the Senate will say that Clarence Martin, who has been

president of the American Bar Association, who is a learned lawyer, who is a fine citizen, and who is here with credentials from a Governor of West Virginia who had the right to appoint him and who did appoint him, is not entitled to a seat in the Senate. I ask Senators, when they cast their votes, to do what justice requires them to do under the circumstances. I have every faith in the vote of the Senate. I believe that the Senate will say that Clarence Martin is entitled to be seated as a Senator from West Virginia.

Mr. KILGORE obtained the floor.

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

Mr. KILGORE. I yield.

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

The PRESIDING OFFICER (Mr. McFARLAND in the chair). The clerk will call the roll.

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

Adams	Ellender	Norris
Aiken	George	Nye
Andrews	Gerry	O'Mahoney
Austin	Gillette	Overton
Bailey	Glass	Pepper
Ball	Green	Radcliffe
Bankhead	Guffey	Reynolds
Barbour	Gurney	Schwartz
Barkley	Hatch	Shipstead
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Taft
Bunker	Johnson, Calif.	Thomas, Idaho
Burton	Kilgore	Thomas, Okla.
Butler	La Follette	Tobey
Byrd	Langer	Truman
Byrnes	Lee	Tunnell
Capper	Lodge	Tydings
Caraway	Lucas	Vandenberg
Chandler	McCarran	Van Nuys
Chavez	McFarland	Wallgren
Clark, Mo.	McNary	Walsh
Connally	Maloney	Wheeler
Danaher	Mead	White
Davis	Murdock	Wiley
Downey	Murray	Willis

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

Mr. KILGORE. Mr. President, a Member of the United States Senate has been variously described by able statesmen. Two descriptions that have always impressed me are, first, that he is an ambassador from his State to the National Government; and, second, that he is the advocate of his State in the legislative body of our Nation. But describe him as you will, under our democratic form of government, he is sent here to speak and vote as a representative of the people of his State. Under the two-party system he is the one selected by the majority of the voters of his State to reflect the wishes of his people in the National Congress.

In the case we are now considering, due to the laws of the State of West Virginia, it is impossible to call a special election to elect a Member of the United States Senate to fill an unexpired term, it being provided in such cases that he shall be appointed by the chief executive of the State to serve until the next general election, when his successor can be elected and qualified.

From a study of precedents handed down by the Senate in election contests, I have reached the conclusion that at all times it has been the desire of this body to seat the person whom the majority of the people of the State might ordinarily have selected in a free and untrammeled election. This appears to be the major guiding star in all such cases, and quite properly so. In the pending contest I consider it my duty as a Senator, representing the people of West Virginia, to explain to this body certain things with which Senators may not be familiar, and to demonstrate that the people of my State have expressed their will with reference to this contest.

In the primary election of 1940, even before the then Senator Matthew M. Neely announced his candidacy for Governor of my State, there was considerable discussion among our citizens as to whether or not he would run, and if he should run and be elected who would select his successor. As soon as he announced his candidacy the newspapers of the State made a campaign issue of the appointment of the successor to Neely. Those who were hostile to him charged that he would name his successor, and accused him of trying to assume dictatorial powers in the State.

His campaign was very short, but in his opening speech, and in succeeding speeches, he met this charge by stating frankly that he fully expected to name the man who would take his place in the United States Senate. This became one of the principal issues of the campaign. In the primary election, out of the 361,008 votes cast, Matthew M. Neely received 200,653, his nearest opponent receiving 152,544. In other words, Neely received a clear majority of all the votes cast in a four-way election and a majority over his nearest opponent of 48,109. Immediately after the results of the primary were announced Republican newspapers of the State again made a campaign issue of the same question, and again Senator Neely met the issue, fairly and squarely.

In the general election of November 1940, with more than 879,726 votes cast for Governor, Matthew M. Neely received 496,028, as against his opponent, who received 383,698, or a majority of 112,330.

I can draw only one conclusion from all this. As the matter had been made a distinct major campaign issue, the only interpretation I can place on the results of these two elections is that the people of West Virginia, feeling that Senator Neely would, if elected, name his successor in the United States Senate, ratified and endorsed that declared action, first, by nominating him by a large majority in the Democratic primary, and then by electing him in the general election by a still more substantial majority. What other reasonable interpretation can be offered? Had the newspapers not charged that such a thing would happen, and had he not met the issue by stating that he intended this action, another conclusion might be reached. The people of West Virginia said to Neely by their ballots, "You have our permission to name your successor, and we will abide by whomsoever you shall choose." This is made doubly certain by the fact that Hon. Homer A. Holt, Governor of West Virginia in 1940, actively opposed Governor Neely in the primary election, which opposition, in the minds of many, finds expression in the appointment attempted to be made by him as one last parting shot at a victorious political foe.

Recognizing, as we must, the expressed will of the whole people of my State, it then appears to me that the only question before the Senate in deciding which of these contestants should be seated lies in determining whether the will of my people can here be fully carried out upon some reasonable and just legal basis. In other words, could Gov. Matthew M. Neely legally appoint a man as his successor in the United States Senate? Certainly he could not appoint a man during the incumbency of the Honorable Homer A. Holt as Governor, nor could the Honorable Homer A. Holt appoint a successor to Senator Neely until Mr. Neely ceased to be a United States Senator.

In the normal course of events in the State of West Virginia it seems to be conceded that the term of the Governor—and, incidentally, this was not questioned in the hearings before the committee—ended at the instant of midnight on January 12, provided there was a successor at that instant qualified to take his place. To be eligible to take his place, of course, that successor must hold no incompatible office, and must have the following other qualifications: First, he must have been legally elected by the people of West Virginia; second, he must have been declared so elected by the Legislature of the State of West Virginia; and, third, having all the other necessary statutory qualifications under the Constitution of West Virginia, he must, before exercising the duties of his office, take the oath prescribed in the constitution.

Under the facts in this case, Matthew M. Neely tendered to Gov. Homer A. Holt his resignation to take effect "at the instant of midnight January 12, 1941." This resignation was accepted by Governor Holt without qualification. Therefore, since it has never been questioned that a United States Senator, duly seated, has a right to determine in his resignation the method and hour on which he leaves the Senate, if he leaves before the expiration of his term by resignation, at the instant of midnight Mr. Neely ceased to be a Member of the United States Senate. The rule to that effect was laid down by the United States Senate in the Clay case in Kentucky in 1852 and has been followed consistently ever since.

The Clay case was peculiar also in that in that case the Senate permitted two succeeding Senators to be seated in the United States Senate in sequence, in order that the will of Senator Clay could be fully carried out. Senator Clay, having resigned to take effect in futuro, died before the effective date of his resignation. The legislature of the State having selected a successor to take office on the effective date of his resignation, the Governor appointed a Senator for that interim, and the Senate seated both gentlemen.

This rule was also pointed out in the State of Virginia in the Bunting case, which has been somewhat discussed be-

fore, and which I will discuss a little later, in which it was stated that certainly an official resigning his office had the right to fix the time at which his services should cease. Having so fixed the time for the ending of his services in the United States Senate "as of the instant of midnight" and since, under the law, the term of Gov. Homer A. Holt would expire at the same time unless artificially extended, it follows that if Mr. Neely were qualified at that time to be Governor, both terms expired simultaneously.

At this point I feel it necessary to say a few words with reference to the theory I have heard discussed before the committee and in the corridors with reference to split seconds existing in the qualifications of an executive official. There may be lapses of time between sessions of a legislative body and between sessions of a term of court, but since the establishment of our Government there have been no split-second intervals in government. The whole theory of civilized government revolts at the idea of intervals without government. Our laws are designed to prevent such intervals, and it is not necessary to stage a foot race, to watch a clock, or to see who can write his name more swiftly, to determine when an official term of office begins and when another one ends. The idea is best expressed by the saying, "The king is dead! Long live the king!" There is no interregnum. One executive's term ends and another instantly begins, under the theory of our existing law. If we must go into the matter of the exact time of the completion of the taking of an oath and the completion of the signing of a commission appointing an official, who would determine if the clocks themselves were correct? Is this great legislative body to be put to the task of splitting seconds or determining whose watch was correct in the keeping of the time?

In West Virginia an outgoing official would normally—for limited purposes, at least—hold over until his successor took his place. However, under certain conditions this does not apply in the case of the Governor. No other official in the State of West Virginia has a substitute who can act in his stead, but in the case of the Governor the president of the senate may act; and it is to be noted that in the laws of West Virginia it is not stated that the president of the senate automatically, by the elected Governor's failure to qualify, becomes the Governor. The law says that he acts as Governor, without qualification of any kind. Automatically, upon failure of the elected Governor to qualify, the president of the senate acts as Governor and performs the official acts that the elected Governor would have performed had he qualified. But if an outgoing official's successor were, at the instant of the ending of the statutory term, qualified and ready to take over, there could be no interval of time during which the outgoing official would hold over beyond his statutory term. This seems to be the generally recognized rule everywhere.

Under the laws of West Virginia elective officials, including State executive officials, are permitted to take their qualifying oaths on or before the dates on which their terms of office begin; and, with this in mind, Matthew M. Neely took the oath, as prescribed in the constitution, at 15 minutes before 12 o'clock on January 12. On that point there has been considerable discussion with reference to the taking of the oath, and I desire to read the exact statutes governing the matter. Section 7 of article 1, chapter 6, of the West Virginia Code of 1931, the official code, says:

> No person elected or appointed to any office, civil or military, shall enter into the office, exercise any of the authority or discharge any of the duties pertaining thereto, or receive any compensation therefore before taking the oath of office: *Provided*, That this section shall not apply to members of the legislature of this State.

Section 6, of the same article and chapter, reads as follows:

> Certificates of the oaths—

This is one thing to which I desire to call attention, because only part of this section has been included in the brief of counsel filed in this case, and therefore only part of the section is included in the report of the committee.

> Certificates of the oaths of all magisterial, district and county officers, and judges of courts of limited jurisdiction within any county, shall be filed, recorded, and preserved in the office of the clerk of the county court of the county. Certificates of the oaths of members of boards of education—

Here is something to which I desire to call especial attention—

> and school officer of any district or independent school district shall be filed, recorded, and preserved in the office of the secretary of such board—

This should be borne closely in mind—

> and certified copies thereof filed and recorded in the office of the clerk of the county court of the county of such district.

The point I am making is that in the record of this case that part is not included, but this part is, and great play was made on it:

> It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies—

Referring back to school districts, to which I have previously referred, where it is said that they shall file certified copies—

> the certified copies of his certificate of oath as provided in this section.

I have before me another section, on "Failure to give bond."

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

Mr. KILGORE. I yield.

Mr. HATCH. With reference to the section of the West Virginia statute which the Senator is reading, does it refer to any other certified copies?

Mr. KILGORE. It refers to no other certified copies whatsoever.

Mr. HATCH. It refers only to the school officials?

Mr. KILGORE. As to certified copies. It says:

> Certificates of the oaths of all municipal officers—

Included in that class are State elective officers' certificates of oaths; but with reference to school officials it says that certified copies of the certificates of oaths shall be filed; and the last sentence is the one which makes it the duty of the official to procure the certified copy of the certificate, that referring to school officials.

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

Mr. KILGORE. I yield.

Mr. STEWART. Is the certified copy required to be filed with the secretary of state?

Mr. KILGORE. No; that requirement applies only to school officials. Inasmuch as the office of board of education is not an office of public record, the law requires that a certified copy of their certificate of oath shall be filed with the county clerk of the county, so that the certified copy will be a public record. That is the only reason it is made the duty of the official to get a certified copy and file it.

Mr. STEWART. The Senator is calling our specific attention to that provision for the reason that the Qualls case, to which reference has been made, construed that statute?

Mr. KILGORE. No. The Qualls case construed an earlier statute of which this was an outgrowth. I will come to that later.

Mr. STEWART. Was it a similar statute?

Mr. KILGORE. It was similar but far more drastic.

Mr. STEWART. Do I understand that there is a decision in the State of West Virginia in respect to the filing of oaths with the secretary of state determining whether or not that might be a condition precedent?

Mr. KILGORE. No, sir; there is no decision in the State of West Virginia requiring the filing of an oath at any time with the secretary of state.

Mr. HATCH. The law does require the filing of a certificate, though, does it not?

Mr. KILGORE. It does not fix any time, though.

Mr. HATCH. Who makes that certificate?

Mr. KILGORE. It is the certificate of the official who takes the oath; that is, the one who administers the oath.

Mr. HATCH. The officer who administers the oath makes a certificate to that effect?

Mr. KILGORE. To that effect; yes.

Mr. HATCH. Is that the certificate that is filed?

Mr. KILGORE. Yes.

Mr. HATCH. Very well. Assuming the officer who makes it——

Mr. KILGORE. Just a moment. The certificate includes the form of the oath which is always signed by the man taking the oath.

Mr. HATCH. But the certificate is made by the officer who administers it?

Mr. KILGORE. Yes, sir.

Mr. HATCH. Suppose that the officer who administered the oath neglects or fails or refuses to make the statutory certificate, it would be impossible then for the Governor-elect, we will say, to file that certificate, would it not?

Mr. KILGORE. That is absolutely correct.

Mr. HATCH. Then an officer who was so minded, by simply refusing to made the certificate, if the argument that has

been made here today is correct, could unseat the Governor elected by a sovereign State?

Mr. KILGORE. If that argument is correct; yes; but I take great issue with that argument.

Mr. HATCH. I do, too. I thoroughly agree with what the Senator from West Virginia is saying.

Mr. KILGORE. Mr. President, now I wish to consider something else than the question of the oath.

Mr. STEWART. Mr. President, will the Senator yield for one more question before he goes into another field? The statute requiring the filing of a certificate of office with the secretary of state, as I understand the Senator, has been judicially construed?

Mr. KILGORE. No, sir.

Mr. STEWART. Then, the Senator having been a judge in the State of West Virginia, what is his opinion as to the filing of such certificate? Suppose the certificate is filed subsequent to the taking of office, as in the case of Governor Neely; suppose, as a matter of fact, the certificate had not been filed for a week or 10 days or a month, does it not relate back to the date upon which the particular official assumed the duties of his office?

Mr. KILGORE. Most certainly, because the law does not require the filing of the oath as a qualification; it requires the taking of the oath. The statute provides how it shall be preserved. "Preserved" is the word used.

Mr. STEWART. Then I will ask the Senator whether or not this is true: It is not, as I understand, a condition precedent to the vesture of title of office?

Mr. KILGORE. No, sir.

Mr. STEWART. Then, so far as the Senator knows, is it a condition subsequent to the vesture of title?

Mr. KILGORE. There is no penalty; there is no forfeiture; the only forfeiture we have is for failing to file bond.

Mr. STEWART. What would be the purpose of filing the oath of office with the secretary of state?

Mr. KILGORE. For preservation as evidence to the people at large that the oath had been taken. I believe it could be proven by parole evidence if the oath were lost; unquestionably it could be.

I desire to call attention to section 5, article IV, of the Constitution of West Virginia:

Every person elected or appointed to any office, before proceeding to exercise the authority—

"Before proceeding to exercise the authority;" it does not say anything about taking over anything; it says, "proceeding to exercise the authority."

or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the constitution of this State, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification—

"And no other oath, declaration, or test shall be required as a qualification"

unless herein otherwise provided.

And there is nothing else provided. In the constitution there are some sections prescribing how the oath may be administered.

Mr. STEWART. Mr. President, does the Senator have before him the statute about which we talked so much today, which directs that the oath of office shall be taken before entering upon the office?

Mr. KILGORE. Yes; I shall read it.

Section 7 of article 1 of chapter 6 of the Code of West Virginia provides that:

No person elected or appointed to any office, civil or military, shall enter into the office, exercise any of the authority, or discharge any of the duties pertaining thereto, or receive any compensation therefor, before taking the oath of office.

That is, the oath required by section 3; and section 3 provides:

Except as provided in sections 1 and 2 of this article.

Those sections and exemptions have reference to Members of the House of Representatives and the United States Senate.

Except as provided in sections 1 and 2 of this article, every person elected or appointed to any office in this State before proceeding to exercise the authority—

"Before proceeding to exercise the authority"—

or discharge the duties of such office, shall take the oath or affirmation prescribed in section 5 of article 4 of the constitution of this State.

Section 5 reads:

The oath required by section 3 of this article shall be taken after the person shall have been elected or appointed to the office, and before the date of the beginning of the term, if a regular term; but if to fill a vacancy, within 10 days from the date of the election or appointment, and in any event before entering into or discharging any of the duties of the office.

In other words, it requires the elected or appointed official to take the oath at some time after he has been elected and before he proceeds to exercise the duties of his office. So, at any time in the interval, is the correct time to take the oath under the laws of the State of West Virginia.

Mr. STEWART. Mr. President, will the Senator yield for a moment?

Mr. KILGORE. I yield.

Mr. STEWART. I understand, as the Senator read it, it is provided that an officer may take the oath at any time between the day on which he is elected and the day on which he is inducted into office.

Mr. KILGORE. That is correct—

The oath required by section 3 of this article shall be taken after the person shall have been elected or appointed to the office, and before the date of the beginning of the term.

Mr. STEWART. That is, before the day or date when the term commences?

Mr. KILGORE. Before the date of the beginning of the term.

Mr. STEWART. Then, before the date of the beginning of the term, to comply with the statute, Governor Neely would have been forced to have taken the oath prior to the 13th day of January?

Mr. KILGORE. Yes, unless he wanted to have a lapse in the office before he qualified.

As I have said, Matthew M. Neely took the oath as prescribed by the constitution at 15 minutes before 12 o'clock on January 12. It is true he took other oaths. Prior to 12 o'clock he took an oath to become effective at the instant of midnight, and, of course, at the instant of midnight he was again sworn in. This in addition to the formal taking of an oath at the regular inaugural ceremony. However, any one of these oaths which became effective makes all the others surplusage, and, under the laws of West Virginia, in my opinion, the oath taken at 15 minutes before 12 became the necessary qualifying oath under the constitution and statutes, making him eligible to become Governor at the instant of midnight when his resignation took effect simultaneously with the end of the term of his predecessor.

From a layman's viewpoint, the situation arising at the instant of midnight would appear thus: The mathematical definition of a point is something having no length, breadth, or thickness.

The instant of midnight is a point of time. Therefore it would be a unit of time having no length. If, as I have said, Neely was in other respects qualified at the instant of midnight, he naturally became the Governor at the same instant he ceased to be the Senator. At the same instant Homer A. Holt ceased to be the Governor and became a private citizen. Until the expiration, either by resignation or otherwise, of the term of office of Neely in the United States Senate, there was no vacancy. Therefore, the vacancy could not arise until the instant of midnight. At that time M. M. Neely was the Governor of West Virginia.

With reference to the appointment of Clarence E. Martin there was a multiplicity of these appointments, two of which appointments were what might be called anticipatory appointments, executed by Homer A. Holt as Governor of West Virginia prior to midnight on the last day of his term, specified to take effect at the instant of midnight in one case and in the other case to take effect on the occurrence of a vacancy in the office of the United States Senate. Still a third appointment was executed by the signing of the name of Homer A. Holt to a predrawn appointment instantly after midnight when his term ended. If any one of these appointments was good, then of course the appointment of Dr. Joseph E. Rosier, having been made subsequently, would be an invalid appointment.

However, we must get back again to the question of who was Governor when Matthew M. Neely ceased to be United States Senator. If Homer A. Holt was still Governor, then his appointments are good. But his term ended simultaneously with the ending of the term of Senator Neely. Therefore, he could not have been Governor during the vacancy occasioned by that resignation. It is an established principle, laid down by the Senate of the United States, that no Governor may make an appointment in anticipation when he could not, at the time the vacancy occurred, actually have made the appointment. The Clay case from Kentucky, and numerous other cases, propound this rule. In other

words, the theory laid down by the United States Senate only permits an executive to anticipate something he could normally do at the time a vacancy occurs.

It was contended before the committee that the Virginia case of *Bunting* v. *Willis* (27 Gratt. (Va.) 144) prohibits this action by Governor Neely.

Mr. President, the Bunting case rests upon an entirely different state of facts. It is a case under a statute of Virginia prohibiting a State official from holding office under the Federal Government. In it, a deputy port collector named Bunting was elected to the office of sheriff of his county; and, having been so elected, he qualified by taking the oath insofar as he could qualify, and submitted to his superior a resignation to take effect on the day before his duties would begin as sheriff of the county. The court commented on the fact that there was no evidence in the case that his resignation had ever been received by his superior. Nevertheless, on the first day of his term he took over the office of sheriff, and later in that day proceeded to carry on with the duties of the port collector by clearing a vessel. The reasoning of the court in the case was that if he had resigned his Federal office he had revoked his resignation by carrying on the duties of that office after having taken over as sheriff of the county; and I point to the significant fact that the court vacated his office of sheriff on the ground that he still held his Federal office. Also, it was true that after that, and before the trial of the case, he had checked over his Federal office and given it up.

At this point I desire to read from Bunting against Willis what is really the gist and substance of that case:

> The plaintiff was elected to the office of sheriff on the 27th of May, and he tendered his resignation on the 19th of June thereafter. But it was not to take effect immediately. It was to take effect on the 30th of June, 1875, the day before the term of the office of sheriff legally commenced. But did it then take effect? Or was it held longer? If it was held any longer, no matter how short the period, he was incapable of holding the office of sheriff.
>
> That he had a right to resign his Federal office, and that such right—

Note this—

> does not depend upon the consent or acceptance of the Government or its agents, seems to be very well settled. That after such a resignation becomes complete it cannot be withdrawn by the officer, even with the consent of the Government, seems also to be settled, though he may receive a new appointment, which may perhaps be given to him in the form of a withdrawal by consent of his resignation of his former office.
>
> But a prospective resignation may be withdrawn at any time before it is accepted; and after it is accepted it may be withdrawn by the consent of the authority accepting, where no new rights have been intervened. This was held by the Supreme Court of Indiana, in *Biddle* v. *Willard* (10 Indiana R. 62), and seems to be a reasonable principle. We have seen no case to the contrary, while there are other cases which tend to sustain it.
>
> The resignation of the office of deputy inspector and collector in this case was prospective; to take effect June 30, 1875.

That being the first day of his term of office as sheriff. It is significant to point out at this time that the Supreme Court of Virginia vacated his office as sheriff of the county of the State of Virginia; but the contention has been made that taking that oath vacated the Federal office. Nothing was said about that, because he pretook the oath, just as Governor Neely, of West Virginia, pretook his oath, and as, in a celebrated case from Kentucky, the oath was pretaken.

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

Mr. KILGORE. Yes.

Mr. LUCAS. If I correctly understand the case which the Senator is now discussing, the individual involved actually attempted to perform the duties of two incompatible offices; that is, the office of sheriff and the office of collector of internal revenue. Is that correct?

Mr. KILGORE. He not only attempted to perform but did perform those duties.

Mr. LUCAS. He did perform the duties of both of those offices; and, as a result of that, the court finally determined in a suit before them that he could hold only one office, and threw him out.

Mr. KILGORE. The court threw him out of the State office, because that was the office over which the court had jurisdiction.

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

Mr. KILGORE. I yield.

Mr. LUCAS. The Senator from Kentucky [Mr. CHANDLER] has used this case as an argument in behalf of Mr. Martin. I undertake to say that this case is not in point at all. In other words, no one that I have heard testify before the committee or make an argument on the floor of the Senate has ever said that Matthew Neely attempted to assume the duties of the office of United States Senator and the duties of Governor at the same time.

Mr. KILGORE. That is absolutely correct.

Mr. LUCAS. There is no evidence whatever of that kind. Consequently, the case which has been cited here by those speaking in behalf of Mr. Martin is not in point at all. It went off on an entirely different ground.

Mr. KILGORE. That is correct; and I thank the Senator from Illinois. I brought that matter up merely to bring to the attention of this body the fact that the case is not in point.

In the contest we have before us, there is no allegation that Governor Neely even attempted to perform any duties as United States Senator after the beginning of his term of Governor. The evidence is entirely otherwise.

It was contended before the committee that the taking of the oath by Governor Neely at 15 minutes of 12, under the terms of the Bunting case, amounted to a vacating of his office as United States Senator, thereby creating a vacancy to be filled by Governor Holt prior to midnight. Governor Neely, in taking the oath prior to midnight, was merely carrying out the mandate of the laws of his State. It was a qualifying act preparing him to take over his new office.

Let me point out that if we take the stand on this matter that taking the oath 15 minutes before midnight, to take effect at the instant of midnight, vacated an office in the Senate, we must also take the stand that Mr. Neely's announcing his candidacy for Governor of West Virginia back in April of 1940 vacated it, because it is a qualifying step just the same as taking the oath. You must first announce, you must be nominated, you must be elected, you must take the oath. Those are all qualifying steps.

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

Mr. KILGORE. Yes.

Mr. CONNALLY. I call the attention of the Senator to a subject which I am sure is already in his mind with reference to the matter of taking the oath at a quarter to 12. The Senator is aware that section 270 of the West Virginia code provides as follows:

> The oath required by section 3 of this article shall be taken after the person shall have been elected or appointed to the office, and before the date of the beginning of the term, if a regular term.

Mr. KILGORE. Yes, sir.

Mr. CONNALLY. So that Senator Neely was in the attitude of having to take the oath before 12 o'clock, or else he would not be qualified to act as Governor.

Mr. KILGORE. Yes, sir.

Mr. CONNALLY. And because he did what the law required that he do, it is said that he thereby vacated the office of Senator by accepting an incompatible office, when, as a matter of fact, he could not begin upon the performance of the duties of Governor until 12 o'clock, because Governor Holt was Governor until 12 o'clock.

Mr. KILGORE. The Senator is absolutely correct.

Mr. CONNALLY. In taking the oath at a quarter to 12 he was simply complying with the statute which required that in order to be eligible to become Governor at 12 o'clock he had to take the oath of office before 12 o'clock.

Mr. KILGORE. That is absolutely correct. The Senator was out of the Chamber at the moment, but I read that particular section from the code.

It seems to be universally recognized that a person who has been elected to an office may, and oftentimes is, directed to take his oath of office and perform other qualifying acts, such as the giving of bond, before the beginning of his term of office. I can find no case which holds that an official occupying one office, who has been elected to another, is disqualified from the office he presently holds just because he takes the oath for his future office before the term begins.

Mr. CONNALLY. Mr. President, will the Senator permit me at that point to go a step further to supplement the other matter with another reference?

Mr. KILGORE. Certainly.

Mr. CONNALLY. I call the attention of the Senator to what I am sure he already has in his prepared remarks, section 5 of article IV of the Constitution of West Virginia requiring the oath, which reads as follows:

> Every person elected or appointed to any office, before proceding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the constitution of this State, and that

he will faithfully discharge the duties of his said office to the best of his skill and judgment, and no other oath, declaration, or test shall be required——

This is the constitution—

no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

The point I wish to make is, that being the constitution, and the constitution providing that when a person takes the oath no other qualification, no other test, no other requirement, shall be made, all this talk about filing the certificate, which is required only by a statutory act, is absolutely of no effect whatever, because the constitution provides that when one takes the oath, no other qualification or requirement or test shall be made of him; furthermore, that even the statute which says that the certificate of his oath shall be filed does not say when it shall be filed, but merely says that it shall be filed, and when it is filed, our contention, of course, is that it reflects back as of the time when the oath was taken and the duties were assumed.

Mr. KILGORE. The Senator is absolutely correct. At that point I wish to discuss the Qualls case for a little while.

Mr. LUCAS. Mr. President——

The PRESIDING OFFICER (Mr. McFARLAND in the chair). Does the Senator from West Virginia yield to the Senator from Illinois?

Mr. KILGORE. I yield.

Mr. LUCAS. I merely wish to corroborate what the Senator from Texas has said, because the section of the constitution which he has just quoted in my opinion absolutely eliminates any question of the filing of the oath, for that section of the constitution cannot be qualified by a statutory declaration, which is exactly what the opponents of the committee report are attempting to do when they contend that it is essential and necessary that an oath be filed. If that be the case, it is the case of a statute flinging itself into the teeth of a provision of the constitution, which every one who is a lawyer knows cannot be done.

Mr. KILGORE. It cannot be done, and the constitution in this case is not negative, it is positive.

In the Qualls case, which has been discussed, where members of a board were appointed to fill unexpired terms, the case was stated as having been heard in 1923, and I wish to call attention to the changes in the code of West Virginia in 1923. The Qualls case was good law at that time.

At that time there was a special set of laws with reference to members of boards of education and school officials, one of which was section 44 of chapter 45, and that is the section cited in the Qualls case:

Every president and commissioner of the board of education elected or appointed within the State shall, before exercising any authority or performing any duties of his office—

I emphasize this—

qualify as such by taking and subscribing to the oath of office prescribed by section 5 of article 4 of the State constitution, which oath shall be filed with the secretary of the board of education of his district.

That was a part of the qualification with reference to members of the board of education in 1923. Such is not the case now.

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

Mr. KILGORE. I yield.

Mr. HUGHES. As I understand, the oath was to be filed with the clerk of the board.

Mr. KILGORE. With the secretary.

Mr. HUGHES. It was not a court of record, and not a place where one could get a certificate.

Mr. KILGORE. No. Now we provide that the oaths shall be filed there and a certified copy filed with the clerk of the county court.

Mr. LUCAS. Do I understand from the Senator's last statement that the Legislature of West Virginia, following the Qualls case, have written into the law legislation which is different from that involved in the Qualls case?

Mr. KILGORE. Absolutely. The statute upon which the Qualls case was decided was entirely different from the Code of 1931, and I was reading that to illustrate the basis of the Qualls case.

Mr. LUCAS. The Qualls case went off solely on a special statute?

Mr. KILGORE. On a special statute, which applied only to the members of the board of education, and that statute is not in effect at this time.

Mr. LUCAS. In that case there was a penalty involved in the event the oath was not filed. That is not the case before us here. There is nothing I can find in the statutes or the constitution of West Virginia which provides a penalty of ouster of the Governor if he does not file his oath.

Mr. KILGORE. No.

Mr. LUCAS. If he never filed it, he would still be Governor.

Mr. KILGORE. The Senator is absolutely correct. Let me read the penalty.

Mr. CONNALLY. Mr. President, let me ask the Senator a question on that point.

Mr. KILGORE. Very well.

Mr. CONNALLY. It is said he shall file his oath, but no time is stated as to when he shall file it, and who shall file it. How can the question as to whether a man is still Governor be raised in any way except by a direct proceeding of ouster?

Mr. KILGORE. It cannot be.

Mr. CONNALLY. It is not possible collaterally to attack the acts of a Governor who has taken the oath, and is ostensibly the de facto Governor, by saying, "Oh, well, we will attack it collaterally, and none of his acts are legal because he has not filed his certificate." If his title to office were to be challenged on that ground, the point could only be raised by a direct attack in the nature of an ouster, to throw him out of the Governorship because he had not filed the certificate of the oath which he had taken prior to entering upon the duties of his office. It is not possible collaterally to attack the act of any public officer who is acting in full possession of his office by saying, "Oh, well, so and so, this act of his is void. He could not sign this bill. He could not pardon this man." It is necessary to raise that question by a direct attack in the nature of an ouster, or by quo warranto.

Mr. KILGORE. The Senator is absolutely correct. One other thing I wish to read in furtherance of the Senator's idea. He has mentioned the penalty clause. In the 1923 Code we find this:

If any person elected or appointed to an office fails to qualify within the time prescribed by law, the office shall be deemed vacant.

In another section in the same code there is prescribed for appointments to fill vacancies the period of 10 days. I will not read that unless someone wishes to have me do so.

Directly in point with the idea of pretaking of an oath is the Kentucky case of *Taylor* v. *Johnson* (148 Ky. 649). In that State there is a constitutional provision prohibiting one person from holding two offices, which is similar to the one in West Virginia which prohibits the Governor or a Senator from holding two offices. There the officeholder, during the term of his office, was elected to another office, and before his old term expired he took the oath for his new office and gave bond therefor. It was contended that his act in so doing vacated the office he then held, but the highest court of the State of Kentucky, which we all recognize as good authority, held that the taking of the oath and the giving of the bond for the new office while he held the old was merely a preparation to enter into the duties of the second office, and did not in any manner vacate or affect his right to hold the first office.

While this discussion has been taking place I have been thinking of that one feature. The oath is given to the witness at the beginning of a trial to tell the truth, the whole truth, and nothing but the truth. The taking of that oath does not preclude the witness from going back to the witness room and telling an untruth. The taking of that oath does not preclude the witness from telling his lawyer in the back room an untruth. Why? He cannot be prosecuted for swearing falsely if he tells a lie to his lawyer in the back room. If he could, then I believe our jails would have to be expanded in order to hold all those who would be placed in them for violation of such a law. He takes the oath to tell the truth when he goes into the witness room in the trial of that case. That is a perfect parallel to the matter we are discussing. The pretaking of an oath for taking an office is on all fours with the taking of an oath in the trial of a case.

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

Mr. KILGORE. I yield.

Mr. NORRIS. Not only is what the Senator has said true, but in the trial of an ordinary lawsuit, which may last several days, or weeks, or even months, the common practice in all courts, I think, especially when there is to be a separation of witnesses, which is an ordinary occurrence, is for the oath to be administered to all the witnesses at once before the trial really begins.

Mr. KILGORE. As soon as the jury is sworn in my State the oath is administered.

Mr. NORRIS. Yes. And that the witnesses may not testify for weeks afterward.

Mr. KILGORE. Yes.

Mr. NORRIS. Then a witness may go on the stand and be excused, and later called again and perhaps testify as many as half a dozen times. The witness does not take a new oath every time he goes on the witness stand.

Mr. KILGORE. No; and he cannot be prosecuted for false swearing if he tells a lie between the times he appears on the witness stand.

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

Mr. KILGORE. I yield.

Mr. LUCAS. The Senator does not consider the taking of the oath, which is the last step in a chain of events before he can be qualified, as greater than getting elected to the office, does he?

Mr. KILGORE. No. As I said, the pretaking of an oath for taking an office is very similar to the administering of an oath to a witness in a court of law. The oath given a witness does not require him under penalty for false swearing to tell the truth, the whole truth, and nothing but the truth in the witness room or the attorney's office before his going on the stand. If it did, I feel sure there would be many people tried for false swearing. It is merely an oath to tell the truth in the trial of the case when upon the witness stand as a witness, and Neely's oath at 11:45 p. m. on January 12 was an oath to support the constitution beginning at the instant of midnight when his term of office as Governor began.

It was contended that the fact that he had not filed this particular oath in the office of the secretary of state until the beginning of the hearing before the committee made his oath meaningless.

On that line, it was stated here that that oath had been slipped into the record. I have not had time to check that point closely, but I do find that that oath taken at 11:45 p. m. was slipped into the record without anybody knowing anything about it. On page 71 of the record I find the following:

> Senator WILEY. Was it the same as the oath you took which says, "instantly after midnight"?
>
> Governor NEELY. Yes; it was the same, excepting that the certificate did not have the statement "instantly after midnight on the 12th day of January."
>
> Senator WILEY. When did you take that oath?
>
> Governor NEELY. I took it January 12, 1941, at 11:45 p. m.
>
> The CHAIRMAN. Is that in existence?
>
> Governor NEELY. Yes; it is right here. It was taken before Judge Kenna, president of the supreme court of appeals, and on the back of it are the initials of four witnesses who were present when it was taken. Those four witnesses are Howard Caplan, assistant district attorney, A. Hale Watkins—

I will omit reading those names. I continue:

> Senator BRIDGES. Did you take, Governor, a regular oath; hold up your hand and swear?
>
> Governor NEELY. I did. Here is the oath I took.

The oath at this point is in the record.

Mr. STEWART. Will the Senator read the oath that was placed in the record?

Mr. KILGORE. Yes.

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,
County of Kanawha, to wit:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Governor of the State of West Virginia to the best of my skill and judgment so help me God.

MATTHEW M. NEELY.
(Signature of affiant.)

Subscribed and sworn to before me, in said county and State, at 11:45 p. m., this 12th day of January 1941.

JO N. KENNA,
President of the Supreme Court of Appeals.

The same oath is found in the earlier part of the record, where it is shown that it was recorded some 12 days later, I think.

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

Mr. KILGORE. I yield.

Mr. STEWART. That oath was taken within 15 minutes before the term of Governor Holt expired?

Mr. KILGORE. Yes, 15 minutes before what I would class as the dead line.

Mr. STEWART. Yes; and previous to that Governor Neely, then Senator Neely, had filed with Governor Holt his resignation, worded so as to take effect precisely at midnight?

Mr. KILGORE. Yes; 12 hours before that, Senator, as I recollect the record.

Mr. STEWART. Twelve hours before the time it was to take effect?

Mr. KILGORE. Yes.

Mr. STEWART. But the wording of the resignation was that it was to take effect precisely at midnight?

Mr. KILGORE. Yes.

Mr. STEWART. The word "precisely" was used?

Mr. KILGORE. Yes.

Mr. STEWART. In the appointment of Judge Martin, or in one of the commissions issued to him, as I remember the hearings we held, and perhaps it is set out in the printed hearings, it was stated that he was appointed, his appointment to take effect precisely at midnight. It used the word "precisely," did it not?

Mr. KILGORE. Yes, the word "precisely" was used.

Mr. STEWART. Then, what my mind now seeks, and has sought ever since the hearings were begun before our committee, is whether or not there could be an interval, an interim, a time between the resignation of Senator Neely as a Member of the United States Senate, and his induction into office as Governor.

Mr. KILGORE. In my opinion, you would have the same interval between 2 seconds that you had there. There is no interval. It is a point of time, and a point has no length. It is just a mark on the dial of time.

Mr. STEWART. Does the Senator, as a lawyer and as an ex-judge of the State of West Virginia, know anything about the history of the statute that has been referred to here, which provides that the oath of office shall be taken prior to or before the date of induction into office?

Mr. KILGORE. No, sir. There is no particular history attached to that section, except it is based on the constitutional provision providing for the taking of the oath before exercising the duty. There has been in the past, on numerous occasions in the State, conflict of authority around the hour of midnight, and other Governors have taken the oath the same way.

Mr. STEWART. The reason I asked that question is that I was wondering whether or not the legislators of West Virginia in their wisdom in the years past had made such a provision simply to prevent the occurrence of an interval?

Mr. KILGORE. I think it was unquestionably made that way for that reason. I will cite another statutory provision that was made. Back in 1916 the Honorable John J. Cornwell was elected Governor of West Virginia, and following his election, which was somewhat of a surprise election, the legislature of West Virginia was convened by the outgoing Governor, which immediately eliminated and blotted out, by what we commonly call there the Ripper bill, every single appointive office in the State of West Virginia, and reconstituted the same offices, beginning their terms then, and extending them from 5 to 6 years. As the result of that, the legislature and incidentally a Republican legislature, in the session of 1921, passed an act prohibiting such action by giving to the Governor the power to remove appointive officers at will, even though they had been confirmed by the Senate, even though they had been appointed for definite terms, and he still has the power. Going back, reinterpreting everything, this election appears to me to be an expression of the will of the people on that one subject.

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

Mr. KILGORE. I yield.

Mr. HATCH. Of course, the Governor could not remove a United States Senator.

Mr. KILGORE. No.

Mr. HATCH. But does not the statute to which the Senator has just referred, giving the incoming Governor the power to remove all appointive officials, indicate that it was the intention of the lawmaking body, as representatives of the people of West Virginia, that the incoming Governor should not be embarrassed or hamstrung by the action of his predecessor in office trying to reach over and control appointments in the term of the incoming Governor?

Mr. KILGORE. The Senator is absolutely correct. Not only the lawmakers but also the people insisted on that. The most unpopular thing in the State of West Virginia was the old Ripper bill; and that was used, and is still being used, against any member of the legislature which passed it who seeks any political office.

Coming back to the other statute, the statute we have just been discussing states, in substance, that before exercising any authority or performing any duties the person must qualify by taking and subscribing to the oath and filing it

with the secretary of the board. In that instance the statute specifically said that the filing of the oath was a necessary step in the qualification. But such is not the case here. Nowhere in our constitution or statutes is it provided that as a qualifying step the oath must be subscribed to and filed.

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

Mr. KILGORE. I yield.

Mr. O'MAHONEY. I interrupt the Senator because he is now dealing with what seems to me to be one of the crucial points in this case. It has been pointed out this afternoon on the part of the minority of the committee that it is an essential requirement for the Governor to file a certificate of his oath before he may undertake the duties of his office. As I now understand the Senator, he has stated that, in his opinion, that is not the fact.

Mr. KILGORE. That is correct.

Mr. O'MAHONEY. What is the specific requirement of the constitution and the law of West Virginia with respect to qualification of the Governor?

Mr. KILGORE. The provisions with respect to qualifying are the same in the case of the Governor as in the case of other officials. In the first place, I wish to lay a foundation by citing the law behind the Qualls case, on which reliance is placed. The Qualls case, which I was discussing, referred to a member of the board of education appointed to fill an unexpired term. At that time, in 1923, we had a section in our code which has long since been repealed, to the effect that every president and commissioner of a board of education elected or appointed within the State shall, before exercising any authority or performing any duties of his office, qualify as such by taking and subscribing to the oath of office prescribed by section 5, article IV, of the State constitution, which oath shall be filed with the secretary of the board of education of his district. It also provided that if any person elected or appointed to an office should fail to qualify within the time prescribed by law, the office should be deemed vacant.

I have the other section here, which prescribes the time. There are two sections, one of which prescribes the time for regularly elected officers as 60 days. The other prescribes the time for officers appointed to fill vacancies as 10 days. In the Qualls case Qualls failed to take his oath or file it within 10 days, and his office was declared vacant.

Mr. O'MAHONEY. Were there separate statutes, or was there only one statute?

Mr. KILGORE. There were separate statutes referring to the same thing.

Mr. O'MAHONEY. As the Senator just read the language a moment ago, it was not clear to me that the exact language which he read prescribed that the oath should be filed before the particular official whose right to hold office was in question could be qualified to act. Will the Senator read it again?

Mr. KILGORE. The provision was that—

> Every president and commissioner of a board of education elected or appointed within this State shall, before exercising any authority or performing any duties of his office, qualify as such by taking and subscribing to the oath of office prescribed by section 5 of article IV of the State constitution, which oath shall be filed with the secretary of the board of education of his district.

Mr. O'MAHONEY. And the Supreme Court held that the filing was a prerequisite.

Mr. KILGORE. The requirement was included in the same section and was set forth in the opinion of the Court, which held that under that section the filing was a prerequisite.

But West Virginia does not now operate under the same code. It operates under the code of 1931, which is entirely different.

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

Mr. KILGORE. I yield.

Mr. LUCAS. Even in the case referred to, the statute upon which the Supreme Court rendered that decision was a special statute.

Mr. KILGORE. Yes.

Mr. LUCAS. In that case a penalty was attached.

Mr. KILGORE. The penalty was forfeiture of office.

Mr. LUCAS. The penalty was forfeiture of office in the event the oath was not filed.

Mr. KILGORE. Yes.

Mr. LUCAS. Furthermore, in that case reference was made to section 5 of article IV of the constitution.

Mr. KILGORE. That is correct.

Mr. LUCAS. Which provides that every person elected or appointed to any office, before proceeding to exercise the authority or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the constitution of the State.

Mr. KILGORE. Yes.

Mr. LUCAS. That is the oath which the commissioners took.

Mr. KILGORE. Yes.

Mr. LUCAS. It was further provided, and this is the important part so far as the Government is concerned, that he should take an oath faithfully to discharge the duties of his office to the best of his skill and judgment, and that no other oath, declaration, or test, should be required as a qualification "unless herein otherwise provided."

"Herein otherwise provided" means in the Constitution of West Virginia, and not in some statute. As the Senator from Wyoming [Mr. O'MAHONEY], who is a good lawyer, knows, a statute cannot in anywise overrule the constitution. I seriously contend that the only thing the Governor of West Virginia has to do under the statute, which does not qualify the constitution itself in any respect is to take the oath; and that no further test or declaration is required. The filing of an oath is a further test or declaration. The Constitution of the State of West Virginia specifically provides that a prohibition of that kind shall not in any way hinder the matter of taking the oath. All the Governor has to do is to take the oath. He does not have to give a bond. There is nothing in the Constitution of West Virginia as to when the Governor shall file the oath.

As I see it, the office of Governor is in an entirely different situation from the office of a member of the board of education, about which the Senator was speaking a moment ago. The office of Governor is the highest office in the State. It does not require all the things required of a justice of the peace or a constable. The very dignity of the office itself is such that such requirements are not made. If the Governor of a State is not required to give a bond, why should he be required to file an oath with the secretary of state before he may become Governor? I think that is one of the most absurd arguments to which I have listened, in view of what the law plainly says in the particular section of the constitution to which reference has been made. I have read it and reread it in my research, and I cannot get away from it. The case upon which reliance is placed is so special and peculiar in its nature, under the special statute which was passed, that it has nothing to do with the question before us. How is a Governor to be removed from office if he does not file an oath? Is there anything in the statutes or in the Constitution of West Virginia which provides that he shall forfeit his office if he does not file an oath? Absolutely not.

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

Mr. KILGORE. I yield.

Mr. O'MAHONEY. I feel quite clear in my mind that the Qualls case has no relevancy at all to this issue, because, as the Senator from West Virginia has said and as the Senator from Illinois has just said, it came up under a special statute referring to a special case, and not to the governorship. My questions were directed to the Senator because of the argument which was made here earlier in the day with respect to certain statutes of the State of West Virginia which are set forth in the record of the hearings on pages 235 and 236; and if the Senator will be good enough to bear with me, I should like very much to direct his attention to them.

Mr. KILGORE. Certainly.

Mr. O'MAHONEY. Because the construction of these statutes, so far as the governorship is concerned, seem to me to have a great deal to do with the conclusion which must be reached in this case.

Attention has been called to the fact that in the West Virginia Code, chapter 2, article 2, section 10 (e), it is provided—this is the second paragraph under the heading "Statutory provisions"—and I am quoting the code:

> An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the authority and discharge the duties of his office.

Of course, that is just good common sense. It merely is stating that before an officer shall undertake to discharge the duties of a position, he shall have qualified by performing all the acts which the law requires him to perform before he assumes the duties.

On page 236 there appear certain extracts from section 6 of article 1 of chapter 6 of the code, which read as follows:

Certificates of oaths. * * * Certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state. * * *

It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath as provided in this section.

My question is whether that provision has ever been construed by the courts of West Virginia as requiring, in general cases, that the certificate of the oath shall be filed by the person before the person shall undertake to discharge the duties of the office.

Mr. KILGORE. No, sir; it has never been so construed. The question has never been raised; but I desire to make the point that in the brief that was filed there were too many asterisks and not enough text to make the law clear. In other words, too much was left out and not enough was put in. All of us know that it is possible to leave out certain sentences and make matter read almost in any way.

Mr. O'MAHONEY. Is the Senator referring to what I have just read?

Mr. KILGORE. The part that was left out is further up in the section. It goes back to the old board of education:

Certificates of the oaths of members of boards of education and school officers of any district or independent school district shall be filed, recorded, and preserved in the office of the secretary of such board, and certified copies thereof filed and recorded in the office of the clerk of the county court of the county of such district.

Now let us go down to the last that is printed:

It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath as provided in this section.

That could only mean those who filed certified copies; and since the oath provision in the section is for the members of the board of education who filed their original certificates in an office that is not an office of record, it imposes on them the duty of getting certified copies of them.

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

Mr. O'MAHONEY. But, if I understand the Senator, he is omitting in his construction certain language which appears here.

Mr. KILGORE. I am explaining the words "It shall be the duty."

Now, let us refer to the preceding text.

Mr. AUSTIN. Mr. President, will the Senator yield for a correction?

The PRESIDING OFFICER (Mr. McFARLAND in the chair). Does the Senator from West Virginia yield to the Senator from Vermont?

Mr. O'MAHONEY. Mr. President, will the Senator pardon me until I make this point clear?

Mr. AUSTIN. Either the record of the hearings is wrong or the reading is wrong, and it should be straightened out.

Mr. O'MAHONEY. That is just what I am trying to do.

The PRESIDING OFFICER. Does the Senator from West Virginia yield? If so, to whom?

Mr. KILGORE. I yield to the Senator from Wyoming.

Mr. O'MAHONEY. Will the Senator from Vermont pardon me if I continue for just a moment?

In reading from the statute to which the Senator refers, in which he adverts to what has been omitted from section 6, chapter 6, article 1, on page 236, the Senator read, as I understood him, certain provisions dealing with certain boards.

Mr. KILGORE. Yes.

Mr. O'MAHONEY. But in the hearings we find some language which the Senator did not read. The following is the language to which I direct the Senator's attention:

Certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state.

Does that provision require the Governor to file a certificate in the office of the secretary of state?

Mr. KILGORE. That is the point I was trying to explain, the explanation being as follows: That is a very long section; it is divided into sentences, each of which sentences refers to a particular group of officers. For instance, the heading of the section is:

Where certificates of oaths filed:

Certificates of the oaths of all magisterial district and county officers, and judges of courts of limited jurisdiction within any county, shall be filed, recorded, and preserved in the office of the clerk of the county court of the county.

It does not say who shall file them.

Certificates of the oaths of members of boards of education and school officers of any district or independent school district shall be filed, recorded, and preserved in the office of the secretary of such board, and certified copies thereof filed and recorded in the office of the clerk of the county court of the county of such district.

It should be noted there that provision is made for the filing of certified copies.

Certificates of the oaths of all municipal officers shall be filed, recorded, and preserved in the office of the clerk or recorder of such municipality, or other officer created or acting in lieu of such clerk or recorder, and certified copies thereof filed and recorded in the office of the clerk of the county court of the county in which such municipality is situated.

It will be noted that there is a provision there for certified copies.

Mr. O'MAHONEY. Yes; but let us get to the provisions with reference to the Governor.

Mr. KILGORE. I ask the Senator to wait until I have finished this part of my discussion.

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

Mr. KILGORE. I read the following:

Certificates of the official oaths of the members of the State senate and house of delegates shall be filed and recorded as provided in section 16 of article 6 of the constitution of this State. Certificates of the oaths of all other officers shall be filed and preserved in the office of the secretary of state. At any time after the expiration of the term of office for which the oath was taken, the original certificate or certified copy thereof, but not the record, may be destroyed, unless further preservation thereof shall be required by the order of some court, in which event the same may be destroyed when the preservation thereof is no longer required.

The next sentence reads as follows:

It shall be the duty of every person who takes an oath of office to procure and file in the proper office the certified copies of his certificate of oath as provided in this section.

The last sentence put in there is attached to the wrong group of officers. It refers only to school officials and municipal officials whose certificates are preserved.

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

Mr. O'MAHONEY. But the Senator from West Virginia overlooks the language to which I am directing his attention, namely:

Certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state.

Mr. KILGORE. Certainly.

Mr. O'MAHONEY. Does that require the person who desires to be Governor to file a certificate of his oath in the office of the secretary of state?

Mr. KILGORE. I do not think so, and it has never been so held.

Mr. O'MAHONEY. Now, let me ask this question:

The Senator has just read something about the filing of certificates of the oaths of members of the legislature, of the senate. Would a member of the senate be ineligible to discharge his legislative duties if the certificate were not filed?

Mr. KILGORE. The Senator from Wyoming must realize that, as in the United States Senate, those oaths are taken in the senate chamber by the clerk of the senate and are preserved by him. They are oral oaths, signed there, just exactly as in the United States Senate.

Mr. O'MAHONEY. I understand the Senator to contend that it has never been construed in West Virginia that the filing of the certificate of the oath of a Governor is a prerequisite to his discharging the duties of the office.

Mr. KILGORE. Certainly not the filing at any particular time.

Mr. O'MAHONEY. Suppose it were never filed. Would the Governor be ineligible to discharge his duties?

Mr. KILGORE. No, sir. How could his action be attacked?

Mr. O'MAHONEY. The Senator is not arguing with me.

Mr. KILGORE. I know it.

Mr. O'MAHONEY. Of course, the Senator understands that I am merely trying to get his contention in my own mind and to interpret what has already been said here.

What, in the Senator's opinion, is the effect of section 10 (e), article 2, chapter 2, of the code, which I am about to read, having in mind what has been said with respect to the filing of the certificates of oaths? This is on page 235:

An officer shall be deemed to have qualified when he has done all that the law required him to do before he proceeds to exercise the

authority and discharge the duties of his office.

Mr. KILGORE. My interpretation of that provision is that when the officer has taken his oath, held up his hand and signed the place on the oath, if he is otherwise qualified, he goes ahead and discharges his duties. There is only one reason for preserving that oath, and that is for his protection, to show that he is legally discharging the duties of the office.

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

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

Mr. KILGORE. Will the Senator wait for a second?

Mr. O'MAHONEY. I shall be through in a moment.

Mr. AUSTIN. I ask if both Senators will yield.

Mr. O'MAHONEY. Mr. President, will the Senator from Vermont be good enough to let me ask a final question?

Mr. AUSTIN. Certainly; but we shall be so far from the question I wanted to ask that it will not amount to anything. I have been trying for a long time merely to get an accurate basis——

Mr. KILGORE. Go ahead.

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

Mr. KILGORE. I yield to the Senator from Vermont.

Mr. AUSTIN. My question is simply this: When the Senator from West Virginia read something purporting to come from the Code of West Virginia, was he reading from chapter 6, article 1, section 6?

Mr. KILGORE. Section 6, article 1, chapter 6 of the Code of West Virginia of 1931, which is section 271.

Mr. AUSTIN. Is the record incorrect when it quotes in this manner:

> Certificates of the oaths of all other officials shall be filed, recorded, and preserved in the office of the secretary of state.

Is that an incorrect quotation?

Mr. KILGORE. That is a correct quotation.

Mr. AUSTIN. I am satisfied with that, Mr. President. I shall have something to say in argument about this matter later.

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

Mr. O'MAHONEY. Now let me ask my final question.

Mr. KILGORE. I yield to the Senator from Wyoming.

Mr. O'MAHONEY. So far as the discussion which has gone forward today upon this issue is concerned, it would appear that the only allegation of any provision or qualification of the Governor in the Constitution of the statutes of West Virginia is that he shall take an oath, unless the contention of the minority is correct that the certificate should be filed. Are there any other qualifications?

Mr. KILGORE. No, sir; except the usual qualifications of citizenship, age, and he cannot discharge the duties of Governor while he holds any other office.

Mr. O'MAHONEY. Have those statutes been set forth anywhere in the RECORD?

Mr. KILGORE. I believe every one of them has been. Most of them have been. I know I have them all here.

Mr. O'MAHONEY. I have been unable to find them in the RECORD. I was anxious to know whether there was any specific constitutional or statutory provision dealing with the governorship, saying, "These are the qualifications of the Governor."

Mr. KILGORE. Nothing except what is in the constitution.

Mr. O'MAHONEY. And the constitution sets forth age, citizenship——

Mr. KILGORE. And that he must reside in the capital city.

Mr. O'MAHONEY. And that he shall not hold——

Mr. KILGORE. That he shall not hold any other office while exercising the duties of his office as Governor.

Mr. O'MAHONEY. So it is the Senator's contention that unless the two statutes which we have been reading now change the situation, the only requirement for the Governor, having filled these qualifications as to age, citizenship, and so forth, is that he shall take the oath before his term begins?

Mr. KILGORE. Yes, sir.

Mr. O'MAHONEY. I thank the Senator.

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

Mr. KILGORE. Yes, sir.

Mr. BARKLEY. There seems to have been some confusion injected, growing out of the fact that two sections deal with the Governor's duties with respect to the matter of qualification. One section provides that before he shall enter upon the duties of his office he shall take an oath. If it had gone on and said, "and shall file that oath in the office of the secretary of state," I think it would be obvious that he could not enter upon the duties of Governor until he had done both those things.

Mr. KILGORE. That is the point I was about to make.

Mr. BARKLEY. But the requirement that the certified copy shall be filed in the office of the secretary of state is not one of the mandatory things set out in the section stating what he must do before he proceeds to act as Governor. Even if the language read by the Senator from West Virginia and by the Senator from Wyoming and by the Senator from Vermont should include the Governor when it says that all other officials shall secure certified copies of the certificates of oath and file them in the office of the secretary of state, if we may assume for the sake of argument that that includes the Governor, I think it is bound to be admitted that he must secure that certified copy from somebody who has it.

Mr. KILGORE. That is correct.

Mr. BARKLEY. He does not have it. He cannot certify to his own oath of office. He must procure that certificate from somebody else; and naturally that person would be the officer administering the oath—in this case, the judge of the supreme court.

If the Governor signed the oath immediately, and instantly upon beginning his term of office at what we call an inauguration, which frequently happens in the middle of the day, although the legal term begins at midnight before, it would be manifestly ridiculous and impossible to require that he should get down off the inaugural platform, go out and hunt up the judge who had administered the oath, get a certified copy of it, take it over to the office of the secretary of state, file it there, get the receipt of the secretary of state, and then come back and complete his inaugural address before he should become Governor of the State.

Mr. KILGORE. That is correct.

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

Mr. KILGORE. I yield.

Mr. CLARK of Missouri. If the oath that was filed at 11:35 on the night of the 12th of January——

Mr. KILGORE. Not filed, if the Senator please. The oath was administered at that time.

Mr. CLARK of Missouri. I mean, taken at 11:35 on the night of the 12th of January—if that oath did not need to be filed, if it was not a requisite, why was it slipped into the record of the Senate Committee on Privileges and Elections as of the date of January 16?

Mr. KILGORE. Does the Senator mean 11:35 or 11:45?

Mr. CLARK of Missouri. I mean the one taken at 11:35—the one that was certified by the secretary of state as of the 25th of January, which was relied on here today. Why was that oath put into the record of the Senate committee as of the date of January 16 if it was not a prerequisite? It was never put into the record at all until after the question had been raised in the hearing.

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

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

Mr. LUCAS. I do not know what the record shows, but I distinctly remember——

Mr. CLARK of Missouri. It is in front of every Member of the Senate, on his desk.

Mr. LUCAS. That is all right. I did not yield to the Senator from Missouri.

Mr. CLARK of Missouri. The Senator from Illinois did not have the floor. I did not ask him to yield.

Mr. LUCAS. I know; but the Senator from Missouri has not the floor, either. The Senator from West Virginia yielded to me. I have the floor, and I am going to keep the floor, notwithstanding the remarks of the Senator from Missouri to the contrary, inasmuch as the Senator from West Virginia yielded to me. That is one of the chief traits of the Senator from Missouri—rising——

Mr. CLARK of Missouri. Mr. President, I make the point of order that the Senator from West Virginia has no right to yield for anything except a question, under the rules of the Senate.

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

Mr. KILGORE. I yielded to the Senator from Illinois.

Mr. CLARK of Missouri. For a question. That is all the Senator has a right to yield for.

Mr. LUCAS. I raise another point of order—that the Senator from Missouri

has no right to tell anyone here just what he can or cannot do.

Mr. CLARK of Missouri. I make the point of order, and I give notice, that if the Senator from West Virginia shall yield for anything except a question I will make the point of order.

Mr. LUCAS. The Senator is one who wants to run the Senate all the time; and if he cannot, he is not having a good time.

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

Mr. KILGORE. I yield to the Senator from Illinois for a question.

Mr. CLARK of Missouri. I make the point of order that the Senator from West Virginia has no right to yield for anything except a question.

Mr. LUCAS. Very well. Assuming, in compliance with the very technical parliamentary situation which the Senator from Missouri now wants me to follow—assuming that the record does not show anything about what the Senator from Missouri has said was slipped into the record, I wish to say——

Mr. CLARK of Missouri. I make the point of order that that is not a question.

The PRESIDING OFFICER (Mr. HATCH in the chair). The point of order is overruled. The Senator from West Virginia may yield for any purpose he desires. He may yield the floor, if he desires.

Mr. CLARK of Missouri. I call attention to the fact, then, that it is customary in the Senate to give notice, and I give notice that if the Senator from West Virginia yields for anything except a question, I will make the point of order that he has yielded the floor.

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

Mr. KILGORE. I yield for a question, and I certainly think the Senator has a right to state the preamble to his question, the base on which it is founded.

The PRESIDING OFFICER. The Senator will proceed.

Mr. LUCAS. Assuming that the record the Senator has in front of him does show that the oath that was taken at 11:45 is now in the record—regardless of that fact, while I do not know what the record shows, I distinctly remember that when Matthew Neely came before our committee—I do not know whether the reporter got this or not—I distinctly remember that when he came before our committee that oath, taken at 11:45, was discussed before the committee.

Mr. KILGORE. The Senator from Illinois——

Mr. LUCAS. Mr. President, I raise the point of order that the Senator from Missouri is out of order. Does the Senator from West Virginia remember what I have just stated?

Mr. KILGORE. I remember it, and it is in the record. Evidently the record has not been very carefully scanned.

Mr. CLARK of Missouri. At this point I make the point of order that the Senator from West Virginia has yielded the floor.

The PRESIDING OFFICER. The point of order is overruled.

Mr. KILGORE. I yield for a question, and the necessary preamble.

Mr. LUCAS. I should like to have the Senator read the record for the benefit of the Senator from Missouri.

Mr. KILGORE. Mr. President, may I read from the record? I read from it once.

Mr. CHANDLER. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Kentucky?

Mr. KILGORE. Not until I finish reading from the record.

On page 71 of the record will be found these questions and answers. I read this once; unfortunately the Senator from Missouri and the Senator from Kentucky were out of the Chamber. After the question had been raised as to this having been slipped into the record, I began to inquire into it. I have not completed my research as yet, but I have found two places to which I wish to refer.

Mr. CLARK of Missouri. I make the point of order that under the rules of the Senate anything to be read shall be read from the desk by permission of the Senate.

The PRESIDING OFFICER. The point of order is overruled.

Mr. KILGORE. Mr. President, this question was asked by the Senator from Wisconsin [Mr. WILEY]:

> Was it the same as the oath—

He was referring to the 12-o'clock oath:

> Was it the same as the oath you took which says, "instantly after midnight?"
>
> Governor NEELY. Yes; it was the same, excepting that the certificate did not have the statement "instantly after midnight on the 12th day of January."
>
> Senator WILEY. When did you take that oath?
>
> Governor NEELY. I took it January 12, 1941, at 11:45 p. m.
>
> The CHAIRMAN. Is that in existence?
>
> Governor NEELY. Yes; it is right here.

Then on page 80 of the same record we find this. I have not had time to check all these references.

> You were sworn in three times, were you not, Governor?

Mr. CHANDLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Kentucky?

Mr. KILGORE. Not until I finish this reading.

> Governor NEELY. Yes; I was.
>
> Senator TUNNELL. When did you take the second oath?
>
> Governor NEELY. I subscribed to three oaths. Two before 12 o'clock midnight, and one, instantly after midnight. This one [indicating] is the first. It was executed at 11:35 p. m., January 12, 1941, and I wrote into it, after "so help me God," the following:
>
> "This oath is taken with the intent that it shall become effective the instant after I am completely divested of my office as United States Senator by virtue of my tender of resignation of the said office of Senator to Gov. Homer A. Holt."

Now I yield.

Mr. CHANDLER. Mr. President, I was the one who said that the oaths were slipped into the record, and I said it on the authority of Mr. Raymond Barnett, the clerk of the committee. They were slipped into the record, and they were not put there until after the matter was discussed, and they were not put there until sometime between the 23d and the 25th of January. The present Governor of West Virginia took four oaths, and after we began to discuss it in the committee——

Mr. KILGORE. I merely yielded for a question.

Mr. CHANDLER. Very well; I will make the statement some other time.

Mr. KILGORE. Getting back to the question, the statutes involved stated in substance that before exercising any authority or performing any duties the person must qualify by taking and subscribing to the oath and filing it with the secretary of the board. There the statutes specifically said that as a step in the qualification the filing of the oath was a necessary one. But such is not the case here. Nowhere in our constitution, nowhere in our statutes, does it say that as a qualifying step the oath must be subscribed to and filed. To demonstrate the truth of this statement, I refer you to section 7, article 1, chapter 4, Code of West Virginia, 1931, which provides that no person shall enter into an office or discharge the duties thereof, and so forth, before taking the oath of office.

There is no mention of filing the oath. That filing statute was put in for the preservation of oaths. Please note that the statute does not say that a person must not only take his oath but must subscribe to it and file it before entering into his office and discharging its duties. Further, section 5, article IV, of the West Virginia Constitution, which prescribes the oath to be taken, states in substance that every person elected or appointed before—and please note the word "before"—proceeding to exercise the authority or discharge the duties of that office shall make oath, and so forth, "and no other oath, declaration, or test shall be required as a qualification unless herein otherwise provided." The constitution does not require the filing of an oath. If, as contended by the supporters of Mr. Martin, the filing of the oath is a necessary step in qualification, it is indeed strange that the framers of our constitution omitted to so state in the constitution.

It, therefore, appears to me that there is just one conclusion to reach. From a study of the election returns of the State of West Virginia it appears to be unquestioned that the voters of that State, well knowing the desire of appointment, and the intention of Neely to appoint a man to succeed him in the Senate if he were elected, went ahead and nominated him by a substantial majority and elected him by a still more substantial majority.

Mr. LUCAS. Will the Senator yield?

Mr. KILGORE. I yield.

Mr. LUCAS. I will wait until the Senator has finished the trend of his thought.

Mr. KILGORE. There is no question that under the laws of West Virginia it is not only possible but proper for the Senate of the United States to carry out

the express wishes of the people of West Virginia. I yield.

Mr. LUCAS. I should like to ask the Senator whether he was in the Chamber this afternoon when the supreme court judge of West Virginia testified, by way of a letter, which was introduced into the RECORD.

Mr. KILGORE. He is not a supreme court judge. Neither of those gentlemen is on the supreme court, nor has been on the Supreme Court of West Virginia for some 9, 10, or 12 years. I know both of them. I know both Judge Meredith and Judge Lively. They were on the court at the time the Qualls decision was written.

Mr. LUCAS and Mr. CHANDLER addressed the Chair.

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

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

Mr. LUCAS. My only reason for asking the question——

Mr. CLARK of Missouri. Mr. President, I again make the point of order that the Senator from West Virginia yielded the floor by permitting a statement, not once but twice, from the Senator from Illinois.

The PRESIDING OFFICER. The Chair cannot anticipate what the Senator from Illinois is going to say.

Mr. CLARK of Missouri. The Senator from Illinois has already proceeded far enough by way of statement to show that he is not asking a question; he is stating his own views. I make the point of order that the Senator from West Virginia has yielded the floor.

The PRESIDING OFFICER. The point of order is overruled.

Mr. KILGORE. I yielded for a question.

Mr. CLARK of Missouri. I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Senator from Missouri has appealed from the decision of the Chair.

Mr. CLARK of Missouri. Pending that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate; and the Senator from Missouri suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

During the calling of the roll the following occurred:

Mr. CHANDLER. Mr. President, with the consent of the Senator from Missouri [Mr. CLARK], I ask unanimous consent that the suggestion of the absence of a quorum be withdrawn.

Mr. CLARK of Missouri. I agree to the request of the Senator from Kentucky. My only reason for making the point of no quorum was that the Senator from West Virginia [Mr. KILGORE] violated the parliamentary practice by yielding twice to the Senator from Illinois [Mr. LUCAS] to make a personal attack on me.

Mr. LUCAS. Mr. President, a parliamentary inquiry.

Mr. BARKLEY. Has the roll call developed the absence of a quorum?

The PRESIDING OFFICER. The roll call has not been completed.

Mr. BARKLEY. The roll call has not been completed, and the only thing the Senate can do in that posture is either to require the attendance of Senators or adjourn. Certainly, we cannot engage in a promiscuous debate here when there is no quorum developed.

Mr. CHANDLER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHANDLER. The Senate, by unanimous consent, can do anything it can do in any other way, and I have asked unanimous consent that the suggestion of the absence of a quorum be withdrawn.

The PRESIDING OFFICER. The Chair will rule that in the present status of the calling of the roll the only matter properly before the Senate at this time is the request of the Senator from Kentucky for unanimous consent that the order for a quorum call be vacated, that request being made with the consent and approval of the Senator from Missouri [Mr. CLARK].

Mr. CLARK of Missouri. I insist that that request be stricken out.

Mr. CHANDLER. I make the request that the order be vacated on my own motion.

The PRESIDING OFFICER. The junior Senator from Kentucky requests that the order for a roll call be vacated. Is there objection to the request?

Mr. GUFFEY. Mr. President, what is the request?

The PRESIDING OFFICER. That the order for a quorum roll call be vacated. Is there objection? The Chair hears none, and hearing no objection, the order is vacated.

The Senator from West Virginia is recognized.

Mr. BONE. Mr. President, I ask the Senator from West Virginia to yield. If there is objection I shall not ask it. Will the Senator yield while I ask the Chair a parliamentary question?

Mr. KILGORE. I yield.

The PRESIDING OFFICER. Does the Senator from Washington desire to interrogate the Chair?

Mr. BONE. Yes. If I happen to be making one of my very infrequent speeches on the Senate floor, and I should yield to a Senator to ask me a question, and he should then make a statement, by reason of that fact would I be taken summarily from the floor, when I have no control over the question the Senator intends to ask, or the statement he makes? Is it my duty to stop him by force, if necessity demands it, or am I to be made helpless as a Senator because some other Senator proceeds to make a brief statement before asking me a question? I should like to be informed with respect to the procedure in such a case.

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that in such a situation, if the statement leads to the point that the Senator having the floor is aware that it is not a question, he could reclaim the floor in his own right.

Mr. BONE. Then he should suppress the question. Is that correct?

The PRESIDING OFFICER. Yes.

Mr. BARKLEY. Mr. President, may I ask the Senator from West Virginia whether he desires to conclude his remarks this afternoon? Does the Senator want to finish his remarks or wait until tomorrow to conclude?

Mr. KILGORE. I would like to defer until tomorrow. I yield to the Senator now.

Mr. BARKLEY. So far as I am concerned, I am ready to move now to take a recess.

Mr. TOBEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from New Hampshire?

Mr. BARKLEY. I was about to move that the Senate proceed to the consideration of executive business.

Mr. TOBEY. I was getting ready to make a 10-minute speech.

Mr. BARKLEY. Could not the Senator defer it until tomorrow?

Mr. TOBEY. Under the circumstances, I think I shall.

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.

The PRESIDING OFFICER (Mr. HATCH in the chair). If there be no reports of committees, the clerk will state the nominations on the calendar.

Mr. TOBEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOBEY. What is the situation as to who has the floor?

The PRESIDING OFFICER. The Senate is now in executive session, preparing to call the calendar.

Mr. TOBEY. I rise only because I was told that I was to be recognized by the Chair at the conclusion of the remarks of the Senator from West Virginia [Mr. KILGORE].

The PRESIDING OFFICER. The present occupant of the chair was informed by the preceding occupant of the chair that the Senator from New Hampshire desired recognition. The Chair has recognized the Senator from Kentucky. The Chair thought that the Senator from Kentucky and the Senator from New Hampshire had some sort of an understanding.

Mr. BARKLEY. I asked the Senator from West Virginia whether or not he would be able to conclude his remarks tonight. He indicated that he would not. Of course, that would not interfere with the recognition of the Senator from New Hampshire at the conclusion of the remarks of the Senator from West Virginia; but I think in all fairness the Senator from West Virginia ought to be permitted to conclude his remarks when we resume tomorrow.

Mr. TOBEY. I understood that the Senator from West Virginia had concluded his remarks.

Mr. BARKLEY. No.

Mr. TOBEY. Is it the desire of the Senator from Kentucky that the Senator from West Virginia first conclude his remarks?

Mr. BARKLEY. Yes.

Mr. TOBEY. I concur in that view. I misunderstood the situation. When he shall have concluded his remarks, if it is not too late, I shall then seek recognition.

Mr. BARKLEY. I am sure they will be concluded early tomorrow.

Mr. TOBEY. Is the Senator referring to the remarks of the Senator from West Virginia?

Mr. BARKLEY. Yes. The Senator from West Virginia advised me that he was not able to finish his remarks tonight, and therefore I plan to move for a recess until tomorrow.

Mr. TOBEY. I beg the Senator's pardon. I did not understand.

Mr. BARKLEY. I presume the Senator from West Virginia will be able to conclude his remarks within a reasonable time tomorrow.

Mr. TOBEY. Mr. President, the Senator is more familiar with the situation than I am. I should particularly like to speak to the Senate tonight on a certain subject, for about 10 minutes. Could that be arranged?

Mr. BARKLEY. I certainly have no objection to the Senator speaking tonight. If the Members who are present are willing to remain, I should rather have the Senator speak tonight than tomorrow.

Mr. TOBEY. What is the modus operandi?

Mr. BARKLEY. After we shall have concluded the Executive Calendar, I shall move that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. If there be no reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY—UNITED STATES MARSHAL

The legislative clerk read the nomination of James Joseph Gillespie to be United States marshal for the southern district of Iowa.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. BARKLEY. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That concludes the calendar.

LEGISLATIVE SESSION

Mr. BARKLEY. I move that the Senate resume the consideration of legislative business.

The motion was agreed to.

SINKINGS OF CARGO SHIPS AND NEED FOR CONVOYS

Mr. TOBEY. Mr. President, first I wish to thank the majority leader for his cooperation and kindness to me. I regret that because of circumstances of a personal nature I must make this speech this afternoon or not at all. In my humble opinion, if the Senate and the country at large should lose this speech, it might not be a great disaster, but they would miss some information and facts which I deem very pertinent in this crucial epoch.

Mr. President, for many weeks members of the President's Cabinet, beyond peradventure speaking with the sanction of the President, have been crying out for convoys. They have been joined by Wendell Willkie, Chairman Vinson of the House Naval Affairs Committee, Admiral Land of the Maritime Commission; Hon. Sol Bloom, chairman of the House Foreign Affairs Committee; Mayor LaGuardia, who has frequently been in conference with the President; and others. The whole argument has been that ships in large numbers are being sunk in the Atlantic and that therefore it is imperative that this country embark on convoys, even though convoys admittedly mean war.

The Washington Post, in an editorial of yesterday, said that 40 percent of our exports to Britain were being sunk. Yesterday the Senator from Michigan [Mr. VANDENBERG] placed in the CONGRESSIONAL RECORD a letter from Admiral Land, dated May 5, giving the official information on shipments from the United States to Great Britain. This official information revealed the amazing fact that from December 30, 1940, to March 31, 1941, only 8 out of a total of 205 vessels cleared from the United States to the United Kingdom were sunk.

These official figures were available to the President and his Cabinet members, and yet for the past several weeks they have hidden them from the people. Why has not the President been frank with the people on this issue? In September 1939 he broadcast to the millions of Americans, saying:

> You are, I believe, the most enlightened and the best informed people in all the world at this moment. You are subjected to no censorship of news, and I want to add that your Government has no information which it has any thought of withholding from you.

Words! Words! Words! Meaningless words! Misleading words coming from the lips of the President of the United States.

No better evidence could be offered than that of the timely remarks of the able senior Senator from Michigan giving the factual information which the President has been keeping back from the people all these weeks.

On April 9 Admiral Land, the man who gave these official figures to the Senator from Michigan, and who knew the true situation, spoke over the radio to the American people. He spoke of the huge bonfire of submarines and urged an "all out" aid to Britain which would put out the fire on the Atlantic Ocean. Why did Admiral Land convey the impression that many vessels were being sunk, in the light of the figures which he had and which he kept back from the people?

Again I say, words; words; words; deceitful words at a time when the people have a right to know the facts. The American people are not children. They have been promised the truth. Why was it not given to them? This situation shows the means that have been used to steal the minds of the American people in this matter of war or peace. Let a man like Lindbergh speak from conviction and give factual information and he is called a copperhead. Let the President and Admiral Land withhold vital information from the people, and what have you? You have an example of the administration's anesthesia and soporific breathed upon the American people to lull them to sleep and to cloud their vision and obscure the real truths from them and from Congress. In the last analysis it is we, who are the servants of the people and who have a solemn duty to represent the people; and that goes for the President as well.

Let the administration's spokesmen mislead the American people on the amount of shipping losses, and you have what the administration calls freedom of speech; but let Colonel Lindbergh speak his honest convictions and give the facts that he knows, and what have you? In reality you have democracy in action; but in the words of the President you are a copperhead.

Where is our vaunted freedom of speech, if officials of the Government are so gagged that they cannot speak their minds? As was so well said by Thomas Joseph McSpadden, of Lexington, Va., who recently wrote to me:

> A one-way freedom of speech is not freedom, not American, not democratic. If we must first find out what is in the mind of the President, much as we admire him, and then speak that mind and nothing else, what are we to claim as a distinction between our brand of dictatorship and that of Hitler?

There is something just as essential as freedom of speech in this country, and that is candor, frankness, and honesty with the American people. The President has not displayed it. The administration has withheld from the American people the true facts about the ship sinkings. Why?

Let me read some of the statements made by some of the administration leaders during the past month. These are taken from the Washington Daily News of May 7, 1941:

> April 9: Maritime Commission Chairman Emory S. Land—"In the field of shipping aid to Britain, there is a huge bonfire burning—the submarine menace. * * * We might well ask ourselves in our all-out aid to Britain if we could not give greater help by aiding the British to put out the fire rather than by concentrating most of our efforts on feeding it with fuel."

Did he give us the facts about the ship sinkings? He did not.

> April 24: Secretary of State Hull—"It is high time the remaining free countries should arm to the fullest extent and in the briefest time humanly possible and act for their self-preservation. * * * Aid (to Britain) must reach its destination in the shortest time in maximum quantity. So ways must be found to do this."

Did he give us the facts about the ship sinkings? He did not.

> April 24: Navy Secretary Knox—"We have declared the fight that England is making is our fight * * *. Having gone thus far we cannot back down. * * * Hitler cannot allow our war supplies and food to reach

England. We cannot allow our goods to be sunk in the Atlantic. We must make our promise good to give aid to Britain * * *."

Did he give us the facts about the ship sinkings? He did not.

April 25: President Roosevelt at a press conference—"United States neutrality patrols will be sent as far into the waters of the seven seas as may be necessary for the protection of the American hemisphere."

Did he give us the facts about the ship sinkings? He did not.

April 29: President Roosevelt at press conference—"Legal authority exists to send American warships into combat zones. * * * This does not necessarily mean such action will be taken."

Did he give us the facts about the ship sinkings? He did not.

April 30: President Roosevelt in broadcast opening defense savings campaign—"We must fight this threat (of aggression) wherever it appears."

Did he give us the facts about the ship sinkings? He did not.

May 3: Wendell Willkie at Washington—"The state of sinkings is so serious that we should protect our cargoes of arms and foods to England."

Did he tell us the facts about the ship sinkings? He did not.

May 4: President Roosevelt in speech dedicating birthplace of World War President Woodrow Wilson at Staunton, Va.—"* * * Freedom of democracy in the world * * * is the kind of faith for which we have fought before, for the existence of which we are ever ready to fight again."

Did he tell us the facts about the ship sinkings? He did not.

May 5: Chairman CARL VINSON, of the House Naval Affairs Committee—"I am for convoys now."

Did he tell us the facts about the ship sinkings? He did not.

May 5: Representative E. E. COX (Democrat, Georgia) in House speech—"* * * Of course, we are going to convoy, and we are going to convoy right away."

Did he tell us the facts about the ship sinkings? He did not.

May 6: Senator CLAUDE PEPPER (Democrat, Florida), who pioneered all-out aid to Britain, in Senate speech—"The American people are 'willing to spill their blood' to crush Hitler and are eagerly awaiting 'responsible and authoritative Government leadership to put forward a program to defeat the Axis Powers.'"

Did he tell us the facts about the ship sinkings? He did not.

Just 8 days ago a motion was made by the Senator from North Dakota [Mr. NYE] in a closed meeting of the Foreign Relations Committee to invite officials of the State Department, Treasury Department, Navy Department, and the Office of Production Management to appear before the committee and give information to the committee which would let us in the legislative branch of the Government know the facts about the extent of ship losses. This motion was voted down. Why did the Foreign Relations Committee vote against getting this information?

Why did the Senator from Kentucky [Mr. BARKLEY], who is a member of that committee, say on the Senate floor during consideration of the lend-lease bill?—

He—the President—has already announced that he will not use the Navy for convoy service in connection with the defense articles provided for in this bill.

Did he mean by that statement that the President will not sanction convoys to get the goods to England? If not, what did he mean?

In the light of Admiral Land's figures, the question of convoys resolves itself into the question of whether we shall convoy, and thereby get into the war, in order to prevent 4 percent of the ships which leave our shores for England from being sunk. Is it worth while to make such an immeasurable and enormous sacrifice for such a small and questionable gain?

A United Press dispatch of April 29 reported in part the following remarks of the Senator from Florida [Mr. PEPPER], which he made in an address to the women democratic leaders attending a regional conference for 16 Southern and border States. I quote:

The people of the country have kept the Congress from impeaching the President for what he has already done in connection with the European war.

Mr. President, to my knowledge this is the first time that an administration member of this body has publicly stated that the Congress has a desire to impeach President Franklin Delano Roosevelt for his activities in connection with the European war.

What was on the mind of the Senator from Florida when he made that interesting observation?

The United Press further quotes the Senator from Florida as follows:

Congress is paralyzed. It doesn't know what to do. It is afraid of what it must do.

Mr. President, can the Congress be blamed for being paralyzed, in the light of the forceful, swift strides which the administration is taking to plunge the Nation into war at a time when the Chief Executive remains silent on the issues of the day?

Mr. President, in recent weeks more than 19,000 letters have poured into my office in the Senate Office Building on the matter of convoys and war. I now read one of them, which to me is impressive not only on account of the content of the letter, but on account of the personality, character, standing, and position of the man who wrote it. It comes from Cornell University, Department of Physical Education and Athletics, and is signed by Carl G. Snavely, coach of football of Cornell University:

CORNELL UNIVERSITY,
Ithaca, N. Y., April 24, 1941.

Hon. CHARLES W. TOBEY,
United States Senate,
Washington, D. C.

DEAR SENATOR TOBEY: Let me thank you personally for your commendable efforts to keep the United States out of further involvement in the European conflagration. Please carry on. Our people must see the light before it is too late. I wish I could aid and encourage you in this vital endeavor, but I am afraid that my powers in that respect are very limited. Possibly you might be interested in these enclosures, which are self-explanatory, and which I am sending to a number of our public officials.

Wishing you every possible success, I am,

Sincerely yours,

CARL G. SNAVELY,
Coach of Football.

One of the enclosures is a letter addressed by Mr. Snavely to his Senator, the Senator from New York [Mr. MEAD]. I read the letter:

APRIL 23, 1941.

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

DEAR MR. MEAD: I am sending you the enclosed editorial and letter to the editor because I feel that they represent not only the almost universal convictions of the young men of military age in the United States but a most intelligent exposition of the views and interests of the vast majority of all the citizens of the country.

Without questioning the conscientiousness or patriotism of those who think otherwise, I am one of the millions of individuals who believe that it will be a deadly, tragic, foolhardy, impracticable, and possibly suicidal blunder if the United States becomes actively engaged in the European holocaust, even to the extent of convoying war materials. The theory that we can engage in this war to a limited extent is ridiculous and inconsistent with the lessons of history and the processes of human nature. An attempt to do so will promptly engulf us to the limits of manpower and material resources in a struggle which, in all probability, will last for years and lead to nothing but terror, butchery, impoverishment, and the near extermination of everyone concerned.

Our leaders have no right to gamble further with the lifeblood and, indeed, the very existence of our Nation. Let us arm America to the teeth and defend our own hemisphere to the death, but, in order to do so, let us conserve our resources for these purposes instead of dissipating them all over the face of the globe in a mad and fantastic crusade to police and reform the world. The American people do not want to enter this war.

Yours sincerely,

CARL G. SNAVELY,
Coach of Football.

That is only one of many letters. It is an unusual letter from a man who has a passion for the youth of America, who has been a coworker with youth in its interests; and sitting up there on the heights of Utica, at Cornell University, Carl Snavely, friend and colaborer with young men, worker with them, pours out his soul and his apprehensions and his fears in this letter, and it ought to command the attention of all of us. So I ask permission to insert in the RECORD at this point not only his letter but also the editorial to which he refers.

The PRESIDING OFFICER. Without objection, the editorial will be printed in the RECORD.

The editorial is as follows:

[From the Cornell Daily Sun of April 15, 1941]

STRATEGIC EVACUATION

As Axis military and diplomatic blitzkriegs continue to modify the political face of Europe, Asia, and Africa, it grows increasingly important that the American people demand two things of their Nation's foreign policy: That it be judged by its effect on the security and prosperity of our Nation; that it be kept realistically abreast of a changing world and above domination by selfish interests.

Today it is important that we look at our foreign policy in this practical light. Our

aims are neither the preservation of the British Empire nor the policing of the world. Our primary interest is in the security and prosperity of our Nation.

Considered from this point of view, it is vital that we withstand the efforts of vicious pressure groups which are operating within our Nation for the purpose of diverting our policy from these true American aims to a course more favorable to other interests. At this time it is obviously important to consider the British "fifth column" machine as foremost among those in operation, for its demonstrated effectiveness makes it a dangerous obstacle working to separate America's foreign policy from America's best interests.

In the past several years it has seemed wisest to give aid to anti-Axis forces in Europe as the best method of protecting the United States. This was, however, merely a means to an end. Since this means was first adopted, the world situation has changed, and it becomes vital that we ask ourselves whether the original means is still the best possible for our end. This is a question of the greatest practical concern to the United States and must be decided by practical, clear-thinking men.

In meeting this challenge we must remember that we are in a Nation no longer emotionally stable. Our prejudices, biases, and emotions have been manipulated to a point making it difficult for us to clearly appraise the respective alternatives before us. Yet we must make the decision—our Nation's future rests on it. Moreover, we must stand ready to make such decisions for each new development in international affairs.

It is imperative that we ask ourselves at all times not "what is the best way of preserving democracy in Europe, of defeating the Axis, of saving Europe's down-trodden nations"; but instead we must constantly make our policies measure up to the practical standard of "what is the best way of safeguarding the security and prosperity of our Nation." These other ideals may be worthy, admirable, backed up with historical and religious support, but above these stands the fact that, today, we must first secure our own future, and then concern ourselves with the future of others.

We must stand honest to the reality that the Axis victories may make it strategically wise for us to withdraw from our present interventionist course to one of consolidating and improving our position in this hemisphere. We have learned much in recent years from the British about "strategic evacuation," and as American citizens interested primarily in America's future, we must stand ready to perform such an evacuation from our present interventionist policy if Europe's events should make it necessary for our protection.

CORRESPONDENCE

To the EDITOR:

Since the passage of the lease-lend bill on March 25 the main emphasis of our foreign policy has been placed on unity of action through this established policy. Recently, however, other questions have arisen (especially the convoy) which are about to afford us another opportunity to define the foreign policy of our country. And it is important that we realize that such is still our privilege.

The strategy of the interventionists has been, briefly, to identify the interests of the United States more and more with those of the anti-Axis countries, particularly Great Britain, rather than with the best interests of the American people. First we were told that we must supply the Allies with all aid short of war; we were to give to others the implements with which to fight "our" war, remaining out of the conflict ourselves. Then the interventionists gradually threw off their disguise and openly advocated all-out aid which, though it might lead to war, was necessary. By that time, the emphasis was placed not on the desirability or undesirability of America's entrance into the struggle, but rather upon the necessity of underwriting the victory of one of the contestants. Since that time, policies have been approved because they will benefit Britain, Greece, and Jugoslavia (with whom our interests are identified) or condemned because they are just what Hitler wants. Thus, our decisions are now seemingly dependent upon the effect they will have upon the governments involved in this war and their acceptability to foreign statesmen. But what about their effect on America?

All of us know of the tremendous consequences of modern war. By armed intervention into World War No. 2, the United States would: (1) incur war-material costs far in excess of those of 1917; (2) incur the costs resultant from loss of normal production; (3) lose, in all probability, a terrific number of men; (4) and endanger the civil rights of its citizenry, and possibly even its form of government.

Therefore, every American must make one vital decision. Shall American foreign policy be governed according to its ability to protect democracy in America or according to its acceptability to a friendly foreign power? I feel that it is the duty of every citizen to ask himself how our present foreign policy will affect the democratic ideals and the security of the United States.

(Signed) AN AMERICAN.

Mr. TOBEY. I also ask unanimous consent to insert in the RECORD at this point certain data pertaining to convoys and war.

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

The matter referred to is as follows:

CONCORD, N. H., *May 5, 1941.*

Senator CHARLES W. TOBEY.

DEAR SIR: I am just one more voice added to the many asking that you do all in your power toward keeping America out of war.

Sincerely,

(Miss) MILDRED W. SAWYER.

HANOVER, N. H., *May 6, 1941.*

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SIR: You deserve great praise for your courageous stand as an American in this crucial hour. I sincerely believe that defense, not war, is the will of the majority of the American people. Thus, for instance, friends of the family formerly for all aid of Britain, having seen what that now means, have recently returned to approval of neutrality. Student opinion here, despite the war-demanding student newspaper, has recently become outspoken in opposing a European war by this country. Your own speech was commended by several members of the faculty.

The 17's statement of faith in Britain which appeared in yesterday's New York Tribune does not face the issue, it seems to me. It is not a question of our being able to outfight Germany (which some even doubt), but a question of: Can we afford to win England's war? Will it not be better for this Nation to make itself impregnable and to give by its example the proof of democracy's worth? I think the answer is "yes." Can we fight a European war without a base in Europe to start from and not end up in economic and spiritual chaos? The answer to this is an almost unqualified "no."

Respectfully yours,

STUART ATKINS.

CONCORD, N. H., *May 6, 1941.*

Senator CHARLES W. TOBEY,
United States Senate,
Washington, D. C.

DEAR SIR: May I thank you for your good work so far to keep our country out of war? I hope that you will allow nothing to change your conviction nor cause you to slacken your efforts.

Very truly yours,

(Miss) CARYL E. JONES.

LACONIA, N. H., *May 7, 1941.*

DEAR SENATOR TOBEY: I want to congratulate you with all my heart on the radio address which you gave on Tuesday, May 6. You are what we call a real, a great American. I would be very grateful to you if you would kindly send me a copy of the address which you gave on that date, May 6. The State of New Hampshire ought to be very proud of having such a great Senator in Washington. My folks are greatly opposed for convoying ships to England, or any other form of activity which will bring us closer, or into war. I am a student at the Laconia High School in your home State, and am greatly in favor of you.

Yours truly, a friend,

GERARD TRUCHON.

THE PILGRIM CONGREGATIONAL CHURCH,
NASHUA, N. H.

DEAR SENATOR TOBEY: We are endeavoring to present an unpopular side when we insist on Lindbergh's right to speak; protest against convoys and refuse to defend someone and their stolen apples when they are unwilling to make restitution, but are determined to keep them or die. I am writing to tell you to "stand fast." I admire your guts (pardon the undignified word). Surely no one, not even Mr. Stearns, can really accuse you of political expediency in your opposition. Political expediency would be to beat the drum and shout. I am so disappointed in our President. Does he ever keep a promise? It is his war, not the American people's war. "Stand fast," Senator, "stand fast."

Sincerely yours,

WILLIAM T. KNAPP.

MAY 6.

VINDSVALE KENNELS,
Richmond, N. H., April 22, 1941.

The Hon. CHARLES W. TOBEY,
Senator from New Hampshire,
Washington, D. C.

DEAR SENATOR TOBEY: On two previous occasions I ventured to write to you in the matter of the draft and in that of the so-called lend-lease bill. Today I am writing for the sole purpose of congratulating you on the high patriotism and fine statesmanship which wrote the Tobey resolution on convoys and on the ability with which you have brought it, through radio and the press, before the country. It is a great pleasure for us your constituents to know that a Senator from New Hampshire is speaking not for us only but for the overwhelming majority of his countrymen.

Since I think it may interest you to know how one citizen felt on reading of the President's treatment of your letter to him I am enclosing a copy of a letter which I wrote to him on this subject.

Believe me,

Yours faithfully,

BAYARD BOYESEN.

VINDSVALE KENNELS,
Richmond N. H., April 22, 1941.

The PRESIDENT,
Washington, D. C.

SIR: If the New York Times be correct, the President of the United States no longer deigns to read letters from Members of the United States Senate, if, like Senator TOBEY, they happen to be in disagreement with him; and therefore, I presume, he can have no interest whatever in a communication from one of the common herd who listened so eagerly and hopefully to the solemn pledges and assurances that fell from his lips last autumn. Yet I venture to think that a

simple statement now of the President's intention in the matter of escorting convoys with American ships would do more to produce a much-needed unity in our country than all the clever verbal fencing with which he delights and amuses the White House reporters. In a time of dire crisis, a forthright statement of the administration's policy would surely be preferable to an agility in avoidance of the questions of Senators and reporters alike, all of which can be summed up in the one question: Mr. President, are you taking us to war?

I have the honor to remain, sir,

Yours faithfully,

BAYARD BOYESEN.

APRIL 25, 1941.

BAYARD BOYESEN, Esq.,
Richmond, N. H.

DEAR MR. BOYESEN: Thank you for your letter of April 22 enclosing a copy of your letter to the President, which I have read with interest and appreciation.

For your interest, I enclose a copy of my last radio address, together with a copy of a telegram which I sent to the President last week. The day after the telegram was sent to him, he had a press conference and, upon questioning by the press correspondents, he stated he had not read my telegram but instead, had had it referred to the Navy Department.

I will be glad to hear from you at any time and appreciate your interest and support on this crucial matter.

Sincerely yours.

WASHINGTON, D. C., *April 25, 1941.*

Senator CHARLES W. TOBEY:

I thank you so much for sending me copy of your speech on your anticonvoy resolution. I am sending the speech on to a sensible man in my home State, Texas, today. I think he and his group can be of great assistance to us at this time in getting your convoy resolution passed. Wonder if you could send out more copies of your speech? Hope you can. If you can, I wish you would. I'm sending this one by air to a man in Texas who has brawn and brain like you. He and his group probably can wire President Roosevelt to resign. That would be a great help, for there is no sense or reason in we, the American people, being ignored and mistreated by the Roosevelt war mongers any longer. We, the people, are the Government, and it's we, the people, who are to blame for ever listening to this Roosevelt scheme at first. We should have known all this Santa Claus was of Sodom and Gomorrah.

I feel that your have done something that is going down in history books as the resurrection of our Savior, in the year 1941 that was superthinking and acting on your part to come out in the open and let the public know the President was convoying warships to the warring nations without the legal right to do so. Our Nation is to become the aggressor of all time if we, the people, don't stand up and assert our God-given rights to be the government for the people and by the people. Roosevelt thinks he's made the people believe so many fool schemes he thinks he can work anything off on us. He must be stopped, and I believe your resolution is the greatest resolution ever to be sponsored by a Congressman.

Wish I could get over to your office. Maybe I can Saturday morning. If you could get out some more copies of your speech and send them to various people in various States, especially in my State; I know folks in my State who are able and capable of understanding Roosevelt's schemes, and they are in a position to wire him and ask him to resign. Whether he did resign or not, they would help the rest of the world to understand what's happening, and, too, that would give the entire Roosevelt family an idea of what was in the minds of the American people at this time. I am so glad you can go right ahead and sponsor an anticonvoy resolution. It's wonderful you got it staged together. I believe you will get it passed. I will be praying, and I know millions in this Nation who are praying morning, noon, and at bedtime, to God to uphold your hand and to be with you and the millions in this Nation, and especially with the Senate that day to vote with you to prevent President Roosevelt from sending our sons to convoy their war guns and warships to the warring zones.

The English care nothing for us. All they want is to get us to send our sons into another Hindenburg line for them. I know, for see, I sent one fine son to their rescue before. I believed this propaganda the English were putting out then, but I learned they were telling us big falsehoods then as they are now. I thank God for you and your group, especially for you for putting those plain facts in the minds of the people. Would to God I could do something to assist you all. This war Roosevelt is getting up will ruin this Nation if we can't stop him. I have been taught all my life that we can do all things if only we will hold onto God and humble ourselves and ask God's guidance. All of us recognize there are no problems with God. He knows all things and loves us all.

I thank you. All we are supposed to do is our very best and God will take care of the results—that's His business, and I know He, our God, is with us even if it's best for us to be buried in the earth, and we, you, will rise in a fuller way. God can do all things. Well, to do our part we must. I thank you so much, and I shall always be so thankful to God for you and your resolution.

Could you mail me one of your cards that will help me to see you probably tomorrow or Monday?

MRS. J. L. EVANS.

MAY 6, 1941.

Mrs. J. L. EVANS,
Washington, D. C.

DEAR MRS. EVANS: Thank you for your letter of April 25. I am enclosing a copy of a speech which I made on the floor recently in which I thought you might be interested.

I believe that the fight against convoys has slowed up the President considerably, and that we have a chance of staying out of the war if the people continue to work and make their voices heard against it in letters to their Representatives in the Congress.

I pledge my best efforts to the continuation of the fight against convoys, and against entrance into the war.

Sincerely yours,

CHARLES W. TOBEY.

BROOKLYN, N. Y., *April 18, 1941.*

Senator TOBEY of New Hampshire,
Washington, D. C.

HONORABLE SENATOR: Oh, what a pleasure it is to hear of your courageous fight for Americanism. New Hampshire has again produced a real American. The State that produced Daniel Webster now gives us another champion of American principles. Right now I'm with you in the Senate today and may the spirit of Daniel Webster be there to inspire and sustain your courage and give you the success that he always won when fighting for American principles.

We want no Oriental or British suavity or diplomacy in our Government—just plain American aversion for kings and subtlety. It seems that every time the British international group now calling itself the "government" gets caught up with and forced in the open it resorts to all sorts of evasive answers. Henry Ford was right when he said: "It's not the military boot but the sandaled foot that we need beware of."

God prosper you in your fight for the preservation of American principles, especially of nonintervention in Europe's wars.

Very sincerely yours,

(Miss) ANITA KIMBALL,
From New Hampshire.

MAY 6, 1941.

Miss ANITA KIMBALL,
Brooklyn, N. Y.

DEAR MISS KIMBALL: Thank you for your encouraging letter of April 18.

I am glad to know that you feel as I do about keeping out of the war. I am enclosing material for your interest.

I am interested in knowing that you come from New Hampshire and would like to include you on my New Hampshire mailing list if you would advise me what your New Hampshire address is.

Sincerely yours.

UNITED MOTHERS OF AMERICA,
Cleveland, Ohio, April 23, 1941.

Senator CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.

HONORABLE SIR: The United Mothers of America wish to inform you that we sent the following telegram to the President on Monday, April 21:

To FRANKLIN D. ROOSEVELT,
President of the United States of America,
Washington, D. C.:

We have read of the visit of Canada's Prime Minister in your home and while we rejoice over the friendly relations with our border neighbor, we have heard rumors of a "union now" with Canada in which these United States would lose their freedom as a self-governing entity. We ask for your denial of these rumors.

Yours respectfully,

UNITED MOTHERS OF AMERICA.

Will you please read this letter on the Senate floor, have it entered in the CONGRESSIONAL RECORD, and give it publicity in any manner open to you? We will inform you as soon as we receive our answer from the President.

* * * * *

Mrs. D. STANLEY.

MAY 6, 1941.

Mrs. D. STANLEY,
United Mothers of America,
Cleveland, Ohio.

DEAR MRS. STANLEY: I am in receipt of your letter of April 23 quoting a telegram which you have sent to the President and will take pleasure in inserting this in the CONGRESSIONAL RECORD.

When you receive the reply from the President, if you will send it on to me, I will be glad to present this to the Senate through the CONGRESSIONAL RECORD.

Sincerely yours.

SUGAR HILL, N. H., *April 17, 1941.*

Senator STYLES BRIDGES,
Washington, D. C.

DEAR SENATOR: I have before me a letter written by you on February 27, in protest to my objection to the passage of the lease-lend-give-away bill, which you eventually openly supported. In this letter you say, "* * * I most sincerely want to avoid war for this country." When a man says he acts sincerely, I have nothing more to say.

However, it is this sincerity that I am again interested in. President Roosevelt in a recent press conference stated that, "Convoying meant shooting and shooting meant war." Your colleague, Senator TOBEY, has a bill before Congress which would forbid convoying, and thus eliminate the chances of war as admitted by the President. Since you sincerely want to avoid war, and since convoy-

ing means war, I shall watch with interest your vote on this bill, whether you really are for or against sending our boys into hell to die.

I am hoping that your sincerity may remain unquestioned by this writer, as I assure you it is at the moment.

Very truly yours,

MYLES D. BLANCHARD,
Minister, Community Church.

Copy to Senator TOBEY.

APRIL 29, 1941.

Rev. MYLES D. BLANCHARD,
Sugar Hill, N. H.

DEAR BROTHER BLANCHARD: Thank you for sending me the copy of your recent letter to my colleague.

If you hear from him, I will be very much interested in having an opportunity to learn what his answer is.

I believe that we can stay out of the war, and am giving the best that is in me to that end, realizing that I will be severely and personally attacked by some individuals. The rank and file of the people do not want to be taken into war and have been promised by the administration that they will not be taken into war.

Faithfully yours.

[Enclosure: Record of Senator BRIDGES' votes during lease-lend debate.]

BOSTON, MASS., *April 20, 1941.*

DEAR SENATOR TOBEY: I ran across the enclosed article in the Sunday Herald tonight, and although I haven't any decent stationery upon which to write to you about it, I want to write to you tonight, even upon notebook paper like this. I am temporarily located in Boston studying for my Ph. D. degree at Boston University.

As a citizen of New Hampshire who is extremely proud of your courageous and forceful stand to keep America from dashing headlong into the European conflict, I hereby congratulate you on your logical policy and hope you will continue it. I have the greatest confidence that you are doing your very best for the happiness and prosperity of the people of the United States and New Hampshire, and that you represent their ideals closely. If you appear to differ at times, I am sure that those who had the facts that you have to base your judgment on would agree with you.

Several portions of Mr. Pier's open letter interested me, as well as several omissions. In the first place, he says you misrepresent the State of New Hampshire, but doesn't say how, although he implies that why you do it is because you fear that if we use our Navy to convoy ships we shall be drawn into war. In the second place, he does not quote a single thing you say. In the third place, he goes to work to psychoanalyze Hitler's mind, but doesn't get to first base doing so, because he doesn't go at it scientifically or logically. I have had three or four courses in psychology—one of them in social psychology—and two courses in social philosophy which analyzed nazi-ism, fascism, and communism, and I know whereof I speak. He does hint broadly that the United States is doomed immediately to ruthless Nazi rule if England is conquered. He hasn't got the confidence of a louse in America's ability to defend herself alone.

Do you want me to answer this bird by an open letter to the Herald? If so, I shall be glad to do so. If your recent radio address is what irked him, please send me a copy of it so I can quote extracts. Do you know who he is? Is he the son of the man who used to write those delightful stories in the Youth's Companion?

British propaganda is likely to make us confuse our well-being with Britain's, and the first thing we know we'll be defending the British Empire in Asia as well as in Europe. If you can't stop this emotional appeal by reason, deflect it and slow it down all you can. If we must fight for our liberty, give us a chance to be well trained and equipped first. I am willing to fight for my country, and my country is these United States.

Yours truly,

JOHN S. SHEPARD,
Son of your late friend, John S. Shepard, of Franklin.

[From the Boston Herald of April 20, 1941]

OUTLINES OF A HITLERIZED WORLD

To the EDITOR OF THE HERALD:

Senator TOBEY, who so grievously misrepresents the State of New Hampshire in the upper branch of Congress, would like to forbid our Navy to convoy ships carrying supplies destined for Britain, Greece, or China. He favors aid to those nations "short of war," but fears that if we use our Navy to convoy ships we shall be drawn into war. That fear is undoubtedly shared by far too many Americans.

If Senator TOBEY and those who think and fear as he does could be persuaded to put aside their obsession and face reality with clear and courageous eyes, the menace that hangs over this country would soon diminish. The reality of the present situation may be most clearly understood through examining the mind of Hitler.

It may seem paradoxical to suggest that the way to objective grasp of reality is through analysis of a man's mind, yet the history of the last few years shows conclusively that neglect to read the open book that is Hitler's mind led to France's grievous plight and Britain's desperate battle for survival. Hitler had exposed his mind to the world; he had told the world precisely what he proposed to do and how he would do it; and with incredible stupidity the governments of Europe sat back and let him go ahead. Now, with similar incredible stupidity, our isolationist statesmen like Senators TOBEY, WHEELER, NYE, and CLARK, and such gifted amateurs as Colonel Lindbergh, failing to read the mind of Hitler, would like to have our Government sit back and let him go ahead.

The mind of the ordinary obscure citizen is a closed book; not so the mind of a world conqueror. To organize not only Europe but the entire world in his "new order" is, of course, Hitler's aim. For his own safety he cannot stop short of doing that. If he conquers Britain he cannot be content with that achievement, even if he would like to be; he must have the resources of this hemisphere at his disposal and the peoples of this hemisphere as his slaves in order to hold what he has won.

The notion that he would live at peace with us, were we willing to live at peace with him, is absurd. With the deliberate conqueror it must be all or it will be nothing.

Now, what sort of a conquest will it be if Hitler succeeds in it? His operations in those countries that he has already subjugated give a clue which we may profitably study. Reports coming out of those miserable lands are meager, but they reveal certainly the fact that no method of oppression, suppression, and persecution is neglected. Each conquered nation is being forced gradually to yield its traditions and its cultures; schools and universities are closed; young men and women are taught only what the conqueror prescribes for them.

Hitler has already announced that he has made the position of Germany secure for the next thousand years. He has not accomplished this yet, but if Britain goes down before him because the United States has been unwilling to risk everything — including war — to aid her, he may well succeed in his fell purpose. Once he has made himself supreme master, it will not be difficult for him and his successors to maintain their overlordship. A highly organized ruling caste, with all the raw materials and all the machines of the world at their disposal, with their perfectly equipped and trained army, their spies and secret police, ought to be able to keep mankind under their heel until doomsday.

There will be plenty of citizens of every nation willing to assist them. Just as Norway has its Quisling, France its Darlan, so will the United States have its—but there are so many competitors for the post of first American Gauleiter that it would be invidious to name him.

Let us consider the history of Carthage. It need not detain us long. All we know is that Carthage has no history—except that which was written by its conquerors and destroyers, the Romans. It is not fantastic to predict that within a very few years, should Hitler conquer Britain and then the United States, the only history of the war and of the events leading up to it will come from Nazi pens. Undoubtedly, to make his fame eternally spotless and secure, the conqueror will command the systematic collection of all newspapers, pamphlets, periodicals, and books that touch in any way upon the war and that present another point of view than the Nazi point of view. They will all be destroyed, and no such publications will ever be permitted to see the light again.

Oral transmission of heretical history will be visited with the most severe punishment. For years the Gestapo in every land will be diligently ferreting out hidden copies of newspapers, periodicals, books—even novels—of a forbidden character, and bringing the possessors to the prison cells or the headsman's ax.

Eventually the work will be complete. Future generations will know that in the years 1939–42 (?) the predatory war-mongering democracies and plutocracies attacked a poor and peaceful Germany; and that then arose the second savior in the person of Adolf Hitler, a man of chaste and blameless life, animated with a divine compassion for the weak, the humble, the downtrodden, and that this greatest and noblest of all human beings that ever lived wrought the miracle of the glorious unified civilization which gratefully acknowledges and always will acknowledge a beneficent and enlightened Germany as its lord and master. And, therefore, annually on the 20th day of April, the birthday of Adolf Hitler, all over the world at the appointed hour every knee shall bow, every right hand shall be upraised, palm out, and every voice shall proclaim, "Heil Hitler!"

A minor feature of this civilization of the future will be the substitution of a German rendering of the works of Shakespeare for the English original, which will disappear as completely as the English documents relating to the war will have done. Shakespeare, as all English and American boys and girls in the year 2050 will learn, was born and lived all his life in Berlin. Singularly enough, his birth occurred on April 23, 3 days later than the birthday of the savior.

That is the sort of history and the kind of literature that the efforts of Senators Tobey, Wheeler, Clark, Nye, Colonel Lindbergh, General Robert E. Wood, and God knows who or what are preparing the world for.

ARTHUR S. PIER.

CONCORD, N. H.

APRIL 25, 1941.

JOHN S. SHEPARD, Esq.,
Boston, Mass.

DEAR MR. SHEPARD: I was very much encouraged and pleased to hear from you as one of the Shepard family of Franklin.

I held your father in highest regard—he was one of my best friends, and it is good to

hear from you on an issue which is so important to the American people, namely, whether we shall send convoys and thereby get into the war.

I have done a great deal of reading in the past several years, and it is my honest conviction that it would be an immeasurable calamity for us to attempt to project ourselves into the European hostilities which would weaken us militarily and economically. If we follow that path it is not improbable that we will have economic disaster here which may be followed by loss of all the things we hold dear in our form of government.

I would be very glad to have you reply to the Pier letter, and if you write to the Boston Herald I think it would be helpful if you could write the same letter to the Concord Monitor, and possibly the Manchester Union.

Enclosed are copies of my resolution and my last two radio addresses. I believe that we can stay out of the war, and am giving the best that is in me to that end, realizing that I will be severely and personally attacked by some individuals.

The rank and file of the American people do not want to be taken into war and have been promised by the administration that they will not be taken into war.

Faithfully yours.

ANTRIM BAPTIST CHURCH,
Antrim, N. H., April 16, 1941.

Hon. CHARLES W. TOBEY,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: I am especially interested in S. 860 and hope you may use your influence to secure its passage. From considerable experience in military camps, I am well aware of the danger to the men from beer, liquor, and women on or near military reservations; and I sincerely hope that all that is possible may be done to safeguard our boys at this time.

Furthermore, I am very anxious that the President's promises not to send American boys to fight in Europe be redeemed. I believe that for us to enter the war in Europe would be a great tactical mistake and a tremendous wrong to our manhood. I hope you may employ all your influence in opposition to any such move. The move to prohibit the use of our Navy to convoy arms to Europe has my hearty approval.

Very truly yours,

RALPH H. TIBBALS.

APRIL 25, 1941.

Rev. RALPH H. TIBBALS,
Antrim Baptist Church,
Antrim, N. H.

DEAR MR. TIBBALS: This will acknowledge receipt of your letter of April 16.

The extent of the support by the people of the anticonvoy resolution has been surprising to many of the Senators who report to me they are receiving more mail against convoys than they are on any other subject. Certainly, if the will of the people were to prevail, the President would make forthwith a definite public statement that he will not embark on a policy of convoys with American seamen on board.

For your interest, I enclose a copy of Senate Joint Resolution 62, together with my latest radio address.

The Senate Foreign Relations Committee is meeting on Wednesday, April 30, to take a vote on the resolution. They may do one of several things:

1. Report it out for a vote by the Senate.
2. Pigeonhole it (which means that the resolution would "die" in committee).
3. Vote to hold hearings on the resolution.

Many people advise me in their correspondence that they have written to their Senators and Congressmen for definite statements on this issue and gradually the support of the anticonvoy resolution in the Congress is mounting. It would not be honest dealing for the administration to deliberately set forth on a convoy venture which, as the President said, would mean war for this country, after having given solemn assurances to the people that they will not be launched into the war.

For my part, I pledge the best that is in me in this fight to keep the people from being drawn into the war, and I want to express my appreciation to you for your interest and support.

With regard to S. 860, I appreciate your writing to me on the subject, as I am sympathetic with this movement to ban liquor and other immoral conditions in the vicinity of Government camps and will be glad to do all I can to be helpful. It is receiving attention from several sources here.

I recently conferred with Mr. Paul V. McNutt on this subject, and he has assured me that the matter is receiving the immediate attention not only of his office but also of the War Department's Committee on Education, Recreation, and Community Service.

S. 860 will have my close attention and support when it comes before us, and I am glad to tell you this.

Sincerely yours.

MANCHESTER, N. H., *May 1, 1941.*

Hon. CHARLES H. TOBEY,
House of Senate, Washington, D. C.

DEAR SIR: Let me urge you to use your influence to block the movement to convoy vessels carrying goods to England, or the patrol of waters now in the war zone.

I wish to go on record as being definitely opposed to any action which will inevitably lead these United States into war.

Very respectively,

V. P. WAGNER.

LEBANON, N. H., *May 1, 1941.*

MY DEAR MR. TOBEY: It was indeed a pleasure and a thrill to meet you fact to face again, even if briefly. My wife was also delighted to have met you.

Your talk and subsequent open forum was timely and left a good impression, and in a few talks with some of the boys, I think some have turned to our way of thinking. God bless you in your fight for peace and for keeping our boys out of Europe. I have two brothers who are already drafted—one at Camp Edwards, one at Fort Bragg—and I've already turned in my questionnaire. Please write when you get time, and don't overwork.

Most sincerely,

PETER LIHATSH.

STAGECOACH ROAD FARM,
SUNAPEE, N. H., *May 1, 1941.*

Hon. CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR TOBEY: I want to tell you that I think you are making a fine American stand and that, if there is anything I can do to help you, I hope you will let me know.

It occurs to me that a bill redefining the crime of treason might be a useful public service. We are being forced into a war against the wishes of the American people—a people whose morals had been so lowered by the New Deal that a considerable portion were willing to be merchants of death at a profit. For that is what "short of war" meant. The reactions to war—and especially to defeat or a long war—will be violent. The people will want to search out and hang those who tricked them. And so might it not be salutary to frame a law right now defining as treason certain acts, whether by public or private individuals, which have as their object the getting of the Nation into war? It ought to be possible to phrase a pretty comprehensive bill and I think most of the Members of Congress would have trouble in justifying a vote against it.

With my regards, I am

Sincerely yours,

SAMUEL CROWTHER.

MANCHESTER, N. H., *April 29, 1941.*

Senator CHARLES TOBEY.

DEAR SIR: I am against the warmongers who want to send convoys across the Atlantic. I am thankful to you for the efforts you are doing in trying to keep us out of war.

The Tobey resolution must be passed.

MRS. ALBERT DIONNE.

TILTON, N. H.

DEAR SENATOR TOBEY: I hope, and I believe we can stop the warmongers from forcing us into Europe's quarrel.

ALBERT G. MAIRS.

LACONIA, N. H., *May 5, 1941.*

The Honorable CHARLES W. TOBEY,
Senator from New Hampshire,
Washington, D. C.

SIR: In view of the volume of favorable publicity being received by those in favor of convoys, I wish to add my voice to those who are in an apparent minority—though it is my belief that we are actually in the majority—and are emphatically opposed to the convoy system or any approach to it. Please accept my thanks and appreciation for the fight you are carrying on in your effort to keep this country out of the war. I earnestly hope that your efforts will meet with success.

Very truly yours,

ROBT. C. MORRISON.

CONCORD, N. H.

Senator TOBEY.

DEAR FRIEND: Just a word to thank you for your efforts in keeping our country out of this most hideous war. We, the people, do not want to do anything that would get us into it. Thank you; and we beg of you to keep on doing all you can.

Sincerely,

MRS. R. C. WIGGIN.

Hon. CHARLES W. TOBEY,
Washington, D. C.

MY DEAR SENATOR TOBEY: It has been with a keen satisfaction that I have followed your bill and addresses over radio re convoys, etc., and I wish to thank you for your courteous and kind reply to my note to you enclosing your address of April 8 regarding the (to my mind) most vital subject with which Congress has to deal.

Until I received your response with enclosures, I was not aware you had the bill in hand.

The whole matter of delivery to Great Britain of our elaborate aid does not make sense as I feel this question of delivery should have been decided upon when the lend-lease bill was passed. Then was the time and not now.

I am only one small voice of the people, but as you so sensibly state "the action of the people is already having its effect," and "if enough individual letters of outstanding minds are sent to Members of Congress, etc."

On the other hand, there is so much of political wrangling and scattered views of the matter of how to deliver our all aid to Great Britain, will be of little matter now, as I feel Great Britain has lost the fight, and for that reason if for no other, we should keep our ammunition ships and all else for our own defense which I fear we shall need and soon.

That you may know how deeply the interest of all that concerns this United States I have at heart, you will find me in Who's Who in America in 1930–32, vol. 16, and Who's Who in American Education, 1931–

32, and American Women, vol. III, etc., 1939–40, and my work in international affairs.

I wish Godspeed in your getting across your very sound bill.

This is a nightmare of a world today.

Very faithfully yours,

FLORENCE BROOKS-ATEN.

APRIL 30, 1941.

HEROD'S COVE FARM,
Newington, N. H., April 23, 1941.

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SENATOR TOBEY: There can be no doubt of the sympathies of the American people for the British cause. There is equally little question of the deliberate intention of the administration and the President's intimate advisors to edge our country into active participation in the war. But is this the sober, considered wish of the people?

Does it mean anything that the commonest statement heard in discussions among plain working people is? "I don't see why those fellows in Europe can't get together and work out their own answer. What business is it of ours to fight their war for them?" Does it mean anything that organized labor is suspicious of the Government's future intentions and is trying to capitalize as many gains as possible now? Or that the stock market registers a new low in businessmen's appraisal of the future?

Is it in any way reassuring to a nation that is being told that we must risk war in order to save the American way of life (which I take to be a high degree of civil liberty and free enterprise) to learn each day of some new totalitarian proposal emanating from Washington? Price fixing, compulsion in labor relations, "voluntary" censorship of the news by both press and radio, a spirit of reckless disregard for the ultimate consequences of the economic dislocation inherent in pushing our national productive facilities to extremes in the production of a few war goods—these are only a few of the most recent demands. Meanwhile, it transpires with equal regularity that the Executive is, and has been, denuding us of our own war equipment while making secret moves toward an open state of war for which there is no constitutional authority.

Will it surprise you, Senator, when the administration throws off the mask entirely and dissolves a helpless Congress? Do you know that keen academic students of government at Harvard are predicting that the Executive will be ruling by decree within this calendar year, even to the extent of levying taxes? How much longer will dissidents, no matter how patriotic their motives, like Colonel Lindbergh, be allowed the privilege of free speech?

Have you come to the conclusion that the danger to Britain really warrants the sacrifice of all solicitude for our own future? Before you abdicate your constitutional prerogatives, will you not publicly give us the reasons why a miserable little driblet of foreign trade, a few islands in the Indian Ocean that we have never wanted, and the maintenance of the integrity of the British Empire are worth the lives of our young men the confiscation of our savings, and the inevitable sowing of the seeds of a violent social upheaval?

Very truly yours,

H. MAYNARD REES.

NASHUA, N. H., *April 30, 1941.*

Hon. CHARLES W. TOBEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR TOBEY: Your fearless stand in the present crisis is appreciated by all Americans of undivided patriotism. There is little doubt in the minds of many people but that the efforts of you and your colleagues have at least stemmed the tide, and history will record the errors of today.

I am not a pacifist unless one who believes in the unnecessary shedding of another's blood falls in that category. I believe in peace to the extent that I would be willing to fight for it as you are fighting now.

Don't let the venom that is being sprayed by the opposition get you down.

If our people must experience "blood, tears, and sweat," let it be in defense of American principles and ideals, and not based upon the support of the ideology of a tottering European empire whose history is steeped in piracy and aggression.

I note that His Excellency recently returned to the use of the historical term "copperhead" in describing those who were not noted in his book of "yes men." As I recall his fireside chats, he used this same term in a domestic economical issue in describing some of the same Senators who are now members of his war council. It appears that the term "copperhead" in the accepted "Groton-Harvard" language applies with equal force in domestic economical issues and foreign affairs in describing those who do not feel that we should be ruled by proclamation in times of peace.

I hope for your success.

Respectfully yours,

WALTER P. MCLAUGHLIN.

TUCSON, ARIZ., *May 2, 1941.*

Senator TOBEY,
Washington, D. C.

DEAR SIR: I have just read the sorry reception that your convoy bill received in the Senate. I am also enclosing a column written by George Rothwell Brown, and it would be well to have that column read in the Senate, for they are certainly ignorant of the feelings of the American people. Every word in this article is the absolute truth, and the men in Washington would do well to listen to the American people.

I fail to see the difference in Roosevelt—after 8 years of buying votes from Communists, relief, and others—and Stalin and Hitler. Mr. Roosevelt is showing his real self when he refuses anyone the liberty of disagreement with him, and he could never have done anything to do more to awaken the American people to the fact that Mr. Roosevelt has for 8 years surrounded himself with Communists, for he is now showing that strain, so dominant in the dictators, and the American people are really getting awake, thanks to Senator WHEELER and a few of the other real men in Washington. We all know now that it is Roosevelt's war to cover up the mess that he has made in the past 8 years. He said when elected 8 years ago that he would either be the best President of the United States or he would be the last, and I am of the opinion he is trying to be the last from the failure he has made for 8 years, for he has surrounded himself with sick men in his Cabinet. Is that any credit to him? He has built up a government to tax the American people to death to support the parasites that have been given political jobs for life. Show me the difference in Hitler, Stalin, and Roosevelt. Power-crazed men being pushed by power-crazed politicians.

We all know, of course, that Russian influence in Washington is shameful. Every American knows that Russia is the tool of Germany, and yet our State Department seems ignorant of the fact. Why is it ignorant? Who in the Government is a high-ranking Communist—one that can do the will of Russia here in face of the Americans' wish? Why has our country for 8 years coddled and pampered Communists? Who is responsible?

How can men—if they are men—in Congress fail to know that this country is not back of Roosevelt? If he should run today, results would be overwhelmingly different. He has shown, after all, that England is more to him than our own America. He and Churchill are running the things to suit themselves. Why should we be taxed to death to support a country that laughs at us? Why should our men go over there to certain death? Why didn't Mr. Roosevelt listen to Lindbergh 3 years ago when he told him that Germany was prepared for war to a greater extent than anyone knew? Our money was wasted to buy more votes for a sick Cabinet—for a Cabinet full of sick men—instead of for fighting forces. Now he sits in high office, condemning all who disagree with him. If we go to war, it will be Roosevelt's war, pushed by Winston Churchill; and Mr. Roosevelt has evidently long before election told him to what extent he would go as soon as he could get these dumb sheep of Americans to follow blindly. He would do well to listen and hear a few Americans before he goes all out to war.

Well, thank God, there are a few real men in Washington that aren't putting the rank of England above our own Americanism. May God help you in your fights.

Very sincerely,

REBA SEALES.

FORT THOMAS, KY., *May 2, 1941.*

Hon. CHARLES WILLIAM TOBEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I thought you might have passing interest in the enclosed carbon copy of my letter to our own Senator. It possibly contains one more argument against the use of convoys.

Whenever you are passing through your own New England and happen to see any disturbances of earth in ancient graveyards, you will know it is another Kimberly turning over in his grave at the thought of the New Deal endeavoring to return our country to its former status of a British colony. Down this way Simon Kenton has already flopped over three times because of the actions of and . We shudder at the thought of two Kentuckians with such a thirst for tea that they must stand on their heads to be invited to partake of a cup now and then at the British Embassy. The rest of the Commonwealth still prefers juleps.

The people are behind your courageous antiwar bloc in decidedly increasing numbers. Out this way we hear more and more talk to the effect that this is not our war and that American blood must not be again spilled to maintain the supremacy of the British Empire.

No convoys, no patrols of trans-Atlantic shipping lanes beyond reasonable limits; no war.

Appreciatively yours,

LEWIS R. KIMBERLY,
Chairman of Publicity, Metropolitan Cincinnati Chapter, America First Committee.

CONCORD, N. H., *May 5, 1941.*

Hon. CHARLES W. TOBEY,
Senate Office Building, Washington, D. C.

DEAR SENATOR TOBEY: I have been following with interest various statements which you have made with reference to the course of the United States with regard to the present war. I believe that your attitude is entirely correct and proper, and I only hope that you continue in your present beliefs and that you continue to express them as effectively as you have in the past.

Very truly yours,

JOHN H. SANDERS.

DETROIT, MICH., *April 25, 1941.*

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SIR: I don't think any real American will vote against your anticonvoy resolution.

We should have immediate public hearings on same. If the British cannot get the ships across safely, how is the American boys going to do it? I say no convoys. Keep our boys at home and keep our supplies here, too, if they can't get them across without our help. I think we have already been imposed on far too much. The very suggestion of starting our boys out like this is like all the rest of this nonsense. It just does not make sense. Our President and Congress know that the people of our country did not want anything to do with Europe's war. Now they seem to think because they have gone this far they can't stop. Well, if they will give the people a right to vote on it, they will see that we can stop. Maybe some of them are tied up with England more than we know, but no true American, from the President and the first lady down to the lowliest of us, is bound to any country at the risk of getting America into war. God grant that we will not get any deeper in and that the truth will soon come to light.

ADDIE EVANS.

BALTIMORE, MD., *May 1, 1941.*

Senator TOBEY,
Senate Office Building,
Washington, D. C.:

Congratulations anticonvoy fight. Convoys mean shooting. Shooting means war. The American people, bitterly opposed to war, are strongly behind you. Keep up good work.

FRED D'AVAILA,
Editor, Baltimore C. I. O. News.

LOS ANGELES, CALIF., *May 2, 1941.*

Senator TOBEY,
Washington, D. C.:

Open forum, 300 present, vote and demand no convoys. President promised to keep out war, nor has mayor New York or Wallace or Knox any right to declare war.

R. C. W. FRIDAY,
Delegated Committeeman.

CHICAGO, *April 30, 1941.*

Hon. WALTER F. GEORGE,
Senate Office Building,
Washington, D. C.

DEAR SENATOR: The Senate Committee on Foreign Relations is today the most important legislative body in the Congress of the United States. You as its chairman, Senator, are the most important figure in influencing a most vital decision which involves the fate of our Nation.

The fate of our Nation rests more on you than it does on the shoulders of our confused President. It seems that he has lost control of himself and all sense of etiquette and diplomacy in his castigation of Colonel Lindbergh.

As a citizen who has a sovereign right to seek the truth, I appeal to you because I consider your responsibility at the present time above that of the President.

With all due respect I seek an answer to several extremely important questions, knowing that it is your avowed duty to reply to my request in direct and single-meaning words.

During the congressional debate on H. R. 1776 you are on record as having said, "I would never vote for convoys until I was ready to vote for war, as convoys would lead directly to war."

Question No. 1: Are you now ready to vote for war?

Question No. 2: If you are ready, why?

Question No. 3: Assuming you want to win the war if you vote for it, would it be possible in view of our utter unpreparedness occasioned by our altruistic and generous aid to the imperialistic democracies?

Question No. 4: How long would it take to win this hypothetical war?

Question No. 5: How much would it cost, and where would the money come from?

Question No. 6: How much would it cost, measured in lakes of blood—the blood of our duped American boys?

Question No. 7: How much would it cost, measured in rivers of tears shed by the mothers and loved ones of the duped American boys who will have to do the dying?

Question No. 8: Assuming that this war would result in victory, what would we have won? The return of Christianity?

Now, my dear Senator, in replying to my question No. 2, I beg you not to expound any fantastic, theoretical threats of invasion, either militarily or economically. None of those arguments can be even slightly substantiated. If your answer should be in the affirmative, I think you should be honest with your constituents and send out the following news release:

SENATOR GEORGE VOTES FOR WAR

"Senator WALTER F. GEORGE (Democrat, Georgia) pigeonholes Tobey anticonvoy resolution, thereby denying the American people the right to be heard through their elected representatives on the floor of the Senate on the vital question of war.

"Both the President and Senator GEORGE have previously announced that convoys mean shooting and shooting means war.

"This act of Senator GEORGE and those Members of Congress subservient to the administration has finally terminated the era of democracy in the United States."

In conclusion, Mr. Senator, I wish to point out that in military circles, convoys and patrols mean one and the same thing, shooting, and shooting means war.

I know you are very busy, and so am I, but the impending horrors of war is most vital to me and all my neighbors. Will you not be good enough to reply promptly?

Respectfully yours,

A. R. BORN.

P. S.—Senator TOBEY, this is a public letter, and you may use it in any way you see fit.—A. R. B.

NORTH CANTON, OHIO, *April 29, 1941.*

DEAR SIR: I heard your discussion a couple of weeks ago with Colonel Breckenridge, and I wish to thank you for your stand. When you said the boys back in '17 were suckers you were right. I was one of those boys. I know what we were fighting for. And now these warmongers (he is one of the worst; please tell him so) are again set to get us into it. And some of these Senators are just as bad. Too old to fight, money in munitions, they all have a chestnut to roast.

I would rather see the boys of '17 start a revolution here and send these warmongers to England where they belong.

Very truly yours,

R. W. EISH.

U. A. W.-C. I. O., OLDS LOCAL NO. 652,
Lansing, Mich., April 29, 1941.

Senator CHAS. W. TOBEY,
Senate Office Building,
Washington, D. C.

Honorable SIR: With this action we wish to make known our unanimous support of the Tobey resolution regarding convoys to England, and urge its recommendation to the Senate.

Also request admittance of A. P. M. representatives at next hearing.

Respectfully yours,

GREGG HALL,
Recording Secretary.
HARRY AYERS,
Chairman, Political Actions Committee.

ST. LOUIS, MO., *April 25, 1941.*

Senator CHAS. W. TOBEY,
Senator BENNETT CHAMP CLARK,
Senator BURTON WHEELER,
Congressman JOHN J. COCHRAN,
Washington, D. C.:

Our St. Vincent Orphan Association, established in 1850, and comprising some 4,000 active members and 100 percent American citizens have passed a resolution and wish to enter a most vigorous protest against our sending convoys with shipments to England or a thousand miles, or any distance that might precipitate us into this European war. Present unfortunate happenings to innocent people and our previous experience should guide our judgment now. Let's fight for uncompromising American peace and protect our own Nation.

JOSEPH G. HILKE, *President.*
FRANK L. ROGLES, *Chairman.*

STATE TEACHERS COLLEGE,
Valley City, N. Dak., April 29, 1941.

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SIR: Even in a little prairie town such as this, tonight's evening local press carries a few paragraphs on your very fine defense of Col. Charles A. Lindbergh's right to state his views on the war. Personally, I only regret that your statement did not also appear in the headlines.

A Pennsylvanian by birth, I hope you will pardon my writing you from this distance to express my deep appreciation of your courageous stand on this and other vital issues in recent months.

With thousands of other Americans, many of whom unfortunately are inarticulate, I believe firmly that the first line of defense of our democracy is right here at home, in the many seemingly unimportant transactions of our daily lives. If we cannot put our democracy into practice here and, furthermore if our present administration does not set us a better example in this respect, how can we be expected to "defend" it by means of guns and bombs? Down that road lies totalitarianism, and I am glad that you, for one, are standing so steadfastly against our inching into this war via convoys or any other means.

Yours very truly,

M. C. MORRIS.

CHRISTIAN CHURCH,
Faben, Tex., April 28, 1941.

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SENATOR: We have had some experience in getting people's convictions about our getting into this European war. We find that a majority do not want our Nation to be involved. Let me urge that this anticonvoy resolution get an immediate hearing.

The people must be heard or we will have no democracy.

Yours sincerely,

W. W. WITTHAMPER, *Pastor.*

WEST PALM BEACH, FLA., *April 28, 1941.*

Senator TOBEY,
United States Senate,
Washington, D. C.

DEAR SENATOR TOBEY: Enclosed are two letters printed in Sunday's Post-Times, a daily newspaper published in West Palm Beach, Fla., which express my exact sentiments and that of millions of other mothers.

I have followed with keen interest your fight against convoying ships to England, and wish it were possible to aid you in this noble effort. However, in this great democracy of ours the civilian seems to have no voice, but at least we are praying for your success in this most vital matter.

Very sincerely yours,

MRS. C. HAROLD RALLS.

NEW YORK, N. Y., *April 30, 1941.*
Senator TOBEY,
United States Senate,
Washington, D. C.:

We support 100 percent your anticonvoy resolution. We must keep America out of war. Convoys mean shooting and active warfare.

NEWKIRK PEACE ASSOCIATION.

ANN ARBOR, MICH., *May 1, 1941.*
Senator CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.:

As men who have already had coffins ordered by the administration, we feel that we have a right to speak. You have our support and that of many of the other students here at the University of Michigan, in your fight against convoys. We're Americans, not British, and we refuse to do Britain's fighting in Britain's war. Let's not make the same mistake as in 1917. Your convoy resolution is a long step toward preventing America entering Europe's war.

RICHARD H. MARTIN.
LOUIS W. TOTH.

DULUTH COUNCIL, AMERICAN
PEACE MOBILIZATION,
Duluth, Minn., April 24, 1941.

DEAR SENATOR: The American Peace Mobilization in meeting Monday, April 21, join their voices in protest with millions of other Americans the use of convoys bound for belligerent nations, and see it as a future step toward war. Such moves on the part of our Government will pave the way for an "incident" (sinkings and loss of American lives) and would mean complete participation.

We heartily support the resolution introduced by Senator TOBEY forbidding the use of United States naval vessels for protecting convoys bound for belligerent nations and ask you to take favorable action on it.

Respectfully yours,

———,
Secretary, Duluth Council,
American Peace Mobilization.

P. O. Box 5423,
Houston, Tex., April 27, 1941.
Senator WALTER F. GEORGE,
Chairman, Senate Foreign Relations
Committee, Washington, D. C.

DEAR SIR: Houston Peace Mobilization urges you to support the Tobey Resolution and to recommend it to the Senate. Our organization has approved the no-convoy resolution passed by the American People's Meeting, in line with our program of keeping out of war and preserving our democracy, we are unalterably opposed to any American convoys or American expeditionary force.

Yours truly,

ESTELLE ASHTON,
Secretary, Houston Peace Mobilization.

CHICAGO, ILL., *April 28, 1941.*
Hon. WALTER GEORGE,
Chairman, Senate Foreign
Relations Committee,
Washington, D. C.:

What possible objection can there be to holding immediate public hearings on the Tobey anticonvoy resolution. It seems to me that we have our neck out far enough now, that we should stop, and make sure the public understands all sides of this question with time to decide what they want to do before it is too late.

OWEN L. COON.

ROCKVILLE CENTRE, N. Y., *April 28, 1941.*
Senator TOBEY, of New Hampshire,
Senate Office Building,
Washington, D. C.

YOUR HONOR: Your good work in trying to keep our country out of war is greatly appreciated. The President himself should sponsor this anticonvoy bill, as it was one of his 1940 campaign promises.

This is a Christian country, and we have taught our boys "Thou shalt not kill." We cannot now say mass murder is your duty to preserve civilization. War is not in the program for a civilized Christian country.

I wish your bill success. Let out boys live for America. It is their birthright to live.

Very truly,

BELVA P. BROWN,
(Mrs. E. C. Brown, Jr.).

SIOUX FALLS, S. DAK., *April 28, 1941.*
Senator TOBEY:

DEAR SENATOR: Please know, as a mother, I appreciate your fight against convoying.

Wouldn't it be a wonderful Mother's Day gift for American mothers to have the anticonvoy bill passed?

Sincerely,

Mrs. H. L. ADEN.

CARMEL, CALIF., *April 28, 1941.*
The Honorable CHARLES WILLIAM TOBEY,
Senate Offices, Washington, D. C.

DEAR SENATOR TOBEY: Congratulations on your splendid patriotic work.

Enclosed is a copy of a letter which I am sending to the President and to Senator GEORGE.

With the immeasurable hope that our country may be spared the horror of a long, devastating war,

Sincerely,

ETHELWYN CARY COCKE.

CARMEL, CALIF., *April 28, 1941.*
Mr. FRANKLIN D. ROOSEVELT,
President,
The White House, Washington, D. C.

DEAR MR. PRESIDENT: Mr. Winston Churchill's speech was beautiful, lofty, and deeply touching. I had to steel my reason against my emotional reaction to his seductive plea and continually say to myself, "it is beautiful, it is impressive, but if it inflames the hearts of American citizens it may mean our men will lie in blood on the battlefields and our country will be impoverished while this talk will be a forgotten speech of the past."

I do not believe, Mr. President, that the majority of the people in this country wish to send convoys, which means war and an A. E. F.

The only people I know who are shouting for an all-out war are a few emotional theorists and persons of wealth and influence who believe by such means they will continue to keep the present special privilege afloat.

Our course is to build an adequate defense so no nation will dare attack us, to concentrate on developing our internal economy rather than sacrifice our young men and devastate our self-sustained, flourishing country.

I beg of you, Mr. President, not to send convoys and an A. E. F. to Europe.

Sincerely,

ETHELWYN CARY COCKE.

TULLY, N. Y., *April 28, 1941.*
Hon. CHARLES W. TOBEY,
Washington, D. C.

DEAR SENATOR: We urge you to work for immediate hearings on the Tobey anticonvoy resolution.

We expect the administration to keep its promises—no convoys. We do not want them in any form or by any name.

For a group of women voters in the Tully Baptist Church.

Sincerely yours,

ETHEL J. CHASE.
(Mrs. H. L. Chase.)

BLOOMINGTON, ILL., *April 29, 1941.*
Senator CHARLES W. TOBEY,
The Dodge, Washington, D. C.

DEAR MR. TOBEY: I have herewith enclosed a copy of a letter which I have addressed to Senator ———, who is in favor of convoying British merchantmen leaving Atlantic ports for Europe.

I thought this letter might help to stimulate and give you more courage to fight the battle against the bloodthirsty, warmongering politicians that are in Washington, trying with every hook and crook to get this country of ours in the conflict now raging in Europe, without regard and consideration to the pleadings of the American fathers and mothers to save their sons from this horrible slaughter.

I just read a letter in my daily paper that was signed a "Doughboy of '17." Below is a few paragraphs that read as follows:

"I have often wondered how many of the Congress of this country know what war is. The President says he does and that he hates war. Grant made that remark in 1873 in Berlin; so it's not original with F. D. R. I never heard anyone say they liked war, but I think that goes with the rest of the boloney being served out today.

"I would love to have the power of Christ for an hour. All these great (?) Americans who so heartily agree with those who want war, would be transported to Verdun, France, where there are buried 2,337,445 men who once breathed as members of the human race.

"I would like to show them how it looked around there, at the time I saw it—arms, legs, heads, and guts on the wire; and after one look one thing they would have to admit, they had a lot of guts." (No doubt he meant they had a lot of guts to send the boys over there.)

I would have been glad to give you all of this letter but it is quite long.

I sure think of you and your colleagues every day that are putting up such a valiant fight to keep this country out of the European conflict in which we have no business in.

May a merciful and gracious God give you and your colleagues physical strength to carry on this good fight until it is won is my hope and prayer, and father of three sons and one son-in-law that are in the military age. The one son has already taken his physical examination and was put in class A, and is now waiting for his call.

I sure do not want these poor boys to be slaughtered on a bloody European battlefield to fight a war that is not ours, nor had anything to do in starting same. I am not only thinking of my own boys, but also of the boys of other fathers and mothers that love them the same as I do mine. And believe me dear Senator TOBEY that the bitter tears are flowing down my cheeks while I am writing this letter to you. And when it is all said and done for what?

Yours very sincerely,

W. B. KLOPFENSTEIN.

APRIL 21, 1941.

———,
United States Senator,
Washington, D. C.

DEAR ———: A few days ago I read an article in my daily paper where you favor and advocate the United States Navy convoying British merchantmen leaving Atlantic ports for Europe. Giving your reason that it is an injustice to lay a burden upon the American taxpayers for the $7,000,000,000 to pay for war materials and than have it sent to the bottom of the ocean.

You seem to be very much concerned about the $7,000,000,000 that must be raised by the American taxpayers. But forget all about the fact that the President said himself, "Convoying means shooting and shooting means war." So it should be obvious to the most stupid mind that if the United States will enter this European conflict now raging, it will not only cost the American taxpayers $7,000,000,000, but 10 times that amount, and

on top of it have a million or more of our young men slaughtered.

I have three sons and one son-in-law in the military age, and I sure do not want them sent to this horrible slaughter to be sacrificed on the altar of greed and selfishness. And remember Senator ———, that I am not only pleading for my sons alone, but also for the sons of other fathers and mothers that love their sons as I do mine.

Do we have to lose our liberty, lives, and property just to save England's imperialism? No indeed. The real American people are not afraid to fight for their liberties and are going to revolt.

Cash and carry seemed to be neutrality fair and sensible. What is wrong with it now? If the United States is going to do financially as proposed in this war, why cannot England and other needy countries deed or present to us the islands along our two ocean rights-of-way?

Heaven help us if we cannot help ourselves any better than we did in the last war against propaganda and past masters of undermining intrigue. We were called dumb Americans then, and this was later demonstrated to be true. Now here we are again—bemuddled victims of a largely subsidized and controlled press—foreign double-crossers and propagandists who just take us for a bunch of suckers, same as last time, are getting us ready for a ride the same as in the first World War.

Again I will repeat in this letter as in my former letters, the assurance that Franklin D. Roosevelt gave to the fathers and mothers October 20, 1940. Quote: "Fathers and mothers, I give you one more assurance. I have said this before, but I shall say it again and again. Your boys are not going to be sent to any foreign wars."

To my mind as it appears in the present set-up, these were only preelection promises to get the fathers' and mothers' vote, with no thought in mind of keeping them after elected. This, however, would have applied to Mr. Willkie if elected, as he made the same kind of promises to the fathers and mothers as well as to all the American people over the air, through the press, and otherwise. But his actions after the election has proven it beyond a shadow of doubt that he had no thought in mind of keeping this promise to the fathers and mothers, and God only knew what would have happened if he were elected. So if He will forgive me for voting for Mr. Willkie this time, it will never happen again.

I wonder if we realize just how far America has dropped the pioneer spirit of freedom? We condemn Hitler and Mussolini, and then condone a totalitarian trend in this country. This and soft-pedaling Mr. Stalin is, in my opinion, the crime of the ages.

In closing will suggest Senator ——— that you follow the Golden Rule more closely and this idea of convoying British merchantmen with our Navy will vanish from your thoughts. And above all, give a little more thought and consideration to the crushing heartaches and pain that you are causing to the American fathers and mothers due to your actions and the actions of the other Senators and Congressmen advocating the same policy.

Yours very truly,

W. B. KLOPFENSTEIN.

KRAFT CHEESE CO.,
Chicago, April 30, 1941.

Hon. WALTER GEORGE,
Chairman, Senate Foreign Relations Committee, Washington, D. C.

DEAR SIR: I wish to urge as strongly as possible the holding of immediate public hearings on the Tobey anticonvoy resolution.

There is no question that convoys mean our getting into this war which would be the ruination of America and the sending of American boys to foreign battlefields.

Must the American people be made the suckers (and note this is not spelled "succors") of this generation as they were of the last? A minority of old men are beating the war drums and the vast majority of the American people want no part of it.

Very truly yours,

ROSCOE A. PAGE.

LONG BEACH, CALIF., *April 25, 1941.*

DEAR SIR: What a chuckle and what satisfaction the ego of Dictator Hitler must have had yesterday when he witnessed the spectacle in this country of two top Cabinet officials telling the world that the United States of America, the wealthiest and most powerful country on earth, has the jitters and scared half to death—notwithstanding that he (Hitler) is still 3,000 miles away and has no boats to get anywhere, not even 20 miles to England.

Referring to Dictator Hitler's failure to invade England, Mr. Hull told us that England maintained absolute control of her coastal waters and Hitler could not get across. If that system works over there, all that we have to do is maintain control of our waters. Let us take care of our own defenses first and when they are invincible think about those elsewhere.

We have a lot of problems of our own right here at home, too many in fact, and if these are not solved, our democracy, the last this world will ever have, will join the others that have disappeared. The pages of history give us some worth-while advice, why not profit by that advice before it is too late.

Very truly yours,

L. S. PETERMAN.

P. S.—Personally I think both speeches where trial balloons sent up at the order of the President. We are still opposed to convoys or war, regardless. More power to your efforts.

L. S. P.

APRIL 30, 1941.

Senator TOBEY,
United States Senate,
Washington, D. C.

DEAR SIR: May I take this opportunity on behalf of myself and friend to say that we are wholeheartedly behind you in your efforts to keep the United States out of war. We urge that you keep up the good work.

Yours very truly,

MARGERY LOWENSTEIN,
Brooklyn, N. Y.

APRIL 30, 1940.

Senator WALTER F. GEORGE,
Chairman, Senate Foreign Relations Committee,
United States Senate,
Washington, D. C.:

Twelve hundred members this union support the Tobey no-convoy resolution and urge favorable committee action. Also request that American peace mobilization be heard.

ALASKA CANNERY WORKERS UNION No. 5.
R. AGUIRRE, *Secretary.*

WASHINGTON, D. C., *April 30, 1941.*

Hon. Senator TOBEY.

DEAR SENATOR: Filled with anxiety over the intention of sending our naval vessels for patrol into combat zones, I am still hoping your anticonvoy resolution may be adopted and the seemingly inevitable drift into the war (which Great Britain is so stealthily saddling on our shoulders) can still be averted.

That you and your courageous coworkers may succeed in saving our American manhood from being sacrificed is the earnest wish of

Very sincerely yours,

CHRISTINE WALTER,
Hoboken, N. J.

SWARTHMORE COLLEGE,
Swarthmore, Pa., April 25, 1941.

Senator CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR TOBEY: A great many of us here at Swarthmore feel strongly that convoying foreign ships through combat zones is an action which would lead United States directly into Europe's and Asia's war. In fact, many of us who were in accord with Congress' decision on the lend-lease bill are astonished that convoys would even be considered.

We want you to know that we stand fully behind your resolution and are doing all we can to urge the holding of immediate hearings on it. We are especially anxious that these meetings be made public, because we are sure that as soon as Americans realize that convoys mean war, there will be a greater and greater protest against them.

Yours very sincerely,

BETTY BOWEN.

NORTHAMPTON, MASS., *May 5, 1941.*

DEAR MR. TOBEY: My voice is not as loud as Dr. Stearnes', nor is it as important as his. But it is just as clear. Possibly when I get to be as old as the doctor—and well out of the "fighting age"— it will be. I doubt it. I heartily approve of your stand. And as a customer of mine in Clearfield, Mass., (a Mr. John Heam who operates a furniture store there) said today—"God bless you for it."

And there are really so many others who believe with you too! Last week end at a house party at a friend's here in Northampton there was a Charles Whiteside, aged 32, occupation, traveling man for the Lyer Rubber Co. There was another ex-Manchester boy, George Struthers and his wife. George is 27 and a buyer in New York for Sears & Roebuck. And there was a Jean Webb, a writer from New York. He is 31. And all of us want to stay out of this war.

What can we do—besides constantly talk to people we meet—and write feeble letters like this to you?

It's getting so late.

Most sincerely,

DONALD GRAF.

Age 31. Occupation: Traveling man for French & Heald Co., Milford, N. H.

CAMBRIDGE, MASS., *May 5, 1941.*

DEAR SENATOR TOBEY: I have read in this morning's paper the letter Dr. Stearns wrote to you deploring your antiwar speeches. I graduated from Phillips Academy last year and respect and admire Dr. Stearns. But I emphatically support for this country the same foreign policy that you do. Noninterventionists have often to fall back on the so-called realistic arguments, and apparently your references to practical aspects of the issue have led Dr. Stearns to believe that your idealism and conscience have faded away.

I cannot agree with Dr. Stearns. I think that even on purely idealistic grounds the noninterventionist case is by far the strongest. The warring course of history will not be so easily changed by fighting another crusading war against an enemy made symbolic of all evil as by keeping this country out of the war and maintaining in at least one part of the world comparative social, political, emotional, and spiritual stability and perspective.

I write this to thank you as an individual and as a citizen for your work. If war does come, the picture will not be all black; liberal ideas may have a chance. But we need not even be as discouraged as that. I like to think that there is still time to awaken

people to demand peace as both possible and desirable on grounds of practicality and human welfare.

Sincerely,

JOHN E. REYNOLDS.

CINCINNATI, OHIO.
April 29, 1941.

Hon. CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.

DEAR SIR: Enclosed is a copy of a resolution which was adopted at a recent meeting of the Greater Cincinnati Council of Youth. I believe the resolution is self-explanatory. We are firmly opposed to convoys and we heartily endorse the Tobey resolution.

A copy of this resolution has also been sent to Senator WALTER F. GEORGE. We are anxious to do what we can to bring about favorable action on the Tobey resolution, and through such action to keep this country at peace.

Very truly yours,

JOANNE STEVENS,
Executive Secretary,
Greater Cincinnati Council of Youth.

Whereas the young people of this country feel grave concern about the acts and speeches of the administration, Congress, and the press to involve our country in the war now raging in Europe; and

Whereas the convoying of ships to the Allies will result in the bombing and torpedoing of these convoys and of our naval and military personnel and equipment and the killing of American citizens and therefore plunge us fully into military participation in this war: Therefore be it

Resolved, That the Greater Cincinnati Council of Youth protest the false agitation of the press and radio for convoys and for war, and that we take a firm stand against any law or Presidential decree permitting our ships and men to enter nonneutral waters either with or without convoy; and be it further

Resolved, That we actively support the Tobey resolution, now before the Senate Foreign Relations Committee, which resolution prohibits the use of American equipment and men in convoy activity.

Passed unanimously at the meeting of the Greater Cincinnati Council of Youth.

BURBANK, CALIF.,
April 28, 1941.

DEAR SENATOR TOBEY: As a New Hampshire woman, I wish to tell you how thoroughly I as one voter, am for your "no convoy" bill. Roosevelt's alternative is only another of his lovely methods of sticking out the neck of America. I suppose if he gets our ships near enough to the war, he may succeed in endangering American life and property.

Why this passionate concern for the British Empire? We'd get on fine without the British Navy. What has it ever done for us but hamper our having an adequate sea power of our own?

More power to you.

The feeling out here is strongly against our getting into this. Roosevelt is certainly trying his utmost to make a cause of war. If our ships are just doing "patrol," although pleasantly engaged in tipping off the British ships in any clash, it would be the Germans that were attacking. It's clever. I wish he were as interested in the welfare of America as he is in the British Empire.

Very truly,

FRANCES DUNCAN.

MORRISVILLE, N. Y., *April 28, 1941.*

Senator CHARLES W. TOBEY,
United States Senate, Washington, D. C.

DEAR SENATOR TOBEY: Believing that the people ought to be given an opportunity to speak, I wish to urge that public hearings on your anticonvoy resolution be held at once and that representative American citizens be invited to testify. I am opposed to the use of convoys.

Very truly yours,

LLOYD F. SHEPHARD.

Rev. LLOYD F. SHEPHARD, *Pastor,*
First Methodist Church.

CLEVELAND OHIO, *April 28, 1941.*

DEAR SENATOR: This is to ask you to work toward having Senate committee hearings on your Tobey resolution. I am an American and of English descent, on mother's side, but do not want this U. S. A. to convoy or patrol any boats in any sea for benefit of England. This is not our war. We can handle Hitler single-handed when time comes if we arm ourselves in right way instead of sending to England.

Sincerely yours,

J. B. BRADLEY,

NEW YORK CITY, *April 30, 1941.*

The Honorable Senator TOBEY,
Senate, Washington, D. C.

DEAR ESTEEMED SENATOR TOBEY: Time has come where your hands need strengthening by our support. You are a gallant upholder of the Constitution, the rights, and the liberties of our people. For the sake of these I do ask you, as a pastor of two churches, that you continue to oppose convoying and intervention in this war. My congregations are asking me to write in their behalf, and I am writing also on my own initiative.

We also resent the President's attitude and expressions against Lindbergh, as well as the acceptance of his resignation. Every citizen of the United States is privileged to enjoy the right of free speech and press. I feel that Lindbergh, as well as we, has just as much right to express his opinion and truth as those who blindfold our people with propaganda of intervention. You have our full support in this matter, and we hope that you will be able to prevent such disasters. We hope and pray that you will be successful in your attempt; and I remain,

Devotedly yours,

D. YOUNGMAN, *Pastor.*

STANISLAUS COUNTY PEACE COUNCIL,
Modesto, Calif., April 28, 1941.

In re Tobey convoy resolution.

Hon. CHARLES W. TOBEY,
Senate Office Building, Washington, D. C.

DEAR MR. TOBEY: This council favors passage of your resolution opposing American convoy of ships sailing to belligerent ports. We oppose the use of the American Navy for any patrol purposes beyond those absolutely necessary to preserve our neutrality.

We believe that our taking part in the convoy system will surely and inevitably take the United States into war. It is necessary for Germany's strategy to prevent supplies and munitions from reaching England. If it permits American convoys to escape, this whole plan will be thwarted. German submarines must sink American convoy ships or give up the war.

Germany will not declare war on this country. Nevertheless, American convoy ships will be sunk and American men killed. German regrets will be expressed, but this will not raise sunken ships or dead men. American temper will grow hot and American blood boil. Only a few sinkings will be necessary to arouse the war hate. The history of January to April 1917 will be repeated and the United States will find itself in the war.

We believe this country should remain at peace. This must be done for our own benefit. We must also remain at peace so that at the conclusion of the war the United States will be the one powerful neutral which can use its good offices in bringing about a just peace among the belligerents.

We must avoid convoys if we are to preserve American peace and neutrality.

Very truly yours,

CARL B. BENSON, *President.*

INDUSTRIALLY UNEMPLOYED
WORKERS UNION (C. I. O.),
San Francisco, Calif., April 23, 1941.

Whereas indications are growing every day that the next big step to involve the American people directly in the war will be the use of the naval and military forces for convoy services, and

Whereas, during the election campaign and the debates on the lease-lend bill, both Presidential candidates and Congressmen and Cabinet members all promised and denied that they had any intention of engaging in convoying ships and especially denied that the lease-lend bill was intended to permit the employment of United States naval and military forces and equipment for such purposes, and

Whereas the employment of naval and military personnel and equipment for the convoying of ships to the Allies, either all the way across the Atlantic, around the African Horn and through the Red Sea, or only part of the way, in cooperation with British convoys must directly result in torpedoing of American convoys, bombing of American naval and military forces and equipment, and killing of American citizens and naval and military force: Therefore be it

Resolved, That the membership of the Industrially Unemployed Workers Union (C. I. O.) is unconditionally opposed to any law, decree, or Presidential fiat which permits American merchant ships and seamen to enter nonneutral waters, with or without convoys; and be it further

Resolved, That we go on record as opposed to further transfer of American merchant ships to Great Britain and any other government; and be it further

Resolved, That immediate steps be taken to secure legislation strictly prohibiting the employment of United States naval or military equipment of any kind of convoy activity and the prohibition of the use of a single American soldier, marine, or naval personnel in such convoy activity; and be it

Resolved, That it is the sense of this body that convoying means "full participation in the current war" and that we dedicate ourselves to an immediate campaign to secure legislation prohibiting it; and be it finally

Resolved, That we call for the support and passage of the resolution introduced by Senator CHARLES W. TOBEY, to forbid the use of United States naval vessels for protecting convoys bound for belligerent nations.

Respectfully submitted,

ALLAN ELLIOTT,
President.

Cc. to Senator CHARLES W. TOBEY, Washington, D. C.

NORTH PRESBYTERIAN CHURCH,
North Tonawanda, N. Y., April 30, 1941.

Senator TOBEY,
The United States Senate,
Washington, D. C.

HONORABLE SIR: I am glad you are making the fight to prevent convoying by the American Navy. I hope you succeed. To convoy means to fight, to fight means war, and war means the end of democracy and the ruin of America. If patrolling leads to convoying, we are equally opposed to that.

Sincerely yours,

REV. G. H. MICKELSEN.

COUNTY BOARD OF QUEENS, ANCIENT
ORDER OF HIBERNIANS IN AMERICA,
May 1, 1941.

Hon. CHARLES TOBEY,
United States Senate, Washington, D. C.

DEAR SENATOR: Please be advised that the County Board of Queens County (N. Y.) of

the Ancient Order of Hibernians has passed a resolution favoring the passage of the anti-convoy bill and heartily endorse the proposed legislation now being offered and sponsored in Congress by Senator TOBEY with respect to the question of convoys and will appreciate any action that you might take in joining with the efforts of Senator TOBEY in the enactment into law of anticonvoy legislation.

Will you please acknowledge receipt of this communication?

Very truly yours,

DENNIS MCINERNEY.

MANCHESTER, N. H., *April 23, 1941.*

Hon. Senator TOBEY.

DEAR SIR: Will you please do all in your power to stop war trend that is sweeping through Washington, especially from the administration down through rubber-stamp Congressmen who would rather bask in the Roosevelt smile than do their duty to their country.

Stop the convoy idea, because once that starts that means war. Also any man joining the armed forces should have written in his induction papers that he will not be sent to Europe, only defend this country and its possessions and Western Hemisphere from attack.

Remember, every dog has its day. England took India, Africa, and the rest of her possessions by the sword. Now she is about to lose her ill-gotten gains by a means greater than the sword. We are not supposed to defend her ill-gotten gains.

I have no use for Hitler, and I pity the English people in what they are going through, but the Government is to blame for the condition England is in.

Sincerely yours,

JOHN F. O'LEARY.

MANCHESTER, N. H., *April 26, 1941.*

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SIR: I feel that the matter of use of American convoys to supply Britain's needs is too drastic a change in public policy to undertake without consulting the opinion of the American electorate.

Assuming we still have a democracy, it is our privilege and duty to discuss vital matters openly or have this done by our Representatives.

I trust we will not be disappointed in this. I believe your anticonvoy bill has very strong public support and should be given very careful consideration.

Yours truly,

MRS. CLAIRE E. FRITZSCHE.

CLAREMONT, CALIF., *April 29, 1941.*

Senator CHARLES TOBEY,
Washington, D. C.

DEAR SENATOR TOBEY: You may be interested to know that I have just sent to the President a night letter protesting against the use of American ships and crews in convoy service.

This letter was signed by 36 members of this small community—college professors, professional men, ministers, etc.

I am glad to note your activities in this matter, and hope they may be crowned with success.

Yours very truly,

A. E. BRUCE.

HINGHAM, MASS., *May 2, 1941.*

The Honorable CHARLES W. TOBEY,
The United States Senate,
Washington, D. C.

DEAR SIR: I urge you, as one of our New England Senators, to do all in your power to talk against, vote against, and resist convoys, patrols, and all other specious and devious devices aimed to draw us into the present European war.

The great majority of the American people don't want to be herded into this war against their will. And they look to you, their Congress, not to be a rubber stamp but truly to represent them and uphold the Constitution of these United States.

Very truly yours,

PHILIP B. TERRY.

BEVERLY HILLS, CALIF.,
May 2, 1941.

Senator CHARLES W. TOBEY,
United States Senate,
Washington, D. C.

DEAR SIR: I note with regret press reports that your anticonvoy resolution received unfavorable action in the Senate Foreign Relations Committee.

I realize that this issue is of such vital importance that it may mean war or peace for our country and I earnestly hope you will be able to get it to the floor of the Senate for a vote in the near future.

Please accept my sincere appreciation of your splendid efforts to keep America out of the war. If it were not for the good work the noninterventionists have done undoubtedly American troops before this would have been sent into the thick of the fighting in Europe, Asia, and Africa.

No matter how unavailing it may seem to be now, no effort is ever wasted, but will in time be fruitful of even more decisive results.

Sincerely,

MRS. ROXANE E. STEWART.

BROOKLYN, N. Y.,
May 3, 1941.

Senator TOBEY,
United States Senate,
Washington, D. C.

DEAR SENATOR TOBEY: You are putting up a grand fight and are a true representative of the 83 percent of the American people that want no part of the European war.

With your fight and that of the other very few true representatives of the people's wishes, it may be likely that we can keep from sending another A. E. F. I was in the last one and what besides headaches, depressions, and lower standards of living did that bring?

More power to you—keep up the good work. The Americans who do the dying are back of you 100 percent.

Sincerely,

GEORGE J. LEECH.

ANGERSTEIN & ANGERSTEIN,
Chicago, May 2, 1941.

Hon. CHARLES TOBEY,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: The writer, as well as everyone with whom I have discussed the matter, greatly appreciate the wonderful work you are doing to keep this country out of war.

Regardless of all the propaganda, the overwhelming majority of the American people want this country to stay out of war.

Please continue the good work you are doing.

With all good wishes, I am

Sincerely yours,

GEO. W. ANGERSTEIN.

BRONX, N. Y., *May 1, 1941.*

Senator CHARLES W. TOBEY,
Washington, D. C.

HONORABLE SIR: Just a few lines to ask you to keep up your fight against convoying British ships. I very much regret that the two resolutions were voted down. That Secretary Hull thinks an anticonvoy bill at this time would embarrass the President is just too bad, but should not deter the Congress from passing one just the same. It should be remembered that the President has embarrassed the American taxpayers to the extent of making us the most hated Nation of peoples on earth.

That an anticonvoy bill "would be misconstrued abroad" is as it should be; nothing would give more pleasure to thousands of good Americans than to have the British know that the American people are no longer the fools they were in the first World War. So do not be discouraged nor intimidated by anyone in high or low place, though you may be insinuated to be a "copperhead," even as was Col. Charles A. Lindbergh. We are familiar with the persecutions of his late father; they are trying the same on the son. Let us all good Americans stand together and shout for peace. United we stand. The best is with you.

Very truly yours,

MRS. JOHN W. PENDLETON.

WINNETKA., ILL., *May 4, 1941.*

The Honorable CHARLES W. TOBEY,
United States Senator from New Hampshire, Senate Office Building,
Washington, D. C.

DEAR SENATOR: I thoroughly support your anticonvoy resolution and want to thank you for your efforts in its behalf.

I am enclosing copy of letter just written to Senator GEORGE in this regard.

Wishing you every success, I am

Faithfully yours,

ELSIE W. HUNT.
(Mrs. L. C. Hunt.)

WINNETKA., ILL., *May 4, 1941.*

The Honorable WALTER F. GEORGE,
Chairman, Foreign Relations Committee,
Washington, D. C.

DEAR SENATOR: In regard to the letter read by you from Secretary of State Hull before the Foreign Relations Committee, in which the Secretary recommended action against the Tobey anticonvoy resolution because its passage would be misunderstood abroad.

This is most preposterous. Whom are our legislators elected to represent and support—the people of this Nation or those of some foreign government? Surely this Government is not run to please the ambitions and objectives of any people but those of the United States of America. Nor are the desires of the American people to be cast aside just to arouse consternation in the mind of some foreign dictator. This Government is for the people of this Nation, and if it is their desire that convoys should not be used and that this Nation should not be taken into a foreign war, that opinion should hold regardless of its effect on some foreign power.

Now the President has said that convoys mean shooting and shooting means war. Yet his Cabinet Members say in support of convoys that having gone thus far in aiding Britain, we can only go on. Well, we have got to stop some time or we shall find ourselves totally in the war, with another expeditionary force on its way. We have come to a precipice in our path and only the foolish and suicidal will insist on going on. The intelligent will heed the sign "Stop—Danger Ahead."

Faithfully yours,

ELSIE W. HUNT.
(Mrs. L. C. Hunt.)

BUTLER, PA., *May 4, 1941.*

DEAR MR. TOBEY: Enclosed is a clipping which explains my letter. I am protesting against convoys. I am protesting the idea of entering this war. On the positive side I favor:

Using the time we have while Europe fights to make ourselves impregnable militarily.

Raise taxes enough to pay for it, or as much of the cost as possible, as we rearm.

Iron out a few of the wrinkles in our own democracy.

Do these things resolved among ourselves, and declared publicly, to fight anyone who makes a pass at this hemisphere.

Your efforts are changing the public opinion in the country. This is a fairly small town and may not count for much as an indication, but I know that many "aid short of war" people are now seeing that it is impossible to have aid short of war. Furthermore, if they have to fight they would rather fight for this country. Neither do I find any fears that Hitler will invade this country and make slaves of us, except on the radio.

Sincerely yours,

FRANK M. ELLIS.

GUFFEY ON CONVOYS

Pennsylvanians know JOE GUFFEY so well that they're apt not to pay much attention to what he says.

Familiar with his lack of originality or imagination, and his policy of watching for an administration cue before making up his mind, they're apt to dismiss his remarks with a shrug or a grin.

But that's just the reason why his speech advocating American convoys should not be lightly dismissed.

Some other Senator might have made the statement on his own.

But with JOE GUFFEY there is the reasonable suspicion that he was prompted. In other words, that it was a "trial balloon."

It will be recalled that Mr. GUFFEY was the first to urge a purge of Senators who opposed the court-packing bill. The unsuccessful purge attempt followed.

Now he urges convoys. Depending on the public reaction, convoys may follow. That's why his remarks are important in this instance.

PUYALLUP, WASH., *May 1, 1941.*

Senator CHARLES TOBEY,
Senate Office Building,
Washington, D. C.

DEAR SIR: Let me tell you that the great majority of the American people stand with you on this issue of convoys. Emergency peace committees are being organized all over our State as a means to arouse people to express themselves since the administration forces will not permit us the privilege of voting on the most vital issue of our lives.

To my mind, Mr. Fulton Lewis, Jr., is one of the outstanding patriots of our time. April 29, in spite of the fact he knew he was putting his neck out, he told the Nation about the propaganda campaign to be launched by the law firm of Root, Clark, Buckner & Ballantine, 31 Nassau Street, New York City, who represent the J. P. Morgan and other capitalist interests, who would suffer losses in the event Britain fell. Surely the lives of America's finest sons are worth more to the Nation and the world than all the foreign investments.

I note Senator GUFFEY states that it was the mandate of the people to aid Britain no matter what the cost. Has the Senator forgotten the words "short of war"? That was the mandate, but has it been mentioned since November 5?

Keep up the fight. The people are with you. Needless to say that I am an American by birth, wife of a veteran, and mother of four children.

Very truly yours,

Mrs. J. J. KERWIN,
Member Emergency Peace
Committee of Tacoma.

COLUMBUS, OHIO.

Senator CHARLES W. TOBEY,
Washington, D. C.

DEAR SENATOR TOBEY: We of the Ohio Peace Committee and the many organizations throughout the State are still fighting for the Tobey anticonvoy resolutions.

Could you suggest to us just what the most effective means of pressing the issue would be at this time? If you can pass on this information to us, we shall be glad to inform other Ohio groups.

In the few days before the committee considered your resolution we were able to get several thousand letters out from central Ohio to Senator GEORGE and some 100 other cities in Ohio did likewise.

This week Senator BURTON came out against convoys in a speech here which encourages us that our work is doing some good. I enclose a clipping which will interest you. The writer is editorial director of the politically potent Columbus Dispatch. Please pass this on to Senator NYE.

Sincerely,

DOUGLAS DOBSON.

[From the Columbus Dispatch of May 2, 1941]

GAG ON CONVOYING DEBATE NULLIFIES DEMOCRATIC RIGHT—GOVERNMENT BY COMMITTEE SUBSTITUTED FOR VOTE OF ENTIRE CONGRESS

(By Elmer P. Fries)

Interment of two anticonvoying proposals by the United States Senate Foreign Relations Committee is an illustration of one of the evils of the American parliamentary system permitting government by committees to be substituted for democratically reached decisions in which the whole body of the people's elected representatives participate. It's a device enabling a majority party in control of committees to deny a minority party's spokesmen the right to debate any measure publicly.

When it is not abused, such parliamentary procedure can serve a useful purpose by killing off inconsequential bills or resolutions which do not merit time-consuming discussion.

But as it has just been employed in the Senate committee with respect to the Tobey and Nye resolutions, it becomes a slick trick permitting administration strategists to duck major issues which may involve the destiny of 130,000,000 people.

Convoying, according to Mr. Roosevelt's own words, means shooting, and shooting means war.

But neither the President nor his pliant Secretary of State, Mr. Cordell Hull, desired to have the Nye and Tobey resolutions prohibiting convoys considered and voted upon by 96 Senators and 435 Representatives—or the slightly smaller membership of Congress due to temporary vacancies.

So the administration-controlled committee's vote of 13 to 10 disposes of the proposals by preventing them from reaching the floor of either House.

Thus, on the specious plea of Mr. Hull that adoption of the proposed ban "would be misunderstood abroad," one of the privileges of democracy is nullified by the decree of 13 Senators.

And the so-called sovereign citizenry loses its right to know by a record vote which Members of the Congress favor and which ones oppose another long step toward formal involvement in war.

The gag was imposed in contemptuous disregard of the protest of congressional noninterventionists, whose views were expressed by Mr. ROBERT A. TAFT, Ohio's senior Senator, when he said:

"Surely this vital issue should be debated for the information of our Nation before 130,000,000 people are dragged into war by professors and pro-war columnists."

It is somewhat difficult to discern the basis of Mr. Hull's professed fear that a Senate declaration against convoys "would be misunderstood abroad," in view of the fact that every nation in the world has been told by the highest authority in this country—Mr. Roosevelt himself—that there will be no convoying.

Last January 21, the day after he was inaugurated for a third term, the President informed his press conference there would be no authorization of convoys—not even halfway across the Atlantic.

He derided convey talk as cow-jumped-over-the-moon stuff.

These pronouncements were made to reassure skeptical Congressmen who were then debating the lease-lend-or-give bill and favored writing a convoy prohibition into it.

Several times since, and as recently as 2 weeks ago, Mr. Roosevelt has reiterated this view. He told his April 15 press conference that discussion of convoying was nonsense.

On April 25, when he revealed his extension of the United States neutrality patrol and announced the American Fleet would police the seven seas, he insisted this move was in no sense comparable to convoying and that convoys were not contemplated.

But these assurances are offset by the disquieting resistance to any congressional action translating the Presidential pledges into law.

And now comes the Committee to Defend America by Aiding the Allies, which often reflects White House policies in advance, announcing it will whoop up sentiment for convoying at a Madison Square Garden mass meeting next Wednesday.

Mr. Ernest Gibson, national chairman of the intensely pro-war committee, expresses distress over his feeling that the American people have not yet been sufficiently scared by the idea that "Hitler can come over here."

And Dr. Frank Kingdon, chairman of the New York chapter of the committee, explaining the purpose of the meeting, beats the propaganda drum thus:

"So we move into a period in which we must prepare the mind of America for the next step—if it should be made necessary, not by us, but by Hitler—the convoying of our goods across the Atlantic."

By what authority the committee has been licensed to assume it "must prepare the mind of America" is not made clear.

BAD AXE, MICH., *May 2, 1941.*

Hon. CHARLES W. TOBEY,
Senator of New Hampshire.

HONORABLE SIR: As the last survivor of G. A. R. Post No. 70, wish to congratulate you, for the whole post, for your stand against war. I was bugler and secretary of Post No. 70 about 25 years. My membership is only honorary, but am mighty proud of it, also my relationship to Abe Lincoln.

The convoy system means war. More than 85 percent of the people of the United States are firmly opposed to becoming entangled in a foreign war. The United States is now split worse on the war question than it was during the Civil War in 1861-6.

Internal trouble is now our great danger. Your splendid work may even save us from revolution. I earnestly pray God that you be granted the wisdom and power to put across your bill, which is simply heeding the words of George Washington to "keep free of foreign entanglements."

At the close of the last war, we were told to go home where we belonged, and mind our own business. We will get the same out of this "Roosevelt war," and a lot more of it.

Pardon me for taking your time, but during the last war my business was to bury the fine young boys, who gave their lives in vain. It should never again happen to a sane people.

I thank you for all the Boys in Blue, whose great love for the United States saved our Nation.

Gratefully yours,

CHESTER HEY.

Please read enclosed editorial.

MAY 5, 1941.

The Honorable WALTER GEORGE,
Chairman, Senate Foreign Relations
Committee, Washington, D. C.

DEAR SENATOR GEORGE: This is the first letter which I have written in well over a year to any Member of Congress. As a whole, I believe that there are more effective means of political action open to citizens of conscience,

However, the events of recent days have been so disturbing that I cannot but express myself.

It seems almost inconceivable to me that after all the promises which the President has made and which, as a matter of fact, were largely responsible for his reelection, he is still willing to come before the American people urging a convoy system. If an epitaph has to be written for American democracy, it will read, "Killed by leadership without integrity."

If any valid reconstruction is to be done after this period of confusion, I covet for our country the service of binding up the wounds of the nations. If we permit ourselves to become another misguided and divided people, the reconstruction will be done by other powers, probably hostile to the principles which we represent.

I strongly urge the passing of the Tobey resolution.

Sincerely yours,

FRANKLIN H. LITTELL.

CC: President Franklin D. Roosevelt, Senators CHARLES W. TOBEY, ARTHUR H. VANDENBERG, PRENTISS M. BROWN.

NEW YORK CITY.

Hon. CHARLES W. TOBEY,
Senate House, Washington, D. C.

DEAR MR. TOBEY: I was fortunate enough to hear your speech over WQXR this evening as I was writing various letters to my Representatives in Washington, from the President down, and to the various local papers, and I want you to know that hearing your outright exposé of the true American attitude in this crisis was a great stimulus to me. We are at a terrible crisis now, one as dangerous as any the founding fathers faced, and I want you to know that there are countless true Americans who are heartened by your fearlessness.

Sincerely,

FRANCIS J. T. LEDDY.

BERLIN, N. H., *May 5, 1941.*

Hon. CHARLES W. TOBEY,
Washington, D. C.

DEAR SIR: You are a true patriot. We must not use convoys. For God's sake, keep America out of war.

Yours truly,

MRS. VICTORIA COMTOIS.

PORTSMOUTH, N. H., *May 7, 1941.*

Senator TOBEY,
Washington, D. C.

DEAR SENATOR: Fight this convoy business to the bitter end, as the security of this country was never in danger until the lease-lend bill was passed.

The third term has gone to Roosevelt's head, and he thinks he is invincible, and that is Hitler stuff, so fight to the end.

Respectfully.

R. JOHNSON.

WARNER, N. H., *May 7, 1941.*

MY DEAR SENATOR: I cannot speak for many, but I wish to assure you that at least one New Hampshire family is solidly behind you in your magnificent fight to keep this country from a suicidal adventure.

You are making a courageous fight. You will not only have the lasting satisfaction of trying to save our young men, our resources, and our economic future; but time will show, I believe, that you were right in every detail, and before another major election comes around many of these sawdust patriots will be fawning over you and trying to explain.

I fear that we are hopelessly in the war, despite what you and other thinking men can do. But your record is clear and fine.

Yours very truly,

FREEMAN TILDEN.

SAINT ANSELM'S ABBEY,
Manchester, N. H., May 7, 1941.

Senator CHARLES W. TOBEY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR: It was a pleasure to watch personally your gallant fight against war. Since my return to Manchester I have been following your noble work. It may be in vain, but it is a fight worth losing. I would rather fight against evil than succumb to evil without fighting. I am sure that many people in New Hampshire admire your stand.

I wish to thank you, your family, and associates for the kindness and hospitality you showed me during my recent visit to Washington.

With kindest personal regards, I remain,

Yours sincerely,

EDWARD F. ANGLUIN.
Rev. EDWARD F. ANGLUIN, O. S. B.

[From the Beacon Journal, of Akron, Ohio, of April 16, 1941]

A FACT TO BE FACED

The President was quite petulant in his discussion of the convoy question at yesterday's press conference. He observed that the Government is obligated by law to protect American merchant vessels wherever they operate outside actual combat zones. That's true. The Navy was established for that very purpose.

Then a correspondent asked the President if he thought the need for use of the Navy to protect shipments of material en route to Britain was growing more acute. Mr. Roosevelt refused to answer, elaborating as follows, according to the United Press:

"He said that more nonsense has been printed and more printer's ink has been spilled on this subject by people who don't know a hill of beans on the subject than he has ever noticed before in his experience.

"He said that he personally knows a little something about the subject, but that even with his knowledge he would hesitate to comment on the question of convoys."

Why not? Haven't the people a right to hear what convoys mean?

There are probably 129,000,000 Americans who, judged by Mr. Roosevelt's standards, don't know a hill of beans about the subject, but they are going to be vitally affected if the United States is sucked into a foreign war, as it will be if the convoy question is decided the way the President's most faithful supporters say it should be.

Outside actual combat zones American merchant ships are entitled to protection. So far they haven't needed it there. The aspect of the convoy question that needs full and free discussion is the certainty that shooting will begin when American ships are sent into waters which are a combat zone to the belligerents, though possibly not recognized as such by the President.

[From the Helena (Mont.) Independent of April 17, 1941]

MR. STIMSON'S "FEELER"

It would appear that Secretary Stimson has put out a feeler, one of a long series, to see whether the people are worked up yet to the point where they will approve the sending of American forces to Europe, to Africa, or where would you? At the congressional hearing Tuesday on defense problems, the War Department chief declared we may have to fight outside the Americas, in our own defense. "Our forces," he told the Senate committee, "must be prepared for the possibilities of war in many and varied terrains, it being quite uncertain in what part of North or South or Central America, or even possibly other regions, it ultimately may be necessary to act in defense of this Nation and its possessions."

Senator WHEELER, speaking the same night in Denver, intimated the early use of convoys might plunge us into the struggle. This utterance was not the first of the sort by Mr. WHEELER, to be sure, but then the Stimson feeler is not, either, the first in its category.

Slowly but surely the day comes when whether we mean to fight must be decided. Though just what we should fight with, if it has to be on two fronts, it is difficult to say. While the British hold the Atlantic the outlook is not too blue. But with out half-armed and equipped Army—not too large, even now—to hint at participating in actual war about the globe would appear, to some, to be foolhardy—just that.

However, seemingly we are to take more dangerous steps, because President Roosevelt, at the press conference of Tuesday, is said to have indicated that the ships we send through the Red Sea to Egypt "would have protection." In other words, whatever the disguise of the system to be adopted, we may have convoys soon. Convoys mean war.

[From the Columbus (Ohio) Dispatch of April 17, 1941]

CONVOYS MEAN WAR—SUCH A CONCLUSION CANNOT BE ESCAPED

The defeats suffered by England in Greece, in Africa, in the Mediterranean, and in the Atlantic have all served to force prematurely the issue of United States convoys for merchant ships carrying aid to Britain.

The Balkan campaign, which, pretty obviously by now, was supposed to provide a background through the spring months to illustrate the need of some kind of convoy service by the United State Navy is drawing to a close much sooner than was expected. There has been no opportunity by reason of a 2 or 3 months' long period of fighting in Yugoslavia and Greece to use that even as a means of justifying convoyed shipments of goods to Egypt via the Red Sea. Circumstances have altered cases and the problem which now faces the administration is to speed up its convoy plan in the face of a law which forbids the entry of United States vessels into the combat zones and in the face of an almost Nation-wide opposition to sending out armed ships to engage in shooting combat with German subarines harassing the commercial ocean lanes.

President Roosevelt has revealed the intention of the administration to supply convoys for goods shipped to England from the United States by his fiat assertion that American merchant ships carrying war supplies through the newly opened Red Sea route to Egypt will have armed protection. His justification for this decision lies partly in the fact that the Red Sea has been declared outside the combat zone. Although this perhaps is technically true at the moment since Italy has been defeated in Ethiopia, in a practical sense the Red Sea remains in the danger zone and any American ship venturing into it either by way of the Pacific and Indian Oceans or by the Atlantic around the southern tip of Africa clearly sails through areas raided again and again by German surface, undersea, and aircraft. American ships going to the Red Sea stand in danger of being sunk or captured and any convoys going with them stand in danger of having to shoot it out with submarines, airplanes, or warships of the German armed forces.

At the first exchange of shots a state of war exists in reality, whether diplomatically that fact is recognized or not.

President Roosevelt further justifies his decision by referring to the legal right of the United States to send merchant ships to neutral ports. Again, the President is technically right. But if it is international law to which he refers, and it is the assumption among most observers that this is his meaning, there is no protection there against any ship bearing contraband being sunk or captured. And any American ships carrying aid to England, whether they be bound for Liv-

erpool or the Red Sea, invite that danger. Likewise, any convoy ships accompanying them invite an armed clash with German craft engaged in enforcing the blockade against England.

Bluntly speaking, the use of United States naval convoys for merchant ships bearing aid to England, whether they be bound for so-called neutral ports or to ports of openly belligerent nations, constitutes an indirect declaration of war on Germany by the United States. There is no other way of looking at the issue involved. And if the administration insists upon sending convoys along with merchant ships, whether they are American, Canadian, or British, it risks war in a very real sense.

Bluntly speaking again, this Nation is not desirous of war. It has the very natural and understandable desire to help England to the limit of its ability to do so. It has accepted willingly the aid-to-Britain policy of the administration, but with a reservation, namely, with the proviso that it be aid "short of war." That, it seems, is the clearly understood consideration for whatever aid might be supplied. To cast that consideration aside and deliberately to invite war by the use of armed convoys through waters which everyone knows are patrolled by German warcraft ordered to sink or capture all contraband bound for England is to fly in the face of fate.

To decide to convoy shipments destined for England is to decide to become involved in the war. And that decision is one which is beyond the Presidential power. The determination to enter a state of war is wholly the responsibility of Congress.

The Senate Foreign Relations Committee has deferred action on a proposed resolution which would forbid the use of American naval vessels for convoy use. Why it has seen fit to delay action is a question which has not been answered except that it is the wish of the committee to hear the Department of State's views on the issue. Since the deferment has been made, however, it affords the American public time also in which to be heard on the issue, and all Americans who desire to remain out of the present European conflict have every opportunity now to make themselves heard in Congress by letter, telegram or personal contact with their Congressmen.

Aid to Britain short of war is one thing. Aid to Britain guaranteed by force of arms is another, and one which carries with it the fearsome prospect of war to the bitter end.

[From the Boston Post of April 18, 1941]

THE CRUCIAL HOUR

The Washington reporters have been trying to tell us, without causing hysteria or alarm, that the United States is nearing a perilous hour in its history.

The news from abroad is black, indeed.

It is so bad that people who want us to enter the war are making a supreme effort to get us in before the public recoils.

It is so bad that the suspicion is rising that the vast program of helping England will be too late, and also that it is too late right now.

There is no question that the advocates of the convoy policy are now getting in their mightiest efforts. They, however, are not telling the whole truth when they speak of "convoys" as a guaranty that the lend-lease matériel reaches England.

The truth is that such a move is the declaration of a naval war against Germany.

The primary object of sending armed vessels to sea to insure the safe pasage of merchantmen, is not to sail alongside the convoys to frighten the enemy.

The primary object is to sink enemy submarines and surface craft and to shoot down airplanes.

Sometimes in convoys the guarded crewmen never see the warships which are escorting them. These warships go where there are submarines and other hostile elements. They hunt down the enemy, and do battle wherever the enemy is found, near convoys or away from them. Thus the public is misinformed if it thinks that our convoying warships will only fight off attacks.

The American Navy does not do business that way.

If convoys are authorized they will do what they did in the last war. They will come to grips with the enemy and we will be actively at war.

The conviction has risen among many competent Washington observers that this sort of move is being planned.

Probably it will start with convoys across the Pacific into the Red Sea, where our interests are now said to lie.

Certainly it will not be hard, after the public gets used to seeing our ships going half-way around the world with little or no trouble, to order them to take the short and perilous route to the British Isles.

The interventionists speak out quite frankly in private, saying that all America needs is a little blood-letting to get her in the proper state of mind to go to war.

But from all appearances the American public is not in the proper temper to stand for this sacrifice of lives.

In this crucial hour the public knows to enter the war, by any avenue, open or shaded, is the suicide of the American Republic.

[From the Denver News of April 18, 1941]

CONGRESS SHOULD DECIDE

Administration Senators have postponed a show-down on the Tobey resolution which would put Congress on record against American warship convoys for munitions shipments to Britain and other belligerents.

The administration leaders, of course, have every right to pick their own time for testing this issue.

There seems to be little doubt that the President, as the Commander in Chief, has the constitutional authority to order United States naval vessels to sail anywhere on the high seas, outside the combat zones which the President himself fixes.

Yet the President has publicly declared that convoying means shooting, and his Secretary of the Navy is on record as believing that establishment of convoys would be an act of war. That being true, the President, no matter how desperately he may be urged to do so at some future time, should never consider inaugurating warship escorts without first submitting the proposition to Congress.

Under the Constitution, Congress has the responsibility of declaring wars and raising and maintaining armies. Since establishing a convoy system admittedly would be likely to make war inevitable, then Congress should have the responsibility of saying whether that last fateful step should be taken.

[From the New York Daily Worker of April 19, 1941]

LET THE PEOPLE KNOW THE TRUTH

Senator CHARLES W. TOBEY's charge that the administration agreed a month ago to the use of convoys—and is in fact using them—is of great significance. Of still greater significance is the failure of President Roosevelt to give any frank, satisfactory reply.

It is not clear whether Senator TOBEY's charge is true, but it might as well be. For the administration is doing everything under the sun to employ convoys. It is trying to hamstring debate, even in a Senate that usually jumps to the crack of the President's whip. The people are not consulted although their sons and husbands would do the dying, just as they were not consulted about putting the country in the conflict.

Any scheme, like convoys, that looks certain to place America in the "shooting stage" of the war, is the one the administration seizes upon. The warmongering Daily News in an editorial yesterday admitted that the sending of 35 marines to guard the American Embassy in London "could be the * * * advance guard * * * of another American expeditionary force." The people should speak out against all these schemes, concentrating on a crushing defeat of all convoy proposals.

[From the New York News of April 20, 1941]

THE PULL OF PATRIOTISM

Breathes there the man with soul so dead
Who never to himself hath said,
This is my own, my native land!
Whose heart hath ne'er within him burn'd
As home his footsteps he hath turned
From wandering on a foreign strand?
If such there breathe, go, mark him well!
For him no minstrel raptures swell;
High though his titles, proud his name,
Boundless his wealth as wish can claim—
Despite those titles, power, and pelf,
The wretch, concentered all in self,
Living, shall forfeit fair renown,
And, doubly dying, shall go down
To the vile dust from whence he sprung,
Unwept, unhonor'd, and unsung.

—Sir Walter Scott; Lay of the Last Minstrel, Canto 6, Stanza 1.

The above is one of the most famous poems ever written in any language, and one of the most heart stirring and emotion compelling.

ANCIENT EMOTION

The main reason why it is such a stirring poem is that it appeals to one of humanity's deepest, oldest, and fiercest emotions—patriotism.

Patriotism began, no doubt, with love of and loyalty to one's own family back in the dim days of the old Stone Age, or thereabout. From that point it must have spread out to loyalty to one's clan or tribe. Eventually patriotism came to mean loyalty to one's country and willingness to die, if necessary, in its defense.

Most of us can still be swayed by appeals to that emotion, and swayed to the depths of our beings. It was that emotion that fired men of military age and other qualifications in 1917–18 to go overseas and fight the Germans. They thought they were defending the United States.

WHERE'S THE 1917 SPIRIT?

All of which should throw some light, we believe, on the question why there is so much American apathy toward the present war.

We are in the present war, but we are in it short of shooting. Our present leaders have laid far more stress on the idea of helping Great Britain fight off the Germans than on the idea of preparing curselves to defend our own country. To many a draftee or expectant draftee this must mean that he is to get ready to fight, not for his own country, but for another country.

Men don't get emotional over such a prospect as that. The average unpolished gent likes his own country and dislikes all other countries instinctively. And he doesn't want to fight for some other country.

Karl Marx came along some 90 years ago with the idea that national patriotism ought to give way to human brotherhood; that men of all nations ought to love one another and hate nobody but the well-to-do. That idea has its appeal to some people. But it hasn't yet shown anywhere near the capacity to fire up do-or-die emotions that patriotism has shown for ages. And it hasn't yet inspired any such soul-stirring poem as Sir Walter Scott's masterpiece above-quoted.

Hence, we believe, the widespread American failure to work up a 1917 style war fever. The answer seems to us to be mainly psychological.

It begins to look, though, as if this trouble, if trouble it be, is going to be remedied fairly soon.

CONVOY REMEDY

Debate has begun in Congress on whether United States Navy vessels shall convoy shipments to Great Britain. Our hunch is that

convoying is going to begin in the administration's good time, for all the frenzied argument we may look for in Congress.

When and if that happens, American sea fighters are almost sure to be killed.

Woodrow Wilson was able to argue that we should go into the World War because our people were getting killed at sea by German submarines. Our interventionists are not yet able to put forth that argument.

But the convoys should remedy that defect in short order. By starting to convoy we shall place ourselves in position to get some of our people killed at sea by German subs, surface raiders, and/or bombers.

Thereupon the old patriotic arguments can be hauled out again, and the old war fever should mount to 1917–18 temperatures, if not higher, in jig time.

[From the Colorado Springs (Colo.) Gazette and Telegram of April 20, 1941]

SHIPPING AND CONVOYS

With the way for action cleared and $40,000,000,000 appropriated for British and American armaments, the war group finds the battle to save the Atlantic from the dictators not going so well. They say shipping is being destroyed more than twice as fast as it possibly can be replaced; that the British Navy (in which, incidentally, lies America's defense) is too weak to offer further protection; that unless American supplies reach her in full amount, Britain will be defeated; and that, therefore, the United States must deliver the goods with its own warships as convoys.

Mr. Roosevelt has said that convoys mean shooting, and that shooting "comes pretty close to war."

Thus the propagandists reach their objective, which is only now being admitted, through a long succession of seemingly logical steps, each posed as an isolated instance of what America might do, with complete regard for its own interest and safety, to help a friend. It is the old American game of flimflamming the public, and the flimflam continues.

It is on the word of our war makers alone that shipping losses are offered now as threatening imminent defeat of Britain. What these losses are is not stated, nor yet what is Britain's capacity to offset them. The case is presented on much the same basis as the lease-lend bill and the seven billions for Britain. The argument for that was that Britain was exhausting her resources and in the course of the year would need financial assistance. So great was the desire to give aid that the extent of those resources was never asked, and British orders already placed and covered by cash in the bank were actually taken over and made an obligation of the American people.

The shipping problem is serious, of course, but on the face of things it can hardly be called critical. The German U-boat toll is heavy but it cannot be marked down as seriously impairing the British war effort, for British merchant ships are still plying far-flung trade routes, carrying on normal commerce. Were Britain's needs urgent, she would call in that large fleet to supply the home front. American ships can serve Pacific trade, but it is not Britain's purpose to yield profitable routes unless need compels.

Much the same circumstances attend the problem of convoys. Britain detached powerful units of her home fleet to elevate the Mediterranean squadron to a battle fleet. She did this deliberately and in full knowledge of the requirements of the battle of the Atlantic. She cannot consider the home front critical and at the same time develop a full-scale offensive operation thousands of miles away.

Britain would relish American shipping and American convoys as she would relish America as a fighting ally. The question is whether the American people want to fight a war on this basis. They say no, but they have been shoved so far that it will take only one more little push to send them in head over heels, and that well-placed kick is just about to be applied.

[From the New York Daily Worker of April 20, 1941]

WHO IS RESPONSIBLE FOR THE PERILOUS SITUATION?

In warning the country of the perilous situation that faces it, President Roosevelt wants the people to overlook one little fact.

That fact is that it is his policies, and his subservience to Wall Street, which are directly responsible for this situation. Step by step, and under the guise of keeping out of war, he has placed the Nation into it. Now the White House is pulling all kinds of strings to put through convoys, in order to bring American involvement to the shooting stage. When the President speaks of the dangerous situation, it is to shield his own responsibility, and at the same time to stampede the people into accepting convoys and all other total-war proposals.

Meanwhile, maneuvers of a highly dangerous character are going on behind the scenes. Mark Sullivan in the Herald Tribune yesterday asserts wishfully that Senator Tobey's anticonvoy resolution is almost certain to be blocked in the Senate Foreign Relations Committee, and that from this the President will reason that the whole Senate is in favor of convoys. (It is true that the people cannot rely on the war-minded Senate, but the attempt to block open discussion on the Senate floor is to prevent mass protests from gathering momentum.)

Senator Gerald Nye now talks of a so-called compromise which does not oppose convoys but which would leave it to Congress to authorize convoys. The people, who are 83 percent against involvement, are opposed to anyone declaring for convoys, as can be seen in the no-convoy demand of the American Peace Mobilization. A letter to your Senator, Congressman, and to the White House will let them know that you want nothing less than a flat rejection of all convoy plans.

[From the Wall Street Journal of April 21, 1941]

NO SUBTERFUGE

One of the arguments for using American naval vessels as convoys is that the action is necessary to make the lease-lend law policy effective. It does not make sense, say sponsors of the plan, to allow material for Britain to pile up on docks or to be sunk by submarines after we have manufactured it. We should ship it in American vessels and convoy those vessels.

When the lease-lend bill was before Congress some of its opponents envisaged this situation. They predicted that the next step would be a demand for convoys. Most of the advocates of the measure denied that the question of convoys was implied in any of its provisions.

We are recalling that, not for the purpose of raking among the ashes of arguments about things settled, but the course of the past may very well indicate the future.

Suppose we can get the ships to haul material to Britain. Suppose we can safely convoy those ships. Then are we likely to hear something like this:

"Getting a lot of materials to the British is useless unless she has the men to make use of those materials. Planes need men to fly them; guns, men to fire them. So let's send troops."

We have heard that Britain does not need men. So far as defense of the British Isles is concerned, that is probably true. Current developments do not indicate that it is true in Africa or in the Balkans.

Long ago, we insisted that this country cannot be half in and half out of a war. Either we are all the way in or we are not in. Despite statements to the contrary, we are not now in. The sentiment of the majority is for not going in.

No one seriously denies that convoys will be the first actual war step. Once it is taken, there is no drawing back. And once in the war, there is no choice except to go in with all we have.

We have said and we intend to repeat:

"Only by constitutional methods, that is by enactment of Congress, should this country initiate a state of war.

"It follows that only by act of Congress should this country take steps which will cause another nation to attack it and thus force war."

Any other course is the course of subterfuge.

[From the Vincennes (Ind.) Post of April 27, 1941]

THE BUILD-UP

In spite of the President's undeniable statement that "convoying means shooting, and shooting means war," the country is evidently now being "softened" through public statements made by his official appointees, Secretaries Hull and Knox, who follow up LaGuardia's well publicized pronouncement for half-way-across-patrol, by dramatically raising the ante with a duet declaration for all-the-way-convoy—exactly as if the people had spoken for war, (instead of the other way round), and utterly disregarding both pre-election promises and post-election polls of public sentiment.

For in spite of adroit urging and constant pressure toward war, the public remains overwhelmingly opposed to involvement, and only the same willful little bunch of warmongers and their complement of swivel-chair soldiers, continue to "sound the tocsin." Naturally to these latter, war presents a rosy picture, with its additional pomp and power, and with none of its red flowing from the veins of themselves or theirs. So every day has seen this group become bolder and more insistent, until now they have stopped even pretending to carry out the will of the majority, by whose sufferance alone those in office derive their power.

But war means an entirely different proposition to the general public whose standard of living will have to be lowered for years to pay the bills to which this country is already committed, and whose sons it is, that would be sent for sacrifice, and not properly equipped for even self-defense. Yet now, puffed with power, these officials—made by the people and supposedly working for the people—have the "guts" to discuss openly whether it shall be all-the-way or half-the-way, when they themselves admit that either way means the very thing they have committed themselves to be against, regardless of whether one names the baby "convoy" or "patrol."

We say—and rightly—that if the people under totalitarian government are dumb enough to stand a dictator ,they deserve what they get. Yet in the matter of involvement, our people are being deliberately deprived of their right of choice. The method is like that of a shyster who forces a helpless witness to self-conviction by such questions as, "Do you still beat your wife?" or the gangster, who having you in his power, asks whether you would rather be stabbed or shot.

Granted that, in our country there may still be trusting souls who find hope in the President's declaration at his press conference that "the administration is not now thinking of convoys" and who can fondly believe that Messrs. Hull and Knox were just voicing their personal preferences, instead of merely saying what was "in the script." Not so in England, where the Evening News frankly declares that both Secretary Hull and Secretary Knox, with the authority of the

President and the United States Cabinet, have given definite assurance that America will not allow arms meant for Britain to be sent to the bottom of the Atlantic, and United States Ministers pave way for big war move by Roosevelt.

That, sad to say, is exactly what alert Americans must feel is being done to them. Judging by the evidence, they are obliged to think that our country is being deliberately rushed into a state of war, in spite of official denials, in spite of an undeniable condition of unpreparedness and in spite of the fact that time plays with us, even if it is being wasted. For after all, the dictators are only mortal and every smidgeon of liberty guarded until they have passed on, will continue to live instead of requiring the travail of new birth.

What may be the next movement planned in this dance of death, remains to be seen. The trial balloon has already been sent up on a little visit to Canada for the President, though some hesitate to believe he would leave the country with conditions as they are here, while others sarcastically point out that "Miss Perkins gathered seashells" while strikes bogged down our national-defense program. At any rate, every possible effort is undoubtedly being made to "sell the country" at least on the idea of war, when even London's Evening Standard, headlines the fact that United States of America builds up convoy idea—Cordell Hull prepares ground.

[From the Vincennes (Ind.) Post of April 30, 1941]

LINDBERGH ATTACK

Among the many regrettable results of President Roosevelt's attack on Colonel Lindbergh, perhaps the most unfortunate is that it has served to convince many people beyond a reasonable doubt of certain charges which from time to time have been more or less openly made in connection with the Chief Executive, and which until this occurrence they had been able to disbelieve or at least to discount.

Like Lindbergh, these had expected and hoped to continue in the exercise of their established rights as American citizens, and to hand the same privileges unrestricted to future generations. Like Lindbergh, they do not think (as the President expressed it) "that there is a new order and a new form of government in the world to which democracy must yield." Like Lindbergh, they feel and have proven by their actions—which ever speak louder than words—that the democratic way is the right way and, indeed, the only way that can or should be followed by the people of the United States. For the fact that dictatorship is rampant abroad constitutes no valid reason either for ambitious usurpation or supine yielding of arbitrary power to any person in this country, since our Government has already proven its ability to function properly without entering upon that perilous course through which other republics have been wrecked in the past.

Like Lindbergh too, these people would feel themselves guilty of treason against all they hold most dear if, having been in a position to obtain information of vital significance to our people, they cravenly held their peace because that was the "easiest way." Unlike Lindbergh, these people have not had an opportunity to see existing conditions abroad, which have a direct relation to the lives and welfare of millions of our citizens and by which our national security could be jeopardized. As a matter of fact, even if they had been able to get such an inside view as Lindbergh had, they would have lacked the necessary expert knowledge to interpret it properly. But they know enough to know that the same intelligent application of available information (which was what enabled the Lone Eagle to succeed where others had failed) becomes our solemn obligation under existing circumstances and cannot be lightly disregarded just because somebody who personally has everything to gain and nothing to lose wishes to make a name for himself.

This European war has not come on since election. It was in progress then, and before entrusting the Presidency to Mr. Roosevelt again, the voters exacted and received from him the public assurance that he had not yet made any "secret commitments" and that if elected President again, he would not involve our country in war. There are millions of Americans who felt then and who are even more sure today that not only the welfare of United States but of the entire civilized world, lies in the concentration of our efforts on proper preparedness for defending our own shores and, above all, in not sending our citizens beyond them to seek involvement. These people want United States so strong that no other nation could hope to attack us successfully, and functioning so smoothly that other countries will be led to follow our example—not forced to interpret our actions unfavorably. In other words, they believe in a man or a family or a country, following the precepts of the Book that advises: "Physician, heal thyself."

In any case, they realize that war—like a major operation—sometimes does become necessary but is not the sort of thing to be courted. Granted there have been many people who let themselves become so thorough psychologized by some doctor that unless prevented from so doing, they would let him undertake to cut out everything they have except their disposition. But those who are not mentally unbalanced themselves, will consider well before undertaking such a risk, just as a physician who is honest or right mentally, will advise against such a course. And just as faith in the physician may play a determining part in whether or not a patient comes safely through a crisis, so in times of stress, faith in our elected officials has much to do with the people's ability to carry on successfully. So along with the Nation-wide regret that Colonel Lindbergh should have been made the object of such unwarranted statements because of giving his fellow countrymen the benefit of information he alone possessed, there is voiced a deeper regret that our already too slender supply of faith has been definitely lessened, for faith is something that no amount of appropriations can buy.

[From the Vincennes (Ind.) Post of May 1, 1941]

"SPILLING THE BEANS"

Beans and our fighting forces—especially those on the high seas—have always been closely associated, and it must be admitted that Admiral Harold R. Stark, Chief of Naval Operations, did a first class job of "spilling the beans" in his talk before the United States Chamber of Commerce (now meeting in Washington)—just as it can be readily seen why the occurrence is said to have caused such consternation at the White House.

People will remember that only last Friday, the President was questioned on the disquieting rumors that he was having our ships used for convoy service although Congress had not authorized such action, and in the face of Mr. Roosevelt's own well-remembered statement that "convoys mean shooting and shooting means war." People will remember, furthermore, that the President turned aside Friday's questioners, with the statement that "at one time last year warship patrols extended 1,000 miles from Delaware," although he declined to be more definite about their present extent. So the reaction at the official residence on Pannsylvania Avenue, can easily be imagined, when the voice of Admiral Stark was heard assuring members of the Chamber and anyone else who happened to be listening, "I wish I could tell you about convoys. I'd like to tell you about our patrols, 3,000 miles from our shores, from the high latitudes to the equator in both oceans."

Such an admission, coming on the heels of the President's Friday statement, was indeed a shock. Many had been reassured by Mr. Roosevelt's words, inferring them to be an honest admission of a preelection fault, from which, fortunately, no harm had befallen us, and which had been discontinued after the "one time" last year. Such an inference, too, was quite natural, in view of the people's own plainly expressed opposition to convoys, and the President's never-to-be-forgotten promise, on which he was reelected. Further reassurance also was taken from the President's other statement that those who were responsible for all the rumors, are so dumb they "don't know beans" about what is really happening. But with this speaker being Chief of Naval Operations, even Mr. Roosevelt could scarcely hope to laugh off his words or to discredit them, nor could the President expect those who heard, to be sufficiently dumb not to know "beans when they were spilled."

It is very natural that Admiral Stark, as a patriotic American citizen, should wish most desperately that he could tell those leading business representatives of the people all over United States about a danger to which he, as Chief of Naval Operations, knew of our country being subjected, so that his fellow Americans, being free to act, could try, before it became too late, to protect themselves and each other from the consequences. But the lips of an officer in either the Army or Navy are effectually sealed unless the President, as Commander in Chief, gives him permission to speak. So after the admiral's opening remarks, a set speech which he had been scheduled to deliver, was presented as written with all the words properly pronounced.

By the time this chore had been duly chored a message arrived from the White House for the speaker. So the admiral, as was his military duty, called the reporters together and explained that he had not meant to mention "convoys"—a word regarded as dynamite by the administration because of the American public's objection to its Navy being put to that use. Also the officer explained that he had not meant to say our warships were patroling 3,000 miles from shore—which would have shown they were guarding munitions cargoes from German subs and bombers all the way to England—but that he had only intended to tell that the patrol was going 2,000 miles. And within an hour the President was assuring the reporters that what Admiral Stark had said "doesn't mean a thing," regardless of whether the warships are being sent all the way or two-thirds of the way.

Granted that such may "not mean a thing" to the President. Nevertheless, it does mean unspeakingly much to a people by whose sufferance Mr. Roosevelt was elected to, and is permitted to remain in, his present exalted position.. What the outcome will be time alone can tell. For many Americans who gave Mr. Roosevelt their votes on his assurance that he would do nothing to involve our country in the European war, as well as many who could not bring themselves to support him, all definitely heard him assert his full understanding that convoy meant shooting and shooting meant war. Also many of these people feel that while quibbling or bluffing may afford good sport on occasion, it has no place with the lives of Americans at stake, even though these will agree with the President that, under the circumstances, it is more nearly correct to use the word "patrol" rather than the word "convoy."

For "convoy," according to the dictionary, means "to go along and protect," while "patrol" means just "to go along to protect." And it must be admitted that ships sent out equipped with antiaircraft guns which will only carry 3 miles against modern bombers that operate at 5 miles altitude, have about as

much chance as if the men were armed with beanshooters. So for the sake of those whose sacrifice would accomplish nothing but to put into operation the already passed M-day law that would automatically make our own country a dictatorship "for the duration," which admittedly may be many years, for their sake, as well as for the sake of all of us, it may prove a godsend that the admiral "spilled the beans."

[From the Arizona Daily Star of May 1, 1941]

THE PRESIDENT AND COLONEL LINDBERGH

The exchange of compliments between President Roosevelt and Colonel Lindbergh adds an unfortunate and unnecessary blight to an already bewildered and embittered situation. That the President of the United States should descend to the level of name calling and impugning the patriotism of those who differ with his policies sets a sorry precedent and only adds to the fires of hate that seem to be consuming mankind.

To say the least the President's designation of Colonel Lindbergh and others as "Copperheads" was unwarranted. At no time has Colonel Lindbergh in his speeches expressed a single word of personal abuse. He has done nothing but discuss issues. His words have been calm and temperate. He has had the daring to express sentiments which millions of Americans share but are afraid to express. His words on military aviation call for serious appraisal instead of heated scorn.

Let us not forget, in the months prior to the last war, how insanely we vilified those who expressed the slightest doubt about German atrocities in Belgium. Let us not forget how we turned the Kaiser into a demon, and how all would be lovely as soon as the Kaiser was finished. Let us not forget our humiliation after the war when we learned how we had swallowed such falsehoods. Yet we are forgetting and are repeating the identical mistake of damming up hatred.

Who knows that Colonel Lindbergh in later years may be proven to be correct, perhaps partially correct? Has there been a single American Army or Navy officer who has challenged Colonel Lindbergh's judgment on military matters? Remember how Colonel Lindbergh was vilified when he reported on the weakness of the Soviet air force and the strength of the German air force? Has he been proven incorrect? And now when we as a nation are rapidly approaching the task of breaking Germany's military power what if Colonel Lindbergh is proven to be correct—after a million lives have been lost and our society regimented into the necessary dictatorship to wage such a war? How will those who now vilify him feel? Will their regrets bring back the lives that are lost due to heedless and incompetent planning? If by that time Colonel Lindbergh is dead, he will be a national martyr; if he is alive, he will be a national figure unequaled in influence.

If Colonel Lindbergh is a copperhead, then there are millions of former soldiers who went through the battles of France in 1917 and 1918 who are copperheads, not to speak of scores of millions of American citizens. At a time when national unity is needed, at a time when the right of free speech is still an American privilege, it is a sorry spectacle to have the President of the United States question the patriotism of a man who happens to differ, but differs openly without apologies or subterfuges.

In all seriousness we say that, after seeing the lack of candor in Washington, the lack of known objectives, and the evident plan to trick America into war, into a war whose magnitude is almost incomprehensible, without the slightest effort toward using the power and might to bring about a negotiated peace or to inform the American people fully, in all seriousness we say future events may prove Colonel Lindbergh to be right. We fervently hope he is wrong, but events so far have confirmed what he has said, and if America allows many more weeks to slip by without acting, Colonel Lindbergh will probably be proven to be right. Even if he is proven to be wrong, as let us hope he will be, as an American citizen he has the right to speak until the emergency forbids all free speech, particularly when he confines his speeches to issues and indulges in no personal vilifications. To castigate and vilify him while allowing Communists to engage in sabotage and to speak with impunity is a contradiction too evident to overlook.

[From the Los Angeles Examiner]

THE POLITICAL PARADE

(By George Rothwell Brown)

It is a serious thing that Mr. Roosevelt doubtless will contemplate in the seclusion of his study, when a mass meeting of more than 10,000 men and women in such a typical American city as Chicago can send to him a telegram serving upon him blunt notice that if he leads this country into war it will be behind a "reluctant and divided nation."

These are words of the gravest import. The President will do well to heed them as he stands today on the seesaw of fate, balanced between peace and war.

When that Chicago mass meeting last Sunday afternoon by a unanimous and enthusiastic rising vote authorized the sending to the President of a telegram embodying that ominous phrase, the people of that city were merely expressing what is in the minds of millions of people in the heart of America which lies between the Rockies and the Ohio River.

This writer within the month has traveled several thousand miles throughout this vast region and back again. If he had discovered that these people want war and are ready to go to battle to fight to save the British Empire he would report it here.

But he made no such discovery. Coming fresh from the war-filled atmosphere of Washington he was prepared to believe that the Government in Washington was truly reflecting the will of the people. He had not traveled far when he learned by unmistakable evidence that this is not so.

This country so far as it is represented by the great Middle West is so unalterably repugnant to war that in the opinion of this writer it is perfectly true, as was declared by the Chicago mass meeting last Sunday, that if Mr. Roosevelt persists in carrying out his war policy and getting this country into a European conflict he will find himself confronted by a people reluctant and divided.

Mr. Roosevelt's course is costing him the support and allegiance of thousands of Americans who voted for him only 6 months ago. They are losing confidence in him day by day. They are saying about him not only in confidence but openly and publicly things they would never have dreamed of saying about Franklin D. Roosevelt as recently as last November.

They are saying that his actions do not square with what he says. They are fearful that after promising them that he would not lead them to war, that after having won his third-term election on that promise he has now broken it.

But they are saying something even worse of the President of the United States. They are saying that when he made that promise he did not mean it but intended to break it.

Mr. Roosevelt would do well not to plunge this country into war when the people do not want war. He could serve the interests of this country far better by getting some representative citizens of this western country on the long-distance telephone than he could by getting Winston Churchill on the trans-Atlantic telephone.

Mr. Churchill and Mr. Roosevelt obviously are playing the same game. Both are astute politicians. Both know how to get as much as they can when they can and, having got it, how to move forward to another position.

Mr. Churchill now tells his American radio audience that when he said that all England wanted was the tools he really meant "give them to us." The people in this part of America realize that this is using language with trickery. They know perfectly well that Mr. Churchill wants convoys, and they know that when Mr. Churchill says with regard to Mr. Roosevelt's patrol that "I felt for some time that something like this was bound to happen," what he really means is that he has known all along, from his telephonic conversation with the man in the White House, just what he was going to get from Mr. Roosevelt when Mr. Roosevelt felt that the time was right to give it to him.

Churchill's radio address coming on the day of the Chicago mass meeting, addressed by Senator WHEELER on behalf of the noninterventionists of Congress, suddenly brought home to our people the amazing revelation that two men, Churchill and Roosevelt, are now determining their destiny without consulting them.

[From the Los Angeles Times of May 4, 1941]

THE POET LAUREATE WRITES FROM HIS GREEN VERDUGO HILLS

(By John Steven McGroarty)

It was in Santa Paula that we heard of the three cypress trees planted some years ago and still growing on the grounds of the women's clubhouse in Somis.

Somis is not far from Santa Paula. It is a lovely spot in the clasp of low rolling hills yonder in the country of the Camarillos. Near by is the vast expanse of the fat bean lands of Ventura. I have often passed through it, always lingering for a soul-satisfying breath of its beauty. But I had never heard the story of the three cypress trees until told of it at Santa Paula.

It is a sad yet strengthening story that may well be told anew in the Synagogue this blessed Sabbath morning.

The way it was, notice was served on three boys of Somis summoning them to war against Germany, a country 3,000 miles away across the American Continent and 3,000 miles more across the Atlantic Ocean. A country and whose people they had never seen. They were told they were needed to save the world for democracy. They didn't quite understand the idea, but there was no way by which they could avoid the summons, even if they wanted to do so.

So off they went across the continent and the great sea, bravely bidding farewell to home and loved ones, little dreaming that it was a last good-bye and that they would never see the hills of Somis again.

They were young, just boys, really. That's all they were. Had they survived the war they would still not be old, but only in the prime of life. They doubtless would be in Somis still, among those they loved, with children of their own to cherish and care for.

But it was not to be. They were killed in battle. The poppy fields of alien Flanders and not the poppy fields of Somis bloom above their graves.

And, to remember them, the women of Somis planted three cypress trees which, if you pass that way, you may behold. That's the story.

Will anyone say it is not a story to be told in the synagogue on a Sabbath morning, or any other morning, because it is not uncommon and that like stories can be told by every community of the land? Well, in a way this may be true, but it does not change the fact that there once were three boys in Somis who had a right to life, happiness, and love of which someone robbed them without any shadow of justice. They did not die in defense of their own country, but for a blunder that was foisted upon them. Their death did not save the world for democracy. They were the innocent victims of stupid theorists who kept on living, safe from harm. Except for three cypress

trees in Somis the world has forgotten all about them long ago. Those whom they fought for and died for have not only forgotten them but never even thanked them.

This is the bitter truth. And no man should fear the truth, no matter how bitter it be.

The supreme egotism and arrogance that sent these boys and others like them to death again is in motion. There is great danger that the error of the first World War is to be repeated. Throughout America there is the belief that our Nation again will be involved, although fully 90 percent of the population is opposed to it.

How helpless we appear to be as a people. We don't want to engage in this war, but feel that we shall be forced into it. The question naturally arises, Who is it that can again send our young men to the slaughter regardless of how the people feel about it? Is this a government of and by the people or a dictatorship? If it be a government of and by the people, why do not the people themselves decide this matter?

There is a large and highly respectable segment of the American people who have contended and still contend that the best foreign policy for our Government to pursue is to stay at home and mind our own business, which is exactly what we have not done and are not doing. The advice of George Washington to avoid foreign entanglements has been thrown to the winds. We are entangled up to our necks.

When the first World War ended Winston Churchill, now Prime Minister of Great Britain, said that if America had kept out the war would have ended a year sooner and a million lives would have been saved.

Was not that a fine gesture of contempt? And no word about the money we loaned and will never get back. No word about the 100,000 American boys killed in battle and lying dead in France and Flanders.

We wonder if God ever will give us sense. It is notorious that every nation of Europe without exception regards Americans as nincompoops.

Wise old Will Rogers once declared that America had never lost a war nor won a conference. Think back and consider what a monkey they made out of Woodrow Wilson at the peace table of Versailles. The craziest patchwork of alleged diplomacy was that solemn conclave at which poor, well-meaning Woodrow Wilson was jollied to his face and laughed at behind his back. Those birds over there are old at the game and we are new at it.

RECESS

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 46 minutes p. m.) the Senate took a recess until tomorrow, Friday, May 9, 1941, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate, May 8, 1941:

UNITED STATES MARSHAL

James Joseph Gillespie to be United States marshal for the southern district of Iowa.

POSTMASTERS

MASSACHUSETTS

Michael J. Costello, Franklin.
William S. Arnold, Nantasket Beach.
Edward E. Cooney, Northampton.

OKLAHOMA

John E. Gwinn, Butler.
Thomas A. Holland, Cushing.
Rose B. Hayes, McLoud.
Lee Garner, Jr., Red Oak.

WEST VIRGINIA

Jacob Seitz, Jane Lew.
Howard Mahan, Oak Hill.

HOUSE OF REPRESENTATIVES

THURSDAY, MAY 8, 1941

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Father of mercies, teach us to love Thy sacred word: "Thou shalt love the Lord thy God with all thy heart, with all thy soul, with all thy mind, with all thy strength, and thy neighbor as thyself." May the heavenly pages of the Holy Bible, the way of wisdom, the path of learning, the way of the prophets, the apostles, and the way of the saints spread forth from shore to shore. Light up the future years with Thy precepts, quicken and inspire the god-like nature within us with greater zeal, with greater courage, and with deeper assurance. Grant that the evil within us may be diminished and the good accentuated that unity and harmony may prevail in every State and in every home in all our broad land; that the excellency of our ideals, our moral convictions, and our holy faith may come unto the measure of the stature of the fullness of our Lord and Master. O Love that will not let us go, we pray that we may enter into the peace of a truly Christian life wherein stormy words melt into silence, aching hearts are mended, and tearful eyes become springs of hope and promise. In our Redeemer's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 29. Concurrent resolution acknowledging the felicitations of the Congress of Costa Rica.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 376. An act providing for the advancement on the retired list of certain officers of the line of the United States Navy;

S. 392. An act for the relief of Joseph Dolak and Anna Dolak, father and mother of Gene Dolak, deceased; and

S. 941. An act for the relief of Ralph C. Hardy, William W. Addis, C. H. Seaman, J. T. Polk, and E. F. Goudelock.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 3205. An act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1942, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GLASS, Mr. TYDINGS, Mr. MCCARRAN, Mr. HAYDEN, Mr. BAILEY, Mr. LODGE, and Mr. WHITE to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 991) entitled "An act for the relief of the widow of the late Artis J. Chitty," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BROWN, Mr. ELLENDER, and Mr. CAPPER to be the conferees on the part of the Senate.

WAR DEPARTMENT CIVIL FUNCTIONS APPROPRIATION BILL, 1942

Mr. SNYDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4183) making appropriations for the fiscal year ending June 30, 1942, for civil functions administered by the War Department, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. SNYDER, TERRY, STARNES of Alabama, COLLINS, KERR, MAHON, POWERS, ENGEL, and CASE of South Dakota.

TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL, 1942

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3205) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1942, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate, and that the Speaker appoint conferees on the part of the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. LUDLOW, O'NEAL, JOHNSON of West Virginia, MAHON, CASEY of Massachusetts, TABER, KEEFE, and RICH.

PUBLIC WORKS MADE NECESSARY BY THE DEFENSE PROGRAM

Mr. COLMER, from the Committee on Rules, submitted the following privileged resolution, which was referred to the House Calendar and ordered to be printed:

House Resolution 200

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 4545, a bill to provide for the acquisition and equipment of public works made necessary by the defense program. That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Buildings and Grounds, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted,

and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

EXTENSION OF REMARKS

Mr. HOUSTON asked and was given permission to extend his own remarks in the RECORD.

PERMISSION TO ADDRESS THE HOUSE

Mr. WILLIAM T. PHEIFFER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. WILLIAM T. PHEIFFER. Mr. Speaker, while what I am about to say is by way of anticlimax to the ship-seizure bill we passed yesterday, yet I wish to call the attention of the House to a development that just came to my attention this morning.

Published in last Monday's Washington Post was a news item that the Coast Guard had boarded seven ships of Yugoslavia to determine whether the officers and crews were loyal to the boy King Peter or to the new government of Yugoslavia, the strong inference being that we will seize these ships if the Coast Guard, in the exercise of its solemn judgment, ordains that these sailors are traitors to the King.

This incident strikingly illustrates the extent to which our Government is going in carrying out the high-handed policy of ship seizure. These alien ships, ships of a country with which we are still at peace—and may the Lord grant that we remain at peace—trustingly sail into our ports, expecting to find sanctuary and hospitality and, instead, they find that they have sailed into pirate ports. It was argued in support of the ship-seizure bill that we are justified in confiscating alien property because similar acts have been committed in other countries. In brief, we subscribe to the unmoral thesis that two wrongs make one right. Mr. Speaker, I say that if that is right, then every rule in the copybook is wrong. The enactment of the ship-seizure bill, without the Culkin amendment, is a blot on the honor and integrity of our Government which can never be erased. [Applause.]

[Here the gavel fell.]

EXTENSION OF REMARKS

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein an appeal addressed to the German people that a certain group of Germans in this country planned to broadcast to the people in Germany. It is a very fine appeal.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mr. JONKMAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a short editorial.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISTRICT OF COLUMBIA BUSINESS

Mr. RANDOLPH. Mr. Speaker, it is very natural that on the days when District of Columbia legislation is considered not a large number of Members are present for the debate on those bills. I say this is natural because usually the legislation considered has to do strictly with the District of Columbia, and many times it deals with subjects that are not of extreme importance to the House as a whole.

However, I call your attention to the fact that on this coming Monday, which is a regular District day, there will be before the House a discussion of the fiscal affairs of the District of Columbia and we will consider the so-called Overton formula, a bill which has passed the Senate of the United States without a dissenting vote and has been approved by the House Committee on the District of Columbia. This bill will be brought here for debate and a vote either up or down. It deals with a matter of extreme importance, the Federal contribution to the District of Columbia. I trust that Members will find it possible to be present. [Applause.]

[Here the gavel fell.]

PERMISSION TO ADDRESS THE HOUSE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that today, at the conclusion of the legislative program and following any special orders heretofore entered, I may be permitted to address the House for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

EXTENSION OF REMARKS

Mr. SATTERFIELD and Mr. GEHRMANN asked and were given permission to extend their own remarks in the RECORD.

Mr. SPRINGER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. O'CONNOR. Mr. Speaker, judging from the scare headlines in the press this morning quoting Mr. Knox about sending our boys to Europe I think it is apropos at this time to again call attention to a statement by President Roosevelt when seeking reelection. I quote the President of the United States in his speech at Boston, October 30, 1940:

> While I am talking to the fathers and mothers I give you one more assurance. I have said this before, but I shall say it again and again and again, your boys are not going to be sent into any foreign wars.

Mr. Speaker, this was a solemn pledge given by the President of the United States at a solemn hour on a solemn subject to a solemn class of people, namely the fathers and mothers of this country. A violation of this pledge will do more to destroy democracy in the United States than Hitler's legions, his bombing planes and his boats. [Applause.]

[Here the gavel fell.]

EXTENSION OF REMARKS

Mr. CARTWRIGHT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a poem relative to the dedication of Woodrow Wilson's birthplace.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. GEARHART. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD and to include therein an article by Neal L. McGinty, of Monterey.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEARHART. Mr. Speaker, I also ask unanimous consent to extend my own remarks in the Appendix of the RECORD and to include therein an article by Mr. George H. Cabaniss, Jr., of San Francisco.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHNS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including therein an editorial from the Times-Herald of today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. HENDRICKS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including therein an address delivered by the Most Reverend Joseph P. Hurley, Bishop of St. Augustine, Fla., at the Florida State Convention of the National Council of Catholic Women.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. O'BRIEN of Michigan. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein resolutions on the Great Lakes-St. Lawrence seaway.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. WOODRUFF of Michigan. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD by including therein an editorial.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. TABER. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TABER. Mr. Speaker, about a week ago the Secretary of the Treasury suggested to the Ways and Means Committee that the pressure might be taken off of some of the tax situation if we had a little bit of the spirit of economy. He stated that we might save $1,000,000,000 if we went at it right. I believe that if we went at it right and cut down the things that could be cut down without a bit of hurt to the people of the United States, but to their everlasting benefit, we could save $2,000,000,000. I am going to take a little more time in going into this pretty thoroughly in the course of the next day or two, but I think this is an item that should have the prime attention of this Congress. [Applause.]

EXTENSION OF REMARKS

Mr. KEEFE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial published under date of Saturday, May 3, in the Sheboygan (Wis.) Press, in reference to the St. Lawrence seaway, entitled "Let the Cat Out of the Bag."

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CIVILIAN CONSERVATION CORPS

Mr. KEEFE. Mr. Speaker, I ask unanimous consent that I may be permitted to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KEEFE. Mr. Speaker, supplementing the remarks just made by the gentleman from New York [Mr. TABER], may I call attention at this time to a matter that recently came to my observation as a member of the Committee on Appropriations? The Civilian Conservation Corps, which we all believe in, came before the committee recently asking for an appropriation based on an enrollment for the fiscal year 1942 of 259,000 junior enrollees. Upon cross-examination of the head of that organization, it was disclosed that by no stretch of the imagination does the Civilian Conservation Corps expect they will be able to enroll more than 200,000 junior enrollees. As a matter of fact, the evidence discloses, to my judgment, that they will be fortunate if they are able to enroll 175,000. There is one item where there can be a cut of at least $75,000,000 without doing any damage whatsoever to the Civilian Conservation Corps and its activities.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

EXTENSION OF REMARKS

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix, and include an open letter to the Congress signed by 53 prominent Americans.

The SPEAKER. Is there objection?

There was no objection.

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to extend my remarks and include an address by Harold M. Graves, Assistant Secretary of the Treasury, in reference to the sale of Government securities.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent that today, after the disposition of the legislative business and other special orders heretofore made, I may address the House for 25 minutes.

The SPEAKER. Is there objection?

There was no objection.

THE AUTOMOTIVE INDUSTRY

Mr. RABAUT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. RABAUT. Mr. Speaker, 2 weeks ago it was my privilege to be present when they launched an army tank at the great new Chrysler plant on the outskirts of Detroit, and to the astonishment of the officials of the Army present, a second tank was rolled out for inspection. That tank plowed its way through buildings with unbelievable ease, took telephone poles down in its track, and plowed through a forest that had been left standing there on the original farm property, which was a cow pasture just last November. Yesterday, to the bewilderment of many we learned of the statement presented by Leon Henderson, Administrator of the Office of Price Administration and Civilian Supply, before the House Ways and Means Committee wherein the proposal was made to raise the tax upon automobiles from 3½ percent to 20 percent or more with coverage, mind you, extended to used cars.

Perhaps it would be enlightening to make known the fact that most motorists earn less than $30 a week but they are already taxed as though they were millionaires.

Secondly, the automobile industry showed its greatest determination at the lowest ebb of the depression.

Thirdly, it was one of the few industries of the country ready to take on the war program.

And last but not least, it is among the foremost in the purchase of farm commodities.

It was Secretary of Commerce Roper who told me during his tenure of office that if we could find another industry that would so take hold of the American people as has the automobile industry, a depression would be unknown in this Nation for the next 50 years. Is it now to be dealt the body blow from the taxing organ of this Congress because this suggestion has been made? Personally, I feel the Congress will be most solicitous and careful not to kill the goose that lays the golden eggs.

May I refer, particularly those of you from agricultural districts, to my remarks in the CONGRESSIONAL RECORD of the first session of the Seventy-sixth Congress, on page 5833, wherein the benefits of the automobile industry to the various sections of the country are enumerated. One-seventh of all the workers in the United States are employed in this industry; over 4,000,000 are employed in truck transport alone; ribbons of concrete, the great stop-and-go signal system of the Nation, the good roads to market, and countless other innovations are the result of the geniuses and the artisans in the automobile trade.

This is a subject worthy of great study by this distinguished body.

EXTENSION OF REMARKS

Mr. LEWIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the RECORD by the inclusion of a statement by Mr. R. J. Tipton, an eminent engineer, made before the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

Mr. LAMBERTSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHANLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix by including an article by Mr. Simon T. Lake on underwater carriers.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHANLEY. Also, Mr. Speaker, I ask unanimous consent to extend my remarks by including an article about the pan-American nations and idle foreign ships.

The SPEAKER. Is there objection?

There was no objection.

GRANTING OF PRIORITIES

Mr. SABATH. Mr. Speaker, I call up House Resolution 189, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 189

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 4534, a bill to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Naval Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SABATH. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MICHENER].

I shall not take more than a few moments. This rule makes in order H. R. 4534, to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material. It is the so-called priorities bill.

During the last session of the Congress, in 1940, we passed a bill giving priority to Army and Navy material necessities; but, unfortunately, the bill was not broad

enough. Consequently the Committee on Naval Affairs, by unanimous vote, upon the recommendation of the various departments concerned, has reported H. R. 4534, which obviates the deficiencies of existing legislation. This rule that would make H. R. 4534 in order provides for 1 hour of general debate, after which the bill would be taken up under the 5-minute rule.

I am satisfied that notwithstanding this additional power, which is actually needed and reasonable, it does not mean that we are going to do what several gentleman, day in and day out, claim, namely, enter the war. I have the utmost confidence, I repeat, in the President of the United States, and I believe that he meant what he said in Boston, and what he has repeated many times. I am satisfied that to his very best and thorough ability he is endeavoring to keep the country out of war.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I am glad to yield to the gentleman.

Mr. O'CONNOR. I fully agree with the gentleman; but I do not want the American people to be permitted to forget the pledges that not only the President of the United States made, but nearly every Member of the Congress made to the American people, namely, that if they were reelected they would not send our boys to Europe.

Mr. SABATH. In view of the fact that the President's statement has been repeated on the floor about 57 times, I think all the people of this Nation, literate and illiterate, are familiar with it.

I repeat, I have the utmost confidence that he meant what he said and that he is going to continue to try to the best of his great ability to prevent our country being drawn into the war.

Naturally, it is our duty to do everything within our power to protect ourselves and to prepare ourselves against the danger that is unmistakably close to our doors. I believe we are doing the right thing and our plain duty in strengthening our existing and preparing new defenses. It is not more than right that we should. The aid that we are giving to Great Britain and others, I maintain, is for our own protection as much as for the protection of Great Britain.

The gentleman from New York stated sometime ago that we have unfairly taken over some ships belonging to the Government of Yugoslavia. Does the gentleman hold that they should have been turned over to Hitler for the purpose of using them against us or against the other democracies?

I am confident that we have done the right thing and within law; that the owners of those vessels will be fully compensated for them; and that under our own law and under international law we have a right to take over those vessels. Surely every well-informed man appreciates the reasonableness of the laws of eminent domain and grim necessity.

I shall not detain the House longer. This bill was unanimously reported by the Committee on Naval Affairs, and I do not believe there is any opposition.

I now yield to the gentleman from Michigan [Mr. MICHENER], and I do not expect to use any more of my time.

Mr. MICHENER. Mr. Speaker, I shall support this rule. It was reported unanimously and the bill was reported unanimously, but the House should not pass such far-reaching legislation without at least knowing why it is being passed and what the bill provides.

In the first place, this bill amends the act of June 28, 1940, which is the present Priority Act. That permits priorities in materials in our own defense in the Army and the Navy. There is a limitation of time in that bill. It expires in 1942. This bill, if passed, will be subject to the same limitation. Therefore, there is no object in discussing an amendment which has been suggested to limit the life of this bill. I would not vote for the bill without this limitation.

The next thing to which I wish to call attention is that this bill is a corollary to the lend-lease bill.

It would not be here if we had not enacted the lend-lease bill. If the obligations assumed in that bill are to be fulfilled arbitrary action of this kind is essential.

Previous to the enactment of the lend-lease bill, our country had embarked upon an extensive national-defense program. The country was for all-out national defense and, in response to that general sentiment, the Congress enacted the necessary legislation. In that legislation was authority to declare and enforce priorities in the pursuit of our own national-defense program. There is today sufficient legislation, so far as priorities are concerned, to cover our Army and Navy programs.

With the advent of H. R. 1776, our country started on a new pattern. We are to be the arsenal for all the so-called democracies in the world, limited only by the discretion of the President. In no instance in American history have such broad, far-reaching, and plenary powers been given to a President over the industry of the country as are found in this bill. This is a venture in an unknown field. No course is charted. There are no mileposts. The President alone is the pilot. I hope this is not a venture in futility. Time alone will tell.

The bill is short, not intricate, and is easily understood. However, I want to read just one sentence from the bill which accentuates just what the President can do with industry if he so elects:

> The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

Pretty drastic, is it not?

It then provides that the President may exercise this plenary power through any agency upon which he may decide. It may be a Hopkins, a Perkins, or a Stettinius. Now, we are going a long way in a democracy when we say to the Chief Executive—whoever he may be—that he may require any industry, any farm in this country, to be operated in such manner, on such conditions, and under such supervision as he may think advisable. When the lend-lease bill was before the House, I called your attention to the fact that it could be written in much shorter language. For instance:

> The President of the United States is hereby authorized and directed to do that which to him seems best for the best interests of the national defense of our country, all laws, national and international, to the contrary notwithstanding.

That is in substance what the lend-lease bill does. No one challenges this interpretation, no one did challenge it, no one will challenge it.

Mr. DEWEY. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHENER. I yield.

Mr. DEWEY. Is there any time limit on the duration of the authority here granted? And what is it?

Mr. MICHENER. Yes. I stated in the beginning that this bill amends the act of June 28, 1940. The act of June 28, 1940, is limited. I yield to the chairman of the Committee on Naval Affairs to give us the exact language.

Mr. VINSON of Georgia. Section 12 of the act that is amended reads:

> The provisions of all preceding sections of this act shall terminate June 30, 1942, unless the Congress shall otherwise provide.

Mr. MICHENER. That is as clear as it could be. The country is now operating under the lend-lease law as interpreted and directed by the President and those agencies which he has designated in accordance with the law. The policy has been outlined, and this bill simply writes a formula for some of the things the President is now doing under the lend-lease law. In my opinion, it does not increase the broad Presidential powers but, to some extent, defines and, I hope, limits them.

The priorities section of the Office of Production Management is presently directed by Mr. Edward R. Stettinius, Jr. We who have come in contact with Mr. Stettinius and who know of his accomplishments in the past realize the manner of man that he is. I think the Congress and the country have confidence in him. He does not want to attempt to do those things about which there is question as to his legal authority. We are told that under the Presidential direction priorities are today being invoked in connection with some of the lend-lease requirements, and this bill will clarify that situation. The Congress is rightfully wary about bestowing these vast powers on the President, yet if we could only be assured that Mr. Stettinius will be permitted to carry out the power herein granted, so far as priorities are concerned, without let or hindrance on the part of the President or anyone else, then I think we would all feel much easier about this drastic action. I hope this bill can be amended to require Senate confirmation of any successor to Mr. Stettinius.

Mr. RICH. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHENER. I yield.

Mr. RICH. Is this a war measure?

Mr. MICHENER. Well, no. For one, I do not want to get to discussing or arguing the whole war question over

again. This is not the time or the place. My personal view is, as I said when the lend-lease bill was before us, that bill put this country into the war morally. No one will question that. It put this country into war economically. No one will question that. As to whether it put the country into the war officially might be questioned unless one interpreted the lend-lease bill as I did, as giving the President authority to make and carry on undeclared war anywhere in the universe, just so long as he felt that what he was doing was for the best interests of our national defense. He alone was the judge.

Mr. DITTER. Mr. Speaker, will the gentleman yield?

Mr. RICH. Just a minute, if the gentleman please. Will he not yield to permit me to finish my thought?

Mr. MICHENER. I am sorry; I have yielded to the gentleman from Pennsylvania [Mr. DITTER].

Mr. DITTER. Does the gentleman feel that the country shares the opinion the gentleman has just expressed?

Mr. MICHENER. There is a difference of opinion. The majority of the Congress did not accept that view at the time the lend-lease bill was enacted, but everything that has transpired since the enactment of the lend-lease bill carries out the prophesy I made at that time and to which I have just referred. We are going to convoy. We are convoying now in one form or another. We are going to convoy directly or by subterfuge. This is evidently the policy of the administration.

If I were guessing I would say that just the minute the President feels that he has enough votes in the Congress to put over either a convoy resolution or a declaration of war, he will come to Congress with a message suggesting that he is opposed to war and that all the steps he has taken, including the amendment of the neutrality law, the transfer of the destroyers, the lend-lease bill, and so forth, were done in an effort to avoid war. This suggestion will be followed by the statement that conditions have now reached the point where it is evident that the Presidential endeavors have failed and that the Congress must pass upon the question of convoys or war. I do not mean that the question of convoys is coming to Congress before we do convoy. I do not mean that a war resolution is coming to Congress before we are in a shooting war. I do believe that we are not only convoying but that we are going to do everything contemplated in the lend-lease law, regardless of where it takes us, so far as war is concerned, and all this without the affirmative approval of the Congress, unless the President feels assured that he has the votes in the Congress. The recent speeches of Secretaries Hull, Knox, and Stimson, to say nothing about the utterances of Churchill and Halifax, all tend to this end. Of course, the President can keep us out of war if he will, but this will not happen if the President himself and the spokesmen for his administration continue these war sales talks to the American people.

Mr. DITTER. Mr. Speaker, will the gentleman yield further?

Mr. MICHENER. I yield.

Mr. DITTER. As a result of the last observation I can take it then it is the gentleman's opinion that if the President felt the country understood we were at war he would not hesitate to send up a resolution for war, but it is because of his conviction the country does not feel it is at war that he hesitates to send up such resolution.

Mr. MICHENER. Many in the country have relied upon the President's promise that he would not lead us into any foreign war. Every person has a right to his own view, however.

Mr. DITTER. My friend acknowledged that, did he not?

Mr. MICHENER. Yes; certainly. My view is that the American people do not want to get into this war, that the American people, believing they understood what President Roosevelt meant when he said that convoys mean shooting and shooting means war, took him at his word. They do not want to get into this war. They thought the President was like minded. If, however, one listens to the propaganda over the radio day by day and night by night, one must be convinced that the American people are becoming mighty frightened and so jittery they are very apt to go along and accept that which they are told is inevitable under the course now being pursued by the administration.

Mr. DITTER. Mr. Speaker, will the gentleman yield further?

Mr. MICHENER. I yield.

Mr. DITTER. I assume the propaganda to which the gentleman has just referred is for the purpose of arousing that which primarily does not exist—a war hysteria.

Mr. MICHENER. I have made it clear that my view is, the rank and file of the American people do not want to get into this war.

Mr. O'CONNOR. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Montana, who has made a fearless and courageous fight to keep us out of war. There should be more like him.

Mr. O'CONNOR. I called the attention of the House some few days ago to the conclusive argument made by the gentleman who is now addressing the House on the lease-lend bill. I only regret that they all did not hear his splendid and patriotic argument. I am thoroughly convinced that the people of the country did not get the full import of that bill. I am likewise convinced that many Members voted for it with not as full knowledege of its sweeping contents and powers as the gentleman from Michigan [Mr. MICHENER] stated. Let me also call attention to this morning's paper. We find now that Secretary Knox comes out and says that the American people "are committed," if you please, to furnish manpower to Europe. I call the gentleman's attention also to the fact that I made the statement during the time the lend-lease bill was under discussion that when Churchill called for ships he would get them, and that when Churchill called for men he would get them. I am afraid that statement is coming true.

Mr. MICHENER. Yes; and right there, may I say that I recall well, and those who keep abreast of these things recall, that when Mr. Hopkins went to England as the personal representative of the President he was received by Churchill, who made a great speech. In that speech Churchill said, "We need ships, we need munitions, now. We will not need any men in 1941." When Mr. Churchill asks for these men after 1941, we will be reminded that we have never had assurances from any official source in Europe, particularly England, that they will not in the end ask for men. The men will follow as lend-lease followed cash-and-carry.

Mr. CASEY of Massachusetts. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Massachusetts.

Mr. CASEY of Massachusetts. The gentleman has pointed out some alleged inconsistencies upon the part of the President in what he said and in what he has done. As I understand the gentleman, he says that with the full knowledge that the lease-lend bill was economic warfare, he voted for it. Is that correct?

Mr. MICHENER. I did not vote for the lend-lease bill.

Mr. CASEY of Massachusetts. The gentleman did not vote for the lease-lend bill?

Mr. MICHENER. I did not. I did everything I could to prevent the passage of the lease-lend bill, because I was thoroughly convinced in my own mind that those things were going to happen which are today happening.

Mr. DITTER. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. DITTER. The gentleman, of course, knows that the proponents of the lease-lend bill very definitely assured the House and attempted to assure the country that it was a peace measure?

Mr. MICHENER. There is no doubt about that. Those gentlemen either did not study the bill carefully or they were too anxious to go along with the administration in anything the administration asked for.

Mr. DWORSHAK. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Idaho.

Mr. DWORSHAK. The gentleman has just expressed complete confidence in the ability of Mr. Stettinius to act as Director of the Priorities Section. Has the gentleman any assurance that Harry Hopkins will not soon assume that responsible position?

Mr. MICHENER. No, No, No, That is the trouble. I have not the confidence I ought to have in the frankness of some of our public officials today, and, as I have ofttimes said, honesty, forthrightness, frankness, and candor are still virtues, even in those in high places.

Mr. RICH. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. RICH. This bill, H. R. 4534, grants extensive powers to the President of the

United States. Have any similar powers ever been given to any President of the United States at any time in any war?

Mr. MICHENER. Similar powers, but none so all inclusive. This bill goes further than any previous law. I think I speak by the card when I say that this bill gives more authority over industry than was ever given a Chief Executive of the United States before. The industrial mobilization plan, which has been in course of preparation since the last war but which has not been advocated openly, was contemplated and worked out largely by the Army and Navy, but it has never been presented to Congress. I think the gentleman from New York [Mr. WADSWORTH] is very familiar with that fact. You will find that these powers were contemplated in that plan.

Mr. MARCANTONIO. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from New York.

Mr. MARCANTONIO. I am certain that no one who favored or opposed the lend-lease bill ever contended that the lend-lease bill gave the President or anyone else the power to commit the manpower of this country to Great Britain; yet last night the Secretary of the Navy, Mr. Knox, stated that this country stands committed to Great Britain as far as the manpower of the United States is concerned. In that connection, I think it is high time that the President stop these warlike statements which are not compatible with responsible government on the part of the Secretary of the Navy and on the part of "Light Horse Harry" Stimson.

Mr. MICHENER. A lot of water has gone under the bridge since the lend-lease bill was enacted. When that bill was enacted the die was cast, and I am just wondering how our good colleagues who stood on the floor here and assured the country, assured the Congress, and assured those who would vote for that bill that that bill would not lead in the direction of war, can justify their position now.

Mr. O'CONNOR. I would like to have the gentleman or any Member of the House give us information as to who or what officer of the Government or of the people of the country, authorized to speak for Government or the country, ever committed this Government or any part of it to furnish manpower to conduct this war in Europe in line with what Mr. Knox said last night. I would like to find out who made such commitment on the part of the American people to send our boys to be slaughtered over in Europe.

Mr. MICHENER. I know of no such commitment, but my memory goes back to the debate on the conscription bill. That was called a training bill. Much stress was laid upon the fact that the boys were to be drafted for 1 year's military training. The health of the boys, the discipline, and the cooperation were spectacularized. They were to be the strong, robust citizens of the future. But that bill provided that they were to serve not less than 12 consecutive months and as much longer as the Congress might feel they were needed.

I was one of those who wanted to eliminate from that bill the word "service" and make it a training bill. I conferred with the author of the bill and others. Under a training bill you could not send these men beyond the limits of the United States. Under this service bill a man is first inducted, then he is infiltrated into one of the Regular Army units. He is in service. He goes where the Commander in Chief of the Army has the right to send him. No one will contend that the Commander in Chief of the Army and the Navy does not have the right to send our Navy anywhere on the seven seas to protect American interests; at least, it has always been that way until the neutrality law.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. The gentleman knows, of course, that under the Selective Service Act the young man receives 12 months' training and 4 years' service, and then is in the Reserve for 5 more years.

Mr. MICHENER. Yes, there is no question about that, but these boys now in the service are not going to be home in a year. They are Reserves after the year, under the law, but they are going to be gone more than a year. The Congress is going to require them to stay more than a year. The National Guard is going to stay more than a year. If present indications mean anything, we will possibly have a war of from 4 to 10 years' duration.

Mr. JENSEN. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Iowa.

Mr. JENSEN. Is it not a fact that when the farmer has hay down he does not fire his help, and is it not also a fact that the warmongers of this country have a lot of hay down right now?

Mr. MICHENER. The gentleman is right as usual. I am not using the term "warmongers." I am trying to talk in a temperate manner. The time for emotionalism is gone. We are now confronted with the gray dawn, and it is a cold dawn, of the morning after a few weeks of the lend-lease bill.

When we passed the lend-lease bill we determined upon a course that will be very difficult to abandon. In other words, the old ship of state is going up this 9-foot cement highway. It is straight. The President is at the steering wheel. Secretaries Stimson, Knox, and Hull are in the car with him. We can see only the top of the hill. We cannot see what is beyond. Is the road too narrow, so that ship of state cannot be turned around? I am sure the President has no reverse on the machine. If it cannot be turned around, where are we landing? That is what is bothering the American people who accepted the lend-lease bill as a peace measure.

Mr. MAGNUSON. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Washington.

Mr. MAGNUSON. I may say to the gentleman that I am somewhat in a quandary in my own mind about some of the things of which the gentleman speaks, but I want to know if the gentleman is clear on this one point, and I think it will help clear up a lot of things. Does the gentleman believe that it was morally right for the European war machine to invade Norway, for instance?

Mr. MICHENER. No. I do not care to discuss the European situation further, other than to say that I am unalterably opposed to Hitlerism and everything it stands for. I have no use for any of the things this madman Hitler has been doing. I said when the matter was up for debate, and I have not changed my mind, that they have been having these fights over there for 2,000 years. Their conditions are different from ours. Whether this country should embark upon a policy of making the entire world better and making every country in the world conform to our ideas as to the type of government it should have is one thing. But those things are all back of us. It is now a matter of national defense. We are where we are. We confront a condition and not a theory. Idealism must yield to stern reality.

Mr. MAGNUSON. What, then, is our duty, if we have any?

Mr. MICHENER. There is a difference of opinion. If I were to take the opinion of the majority of the American people and answer the gentlemen, it would be this: That we should keep out of any foreign war so far as sending our soldiers beyond the limits of the Western Hemisphere is concerned.

Mr. O'BRIEN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I must yield to my friend from Detroit.

Mr. O'BRIEN of Michigan. I observe that the gentleman and also the Republican minority leader voted for the conference report on the lend-lease bill, now the Lend-Lease Act. I wonder if the gentleman has changed his position in regard to the Lend-Lease Act.

Mr. MICHENER. No; I have not changed my position at all. I voted for the Senate amendments. When that bill came back from the Senate, the conference report was either going to be accepted or we were going to have the bill in the form that it left the House. Along with the gentleman I voted against the bill in the House. The Senate amendments made the bill less dangerous for the American people. I voted against the lend-lease bill but I voted for the Senate amendments. I am sorry that the gentleman did not understand the parliamentary situation and do likewise. I am sorry that he acted under a misapprehension of the facts. I am sorry that he opposed those Senate amendments which his constituents wanted in the bill if the bill was to become a law.

Mr. O'BRIEN of Michigan. Will the gentleman answer me this categorically: Did not the gentleman vote for the lend-lease bill as amended in the Senate?

Mr. MICHENER. No. I voted for the Senate amendments to the lend-lease bill. The gentleman can fuss around all he wants to about technicalities, but if he will study the parliamentary situation he will find that everything I have

said as far as that matter is concerned is justified by the facts. [Applause.]

Mr. SABATH. Mr. Speaker, there are few men in the House for whom I have as great respect or in whom I have such great confidence as I have for the gentleman from Michigan [Mr. MICHENER], a valuable member of the Committee on Rules. Usually the gentleman does not make violent statements or statements that he cannot justify, but a little while ago he stated positively that if the President had enough votes or believed he had enough votes in the House he would immediately ask for authority to convoy, and, possibly, ask for a declaration of war. I am satisfied the gentleman has no authority and no evidence on which to base any such statement. Personally, I am of the opinion that if the President should make any recommendations he would have, as he has had before, sufficient votes to effect any of his recommendations. He has had this support in the past, and he will continue to have it.

Not only this, but I believe there are only a handful on this side of the House who do not agree with his policy; and, moreover, I believe that a majority of the Republicans will go along with him.

I know that the President desires to keep his promises and pledges to the American people, and no publicist or propagandist will sway him from his high purpose to keep us out of war.

I repeat it as my honest conviction that what we are doing now and what we have been doing has been with the object of keeping us out of war and giving Great Britain all possible aid, so that she may cope with the situation brought about by this madman, as the gentleman from Michigan so aptly identified him, and prevent his declared aims of only a few weeks ago to control the world. We know what Hitler is doing in South America. We know what he and his agents are doing in our own country by way of trying to undermine the patriotic views and beliefs of the American people and inject poison into and create prejudice in our national life. We must be on our guard. This is our duty. Any aid that we may give Great Britain and others is really in the interest of our own country.

Mr. Speaker, personally I feel that our country is indeed fortunate that President Roosevelt was persuaded to stand for reelection and was reelected. Had Mr. Willkie been elected, judging from his preelection and later statements, I am satisfied that our country now would be in the war. It is only due to the strong determination on the part of President Roosevelt to keep us out of war that the influence of those who realized more than others the danger to our institutions has not prevailed in actually embroiling us in the conflict. I know that the President is against convoying and is against war; but he does feel that the aid we are sending to Great Britain and China should not find a resting place at the bottom of the seas.

It is unfortunate that there are in this country many people with good eyesight and yet they fail to see what is transpiring throughout the world. They refuse to take notice that the same tactics employed by Hitler in Austria, Czechoslovakia, Danzig, Poland, Norway, the Low Countries, even in France and England, and lately in Yugoslavia, are being used in this country. In this country, also, many well-meaning men are being used for the self-same purpose and to the same end as have the so-called leaders in the countries which I have named. If these honest and well-meaning men in the United States would heed the import of the last Hitler speech, in which he proclaimed unequivocally that he can positively defeat the world, meaning thereby that he intends to control the world, and if he succeeded in defeating Great Britain, the full force of realization should come to them that we will be the only democratic free nation left to oppose his lust plan to control the world. Consequently, I feel, as I have stated before, that we must of necessity do anything and everything to aid Great Britain. On the other hand, there are many well-meaning persons—and I do not mean bankers—who, in their earnest desire to help the cause of Great Britain, feel that we should declare war. In this connection I cannot help reading into the RECORD a letter which I just received today from a very loyal and patriotic lady in Chicago, Mrs. Anita McCormick Blaine, which letter I strongly urge persons with pacifist leanings to read. It says:

MAY 5, 1941.

MY DEAR MR. SABATH: On the question of the relation of the United States to the war now in the world I have been feeling the impact of opinions expressed in our country so variously from the extreme points of the isolationists to the recently formed Committee to Fight for Freedom. I feel thankful that each can freely express his thought with no let or hindrance.

I have not seen clearly what our ultimate course should be. The all-aid to Britain has been so sure as to be almost satisfying.

I feel horror in the facts of war. I feel greater horror that war can still be the process for decisions between men.

Out of the welter of facts and of thoughts there now comes to me clearly the conviction that the United States should now declare war against what is being done and attempted by the forces of aggression in the world.

This to array the United States in the struggle on the side where the United States belongs; and to add the full force of the United States to help those free peoples who are now holding the line of freedom.

There are two fundamental principles at issue today. One is freedom; or prevention of the domination of men by men. The other is truth; or the prevention of the triumph of falsehood.

These two principles constitute the foundation on which human society can be built. Their loss would undermine the possibility of the continuation and construction of the human society we have seen and worked for.

In the efforts of the aggressors many units of free society have been undermined. They are proceeding to carry on their process as far as possible on the earth.

We are the heirs of these qualities: Initiative, independence, determination, courage. Our institutions are the outgrowth of these qualities.

We are the heirs of these objectives: Freedom for all; opportunity for all; education for all; protection for all.

These qualities and these objectives are being attacked.

It is not the land we live on; it is the life we live on it that matters. This life and the similar life of others is being attacked. We are being attacked.

We are an able people. We can accomplish great things. When we put our hands to a plow we do not turn back. We should now take our full responsibility.

For the instantaneous, beneficial effect for the world, in this course, I would rather risk the present effects of our former delays than the future effect of longer waiting for our complete action.

It has become clear to me that we should wait no longer but should declare war at once against those countries who have followed their rulers in the subjugation of free countries by force; and against those rulers who have betrayed the world by their falsehoods.

And that it should be stated that it is against the extension of these practices that we are declaring war.

And that it should be understood with the other democracies that in the arrangements after the war the United States has a part.

I put this conviction which has come to me before everyone freely for whatever it may mean to each one and for such action in our Nation, for our Nation, and for the world as may be the judgment of the majority of our people.

In the high purpose of defending freedom and truth on this earth, and in the faith that light will be given for the steps to take, we should now declare war on those who are attacking our principles and let come what must.

In the wealth of our heritage of principle may our contribution in this generation be worthy of our great past.

I am faithfully yours,

ANITA MCCORMICK BLAINE.

HON. ADOLPH J. SABATH,
The House of Representatives,
Washington, D. C.

Mr. Speaker, I feel that Mrs. Blaine has stated the case against the aggressor nations; but I do not go so far as she does in advocating a declaration of war; nonetheless we should, I think, at this time render all-out aid to Great Britain.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. VINSON of Georgia. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, H. R. 4534, with Mr. THOM in the chair.

The Clerk read the title of the bill.

Mr. VINSON of Georgia. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. VINSON of Georgia. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I want to express my deep appreciation to the distinguished gentleman from Michigan [Mr. MICHENER] for the explanation that he made in his time of the objective and purpose of the bill.

This bill is here at the request of Mr. Knudsen, Mr. Hillman, and Mr. Stettinius, and also at the request of the Navy Department. I shall, in the time I occupy, try to explain the bill so that every one of you may thoroughly understand it.

I am frank to admit that this is a very important bill, very far reaching, and under the hands and jurisdiction of a board that was not of the high type and character of the Priority Board, could cause industry a great deal of trouble in this country, but, fortunately, the President has selected, in my judgment, one of the most outstanding men in America, Mr. Stettinius, to head this Board, and I may say that there might have been some hesitancy on the part of the committee if this Board had not been headed by such a distinguished man as Mr. Stettinius.

In order to avoid such a situation, a system of priorities has become necessary to assist in the production and acquisition of defense material for the armed forces, and to assure that the defense program was dovetailed into the problem of civilian economy. Fundamentally, a priorities system is simply a method of putting first things first—a technique for making sure that the finished weapon and the many parts thereof are produced promptly, on schedule, and without delay. The Seventy-sixth Congress, therefore, in section 2 (a) of the act approved June 28, 1940, Public, No. 671, granted to the President mandatory power to assign priorities to Army and Navy contracts over deliveries under contracts for private account or export.

That bill is known as the speed-up bill, reported from the Naval Affairs Committee, and that section 2 provides in part:

> All naval contracts or orders and all Army contracts or orders shall, in the discretion of the President, take priority over all deliveries for private accounts or for export.

That is the section of the bill to which we are adding these additional provisions set forth in H. R. 4534.

On January 7 of this year the President by Executive Order No. 8629 created the Office of Production Management and delegated thereto his authority under Public, No. 671, of the Seventy-sixth Congress to establish these priorities. In the same Executive order he provided for the establishment of a Division of Priorities, in charge of a director. Since that time the Division of Priorities, under its Director, Mr. E. R. Stettinius, Jr., and working in close collaboration with the Army and Navy Munitions Board, has been administering a priorities system for the prompt delivery of defense material and other material important to the defense program.

Gentlemen will bear in mind that from January 7 down to date this Board has been trying to do by Executive orders and regulate the priorities by Executive order when it is far preferable in this country to do things by law instead of by Executive order. Therefore we are coming in here and by statute clothing the O. P. M. with the authority the Priority Board desires to have to administer the priorities. I hope that it is possible that this House will enact statutory provisions wherever it can possibly do so in lieu of Executive order.

The Executive order delegating to O. P. M. the authority to establish mandatory priorities sets forth in considerable detail the duties of that office in respect to the priorities system. But it is important for us to note, however, that already the urgent need is felt for clear and positive statutory provisions to enable O. P. M. to adequately fulfill its important contribution to the defense program. The necessary administrative machinery cannot be left to Executive order alone.

The purpose of this bill is to amend section 2 (a) so as to clothe the Office of Production Management, and particularly the Priorities Division thereof, with the needed statutory authority.

As previously indicated, the only mandatory power for the establishment of contract priorities is derived from section 2 (a) and that power extends only to Army and Navy contracts.

As you are all well aware, the supply of defense materials to Great Britain and other foreign countries is a matter of national policy. The contracts for these materials are a part of our defense program. Yet they are clearly not covered by existing mandatory priority provisions. Heretofore priority, or preference ratings, as they are often called, for this class of contracts have of necessity been issued merely upon a basis of voluntary cooperation on the part of the manufacturer. Such a basis is admittedly inadequate and subparagraph (A) on page 2 of the bill will put the contracts of any country whose defense the President deems vital to the defense of the United States under the terms of the Lease Lend Act upon the same footing as Army and Navy contracts.

Let us see what subsections (A) and (B) do:

> (A) Contracts or orders for the government of any country whose defense the President deems vital to the defense of the United States under the terms of the act of March 11, 1941, entitled "An act to promote the defense of the United States."
>
> (B) Contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States.

So, if it had not been for the lease-lend bill, had it not been for that policy that Congress has adopted, it would not be necessary for this aid to be inserted in the bill. That is merely carrying out the mandate of the American people expressed through Congress by the enactment of the lease-lend bill.

Next, there are the contracts vital to the defense program which are placed by Government agencies other than the War and Navy Departments, such as the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, and so forth. Heretofore, in order to prevent many such vital contracts being postponed to the entire military and naval program it has been necessary to again seek voluntary consent to the preference ratings.

Likewise, there is a large class of domestic contracts which, though essential to national defense, are neither military nor naval, nor even Government; for example, contracts for equipment for the expansion of production facilities of critical materials such as aluminum, magnesium, tin, and so forth; or for additional power-producing facilities. That these should be left to priorities established only upon a voluntary basis is most certainly a dangerous procedure.

Still another class of contracts, priorities for which can only be established on a voluntary basis, are those for civilian needs; as, for example, a contract for replacement machinery in the water system of a large city which is an important defense center. Such a contract could not be said to be connected with defense in any sense, and yet a delay in obtaining such machinery from already overloaded industries, because of lack of authority to establish a priority, might be very disastrous.

Further, it may be of the utmost importance for the protection of our Western Hemisphere defense to see to it that contracts for vital requirements of our Latin American neighbors are filled in instances of special importance.

It is impossible to predict in advance the exact classes of contracts which it may be essential to fulfill. But we do know that as a result of the impact of the defense program, it may be difficult or impossible to fulfill any particular contract without a preference rating.

At the present time none of the foregoing classes of important contracts can be given preference ratings which are effective, except insofar as the manufacturer is willing to comply. It is necessary that this situation be remedied by giving authority to establish priorities for any contract, when it is found necessary or appropriate to promote our defense. Subparagraph (B) on page 2 of the bill will accomplish this purpose.

In addition to the objectionable features in this voluntary status of priorities, which I have just pointed out, there is another angle to these voluntary priorities which, in all fairness, should be corrected. The manufacturer who complies with a voluntary priority rating assigned to one of these other defense contracts, may find himsef with a damage suit on his hands. Many private customers may not be willing to accept postponement of deliveries under contracts which were placed with the manufacturer before the rated contract. If the manufacturer can obtain the consent of the private customer to having deliveries put off, all well and good—but there is no assurance that he can. And, furthermore, much valuable time may be lost while the manufacturer is appealing to the patriotism of his private customers.

Every manufacturer who takes a Government contract and accepts voluntarily a preference rating on it may be putting his head on the chopping block. He cannot be sure, for the ax may not fall until 6 years hence, at the expiration of the period of the statute of limitations. It becomes apparent, therefore, that the present situation, in which reliance is now placed on the voluntary preference ratings, must be corrected without delay. Correction is offered in this bill, in subparagraphs (A) and (B), which would grant authority to establish mandatory

priorities with respect to all of these other contracts, so important to the defense program.

Subparagraph (C) of the bill has a dual purpose regarding subcontracts or suborders. First of all, it will clarify section 2 (a). That section authorizes priority ratings on contracts of the armed services. It does not make clear that it covers any but the prime contract for naval and military items. It appears obvious that similar importance attaches to deliveries of the great variety of materials, which enter into the manufacture of those furnished articles and which must be acquired through the medium of subcontracts or suborders. That authority should be made clear by statute.

Further, this subparagraph is required to authorize the establishment of priorities with respect to the subcontracts or suborders which are necessary to all the other important defense prime contracts covered by section 2 (a) and by this bill. In short, establishing priorities as to prime contracts, without following this up with priorities as to the subcontracts necessary to their fulfillment, would be completely ineffective. We would be attempting to prosecute the defense program by half-measures.

In order to establish a complete, workable priorities system, another step is necessary. Section 2 (a) permits contracts of the Army or Navy to be placed ahead of contracts for private account or for export. Subparagraphs (A) and (B) of this bill would authorize the same priorities on contracts for foreign countries whose defense is deemed vital, and on all other contracts when necessary or appropriate to the promotion of the defense program. But section 2 (a) does not permit priorities to put one Government contract ahead of another. We must provide for fitting together the three general classes of priorities, so that between them it is also possible to put first things first. This will be accomplished by the sentence set forth in lines 14 to 16 on page 2 of the bill.

Coming to the next sentence of the bill, a priorities system, in its broadest aspects, must contain safeguards against acute shortages of essential materials arising. An effective safeguard will provide for taking steps to conserve the supply of such materials before the shortages become acute.

Under the broadest interpretation of section 2 (a) the best that can be done now is to exercise industry-wide control over supplies of materials and products in which acute shortages have occurred. That is not sufficient.

As the set-up is today the Priority Board can only deal with it after this shortage has occurred. Therefore in this bill, by making surveys of the industry and making it mandatory and obligatory on the part of the industry, the Priority Board can be apprised of the shortage in any material, such as aluminum, tin, zinc, copper, and so forth, and can therefore allocate them throughout the industry.

Furthermore, the mere mention of an acute shortage implies that during a national emergency civilian needs must suffer at the expense of defense needs. But this does not mean that civilian needs are to be disregarded. It is very important, therefore, that authority exist for allocating from available supplies, first, to fill vital defense requirements, and secondly, to civilian needs in the order of their importance.

As I have said before, we must assure that the defense program is geared into civilian economy, so that their various needs receive the consideration which is due them, and so that items of private luxury are not allowed to get out of hand to the detriment of our national security and well-being.

The sentence beginning on line 16 and ending on line 22, page 2 of the bill, if enacted into law, will furnish this important contribution to our national-defense structure.

Intelligent and effective operation of this complete priorities system demands full information of such matters as supplies and requirements of materials, productive capacities, inventories, and uses. This information can be obtained only from industry.

It is idle to say that full information can be had on a voluntary basis. Experience has taught the Priorities Board that a supply of information, necessary to the administration of statutes, must be mandatory. So the next sentence of the bill, beginning on line 23, has been included. It will give a statutory right to get the information needed to operate the priorities system.

I have heretofore explained the dangers inherent to manufacturers in the acceptance of voluntary preference ratings on Government contracts. In all fairness to them there is also need for protection with respect to mandatory ratings. In this situation the manufacturer knows when he accepts a Government order that he may be required to postpone deliveries under orders from private customers which he has already negotiated, or he may even have to abrogate the private contract.

There is some legal doubt whether, under such circumstances, he could, in certain jurisdictions, plead impossibility of performance as an answer to suit on the private contract. It might well be argued that he accepted his Government contract, well knowing that it involved a default on his private contracts, and that he, not the Government, caused the default.

To save harmless the manufacturer, by giving him clear statutory protection, is the purpose of the sentence beginning on line 2 of page 3.

The last provision of the bill will authorize the President to delegate his authority thereunder to the appropriate department or agency for its administration.

It is the committee's contention that H. R. 4534 should be enacted into law, in order that clear statutory authority will exist to deal adequately with all the complex problems of preparing an all-out defense for this country of living up to our policy of serving as the arsenal for democracy, and of doing all this with intelligent consideration for civilian economy.

Mr. Chairman, I think that covers fully all phases of the bill. If there are any questions that any member of the committee desires to ask, I should be glad to endeavor to answer them.

Mrs. BOLTON. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mrs. BOLTON. If I understood the gentleman correctly, he said that under the terms of the bill it is possible that real harm might be done in this respect.

Mr. VINSON of Georgia. I am frank to say this bill is far-reaching, because, as pointed out by the gentleman from Michigan [Mr. MICHENER] under the administration of someone who is reckless a great deal of harm could be done. We must rely upon proper administration of this by the proper officials. As long as we have Mr. Stettinius at the head of it I am willing to grant to him this far-reaching power.

Mrs. BOLTON. What certainty have we that he will remain at the head of it?

Mr. VINSON of Georgia. I am hoping that the President is so impressed with the great work he is doing that he would hesitate to remove him. Of course, we have no guaranty that Mr. Stettinius is going to be there.

Mrs. BOLTON. The committee, then, would expect us to back a man——

Mr. VINSON of Georgia. A man like Mr. Stettinius.

Mrs. BOLTON. And make a law on that principle when we pass a bill here in the House?

Mr. VINSON of Georgia. Every bill is based upon that. As far as the Congress is concerned, a Congress with bad men in it could almost wreck the country.

Mrs. BOLTON. Perhaps it is.

Mr. VINSON of Georgia. So it is with reference to every board where human ingenuity is involved. Of course, you have to rely upon the men who administer it. That is true of the courts. You could ruin the country with bad men as judges.

Mrs. BOLTON. But we never have passed a bill on that principle.

Mr. VINSON of Georgia. We are not passing this bill entirely on that principle. The main principle of this bill is to organize industry and coordinate it in its proper part to the national-defense program.

Mrs. BOLTON. And it is most necessary?

Mr. VINSON of Georgia. Yes. I think we have to trust somebody. We are fortunate in having a board of this type and to be able to place the administration of this bill in the hands of such a board.

Mrs. BOLTON. Though we have no assurance that it will stay there.

Mr. VINSON of Georgia. Not a bit, any more than we have that people will send you and me back and not send somebody who might wreck what we are trying to do.

Mrs. BOLTON. I thank the gentleman.

Mr. DEWEY. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. Yes; I yield.

Mr. DEWEY. May I ask the gentleman if the advice and consent of the Senate is required in the appointment of the

coordinator or chairman who is to wield these powers?

Mr. VINSON of Georgia. No; it is not.

Mr. DEWEY. Would it be advisable, as we are doubtful as to who will be there in perpetuity?

Mr. VINSON of Georgia. Of course, it is not in perpetuity. This act is only for 2 years. This act expires on June 30, 1942.

Mr. DEWEY. But during that period a great deal of damage might be done.

Mr. VINSON of Georgia. But you see the bill is merely amending section 2 of the act which provides that "whenever the President of the United States finds it to be in the interest of national defense," and so forth, he may authorize to negotiate contracts, and so forth. In that act we conferred upon the President priority over domestic account and exports. Then the President on January 7 created a Priority Board in the O. P. M. We are merely backing up that Board that the President has created. We are not creating any new board at all by this act. We are merely adding some additional priorities in the act that I have referred to. But, as I pointed out, the President did establish priorities by Executive order. Now, we are coming along and trying to clothe by statute the same authority in that Priority Board.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. TREADWAY. One thought occurs to me in listening to the very excellent description which the gentleman has given of the measure. I understood him to say that the contractor was practically putting his head on the chopping block.

Mr. VINSON of Georgia. Yes. Now, this is very important.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. VINSON of Georgia. I yield myself 5 additional minutes, Mr. Chairman.

Suppose a contractor today has a contract from you and at the same time has a Government contract, and the Government, through its Priority Board, says to him, "You must fill our Government contract." Therefore the contractor has obligated himself to deliver your goods on a certain date. You might say to him, "Why, you did not perform your contract and therefore I have suffered damages."

By making it mandatory and by passing a law dealing with that we relieve the manufacturer of that uncertainty and of that liability.

Mr. TREADWAY. In other words, are you not taking his head off of the chopping block by relieving him of his liability under his contract?

Mr. VINSON of Georgia. But when he follows the voluntary system today he is putting his head on the chopping block.

Mr. TREADWAY. Then by making it mandatory to fulfill the Government contract you are relieving him?

Mr. VINSON of Georgia. We relieve him of any legal obligation because the Government by this law has made it impossible for him to fill his contract for you.

Mr. TREADWAY. One more idea: Suppose there is a marked difference in the price at which the contractor is offering goods to the private individual and the price under the Government contract, he would then lose, would he not?

Mr. VINSON of Georgia. Well, that is not involved in this question.

Mr. TREADWAY. I think the explanation the gentleman has given of the chopping block is that the contractor is relieved?

Mr. VINSON of Georgia. Why, certainly. This bill is in the interest of every contractor who is trying to do what the Priority Board wants done.

Mr. COLE of New York. On that same subject, the very fact that the contractor may be relieved from any damages on waiver of his liability contemplates that somebody must have suffered some damage some place because of the exercise of this priority.

Mr. VINSON of Georgia. That is right.

Mr. COLE of New York. Why should we think this law is necessary in the interest of national defense? Why should we expect any private businessman who may have entered into a contract which was affected by some priority order and through that order he suffered a damage, why should we expect a private concern, firm, corporation, or establishment to bear the entire burden of the damage?

Mr. VINSON of Georgia. On the principle that everything must stand aside for the national-defense program. The individual must make sacrifices, everybody must make sacrifices.

Mr. COLE of New York. Has any consideration at all been given to the question of the Government's bearing the expense of any damage?

Mr. VINSON of Georgia. No, not at all. We would not be justified in doing that, because then nobody would have made any sacrifice.

Mr. COLE of New York. If damage has resulted from an order issued in the interest of national defense, it would seem to me that the Nation itself should bear the damage.

Mr. VINSON of Georgia. I do not agree with the gentleman at all. I feel that everything must give way for the national defense, and if the goods of a private customer cannot be delivered because priority must be given to the national defense, then it is just one of those things where the rights of the Government must come ahead of those of the individual.

Mr. HALLECK. At any rate it is definite that there is no contemplation of reimbursement.

Mr. VINSON of Georgia. Not a bit.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. HALLECK. If performance of a contract is excused by passage of this legislation, does not that involve the taking of a valuable right from an individual even as the taking of property for an Army camp involves the taking of a valuable property right?

Mr. VINSON of Georgia. That question of whether he had been deprived of some right might arise, but one of the purposes is for industry to understand that if they take a Government contract and have a private contract, and if they must postpone that private contract, the private individual has not any grounds for bringing suit against the manufacturer because the Government has stepped in and made it impossible for him to fulfill his contract.

[Here the gavel fell.]

Mr. VINSON of Georgia. Mr. Chairman, how much more time have I?

The CHAIRMAN. The gentleman from Georgia has consumed 30 minutes.

Mr. VINSON of Georgia. Mr. Chairman, will the gentleman from Minnesota yield me 2 minutes?

Mr. MAAS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia.

Mr. HALLECK. Does not the gentleman think that if under the provisions of this legislation we take a valuable right from an individual, even though it is for the purpose of national defense, we ought to follow the practice that has been uniformly established, as I understand it, of compensating the individual who has been adversely affected?

Mr. VINSON of Georgia. Let me explain it this way: It has all been done voluntarily so far. If a manufacturer gets two contracts, one from the Government and one from a private contractor, and the Priorities Board says to him that it is necessary for him to get out the Government work first, he might not be able to fulfill his contract with the private individual. We are removing the voluntary feature and making it obligatory, mandatory on the manufacturer to fulfill, if the Priorities Board thinks it should be filled first, the Government contract before he touches the private contract. Under certain phases, as the gentleman suggests, I can see where a private individual might possibly bring suit against the manufacturer on the ground that he had suffered damages; but I am not trying to adjudicate such a question; I am only trying to make it compulsory on the part of the manufacturer to deliver the Government's orders when the Priorities Board says they have preference.

Mr. HALLECK. Has the gentleman given any thought to the constitutional inhibition against the impairment of a contract?

Mr. VINSON of Georgia. No.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. HOFFMAN. As I gather the purpose of this bill, it is to compel industry to perform its contracts for national defense.

Mr. VINSON of Georgia. Without getting into any litigation.

Mr. HOFFMAN. How can they perform—the gentleman gets the rest of it?

Mr. VINSON of Georgia. Yes; I get the rest of it.

Mr. HOFFMAN. How can an industrialist perform when, as Mr. Green said before the Judiciary Committee yesterday or day before, you cannot compel a man to work in a factory?

Mr. VINSON of Georgia. That is true, you cannot compel a man to work anywhere, but just as soon as the House passes the so-called Vinson labor bill the

condition will pick up far better for the defense program.

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill is essential to carry through the defense program. It is true that there is a Priorities Board at present, which is endeavoring to allocate the various raw materials and partially finished products in a system of priorities to assure orderly defense production. However, there is great limitation on what can be done with the limited authority that does exist by law, and most of it is being done by Executive order. While it is true that virtually all of the things that are sought in this bill are in effect being done today, it would be far wiser to do this by law. I think the essence of a democracy is to rule by law and not by Executive order. The things that must be done in the Priorities Board are absolutely essential if our defense program is to be carried out, so it must be done either by Executive order with the consent of those involved or by law. On the basis of the proposed law, everyone will know exactly the situation. It is unfair to expect some concerns to comply voluntarily with priorities requests and other concerns who may be competitors refuse to do so, thereby putting the patriotic concern in a most disadvantageous position.

This bill assures that all will be treated alike; and, of course, it is essential that we absolve concerns from liability under private contracts by reason of their compliance with the priority orders. I see nothing controversial in the bill. The priority law that exists today relates only to Army and Navy orders, yet, that, of course, does not begin to meet the problem. It must be extended to all industry and to the lease-lend program, as that is now a definite part of our national policy.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. WOLCOTT].

Mr. WOLCOTT. Mr. Chairman, I was rather alarmed when the very distinguished chairman of the Committee on Naval Affairs said, in substance, that there would have been some hesitancy on the part of the Committee on Naval Affairs to report this bill out had Mr. Stettinius not been in charge of the program. I believe we all have a great deal of faith and confidence in the ability of Mr. Stettinius, but I believe the statement of the gentleman lends all the more weight to the argument which is being used today that if the United States goes to war, by that act we destroy the American form of government.

Some years ago we were asked to give consideration to what has been commonly referred to as the I. M. P. program—the industrial mobilization program—which was advocated, I understand, by the War and Navy Departments, and which was so far-reaching that we would not even consider the proposal because we knew that if that plan was enacted into law it would mean the end of the American form of government. I am not so sure but that we are being asked to adopt piecemeal the industrial mobilization plan.

Last year, you recall, we had a bill before us which authorized loans of $500,000,000 to the South American republics. At that time it was found necessary or expedient to acquire some excess stocks of strategic materials—rubber, manganese, nickel, tin, and so forth—and so we added to that bill a provision that the Reconstruction Finance Corporation would have the authority to set up subsidiary corporations to acquire and hold these strategic materials.

There has been set up under that plan the Defense Plant Corporation, the Defense Supplies Corporation, the Metals Reserve Company, and the Rubber Reserve Company, all of which today, in addition to the powers contained in their charters to purchase and hold strategic and critical materials, are exercising the right to administer a program of priorities to independent business.

We are going to be asked within the next week to broaden the powers of these corporations in language which this House repudiated last year when these corporations were set up. The bill is known as H. R. 4620, reported out of the Committee on Banking and Currency yesterday. It provides that, in addition to the powers already granted to these corporations, they shall have such powers as may be necessary in order to expedite the defense program, including, but not limited to, the powers contained in the act by which they were created. In other words, the sky is the limit.

Let us develop, therefore, the whole picture of which this bill is one very important part. We set up corporations to acquire and hold excess stocks of strategic materials. They have assumed the power to deal these strategic materials out to industry as they see fit. This bill is the third very important phase of a program which, if it is maladministered, and it may be as maladministered as are several other agencies in this country, can create a Fascist state in America by the socialization of American industry. I think we have given very superficial consideration to this program. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. O'CONNOR].

Mr. O'CONNOR. Mr. Chairman, I believe that the Congress is confronted with the most serious condition of affairs that has ever confronted this Nation. We have men in appointive positions who assume the power to make commitments on behalf of the American people to foreign governments—men who have never had the intestinal fortitude to go before the American people for the election to any position. Who is this man Knox, who is making the commitment to Great Britain that we must furnish her our boys to do her fighting in violation of every pledge to our people? Who ever gave him the authority to make such a monstrous statement?

I call your attention to something else, and I hope you will remember his words. They appear in the testimony offered before the Subcommittee on Appropriations of the House when the hearings were being held on the $7,000,000,000 bill. Get his words. Mr. Knox is on the witness stand:

Mr. DITTER. Now, I should like to ask a question of the Secretary of the Navy: Mr. Knox, is it anticipated at this time that the Coast Guard is to be transferred from the Treasury Department to the Navy?

Pay attention to the reply:

Secretary KNOX. Not at this time; no, sir.

Mr. DITTER. In other words, nothing has been done toward that end?

Secretary KNOX. No, sir; except that we have the plans all ready, in case of war—

In case of war that transfer will be made. That is his testimony.

He goes on—

whereby the Coast Guard will become a part of the Navy.

Now what do they do?

I hold in my hand a copy of the Baltimore Sun, and from it I read this article:

WASHINGTON, May 7.—Exercising once again its prerogative in time of emergency, the Navy today announced the taking over from the Treasury of the seagoing craft of the United States Coast Guard.

The action, approved by the President, makes available to the Navy 34 large cutters, 7 of which may be regarded as potential combat vessels, and a variety of small craft capable of performing highly useful naval service.

Mr. Chairman, that was to be done only in case of war, according to him when he was asking for the $7,000,000,000. Has the Secretary of the Navy, Mr. Knox, whom the American people do not know except a few of them know him as a newspaperman in Chicago and a Cabinet officer, the power to put this country into war? Now he considers that he and Mr. Stimson have put us in the war and that we are in the war and therefore he makes the transfer. I am not objecting to the transfer, but I am objecting to this man attempting to speak with such authority. If I can read the Constitution, the power to declare war rests with Congress only? We have that power. It is being usurped, and we are letting him get away with it. That is the danger with which we are confronted today. Men without legal authority but assuming authority are committing this Government to a policy that means the slaughter of the flower of our young men of this country.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. I yield to the gentleman from Michigan.

Mr. HOFFMAN. What is this Congress doing about it?

Mr. O'CONNOR. That is what I want to know, What we are doing about it? We are taking it lying down.

Mr. HOFFMAN. The gentleman belongs over on the majority side.

Mr. O'CONNOR. There is no politics in this. I do not know who authorized him to speak, but we are letting an appointed officer try to commit 130,000,000 American people to a policy to which none of us has subscribed.

I do not think there was a single man running for Congress in a debatable district or for that matter, from the President down, who did not try to assure the American people that he would keep your boys out of Europe and out of foreign wars. I recall distinctly the statements of Mr. Willkie and Mr. Roosevelt, the President of the United States, then a candidate for reelection, although I may say that so far as Mr. Willkie is concerned, his words did not amount to much then, they do not amount to anything now as he admits they were campaign oratory, but Mr. Roosevelt was trying to assure the American people that if he was elected the boys would not be sent to Europe. But here Mr. Knox comes out with the statement this morning that we are committed to send our manpower to Europe. That is what is going on. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Chairman, the membership of the House knows of course, that there is a tax proposal before the Ways and Means Committee which, if the rates are embodied in legislation and enacted by the House, as submitted, the measure will raise $3,500,000,000.

The theory upon which the tax is being imposed is that it must take from the people a sufficient amount of revenue to prevent them from purchasing consumer goods—just think of that—so their spending money may be diverted from the things that they may want into national-defense channels. The theory of that, of course, is to prevent inflation, and to some extent perhaps it will, but although the same theory was pursued in England it failed to prevent an inflation of prices. I have not the time to go into that now, but it is sufficient to say that under controls and taxation the prices soared in Great Britain in spite of the theory of having the government take over the spending power of the people in order to prevent inflation.

Now, there is not any question as to where we are being taken at the present time. I am not relying on information that is coming from our own Government sources. There is so much subterfuge and fraud in the information that is being passed out to the people that, of course, their thoughts are confused and they still think that all of these steps may be taken without our getting into war, but there is one source of authentic information which any Member can examine and know the truth. If you will read the more conservative publications of Great Britain, you will understand exactly where we are going and when the final step will be taken and exactly what the American people are expected to do and will have to do and that, of course, includes the manpower of the United States. I have had photostatic copies made of pages from the London Economist, in which they state that we will be nonbelligerent in 1941, belligerent in 1942, with the full armed power of this continent engaged in the war. I put this in the RECORD, as I recall it, once before.

As we are going down this path to bloody war, this foreign war, of course, priorities are essential, but priorities can be greatly abused. Why are we in this situation? Why have we a shortage of essential war materials that requires this drastic legislation in regard to priorities? The President tells us that he saw this thing coming for a long time. He tells us that and, of course, if he saw it coming for a long time, I wonder why we were shipping these essential war materials to the Axis Powers. We have sent enough of our scrap iron and our copper to enable Japan to equip a large fleet of battleships and planes. We were able, as I gave the figures once upon the floor here, to send our copper and our supplies to that great democracy, Russia, pouring them in there to help defeat some of the countries like Finland, Norway, and other countries. The figures showed that many of the essential war materials that we exported were finding their way directly into Germany. It was only shortly after that famous speech about being stabbed in the back that shipments were stopped to Italy.

So we have been pouring these essential war materials into these countries, but, of course, now we face a situation where we have to have priorities, and if they are not applied with great care we are going to close down the small industries that are the economic power and strength of this country. We are going to eliminate pay rolls upon which the very life of our communities depend, and we are going to have unemployment and relief problems following in the wake of the present preparation for our full entrance into the war. I regret I have not the time to develop this matter further. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield the balance of the time to the gentleman from Michigan [Mr. BLACKNEY].

Mr. BLACKNEY. Mr. Chairman, the Committee on Naval Affairs, of which I have the honor to be a member, unanimously reported H. R. 4534, which the House is considering today. This bill amends section 2 (a) of Public, 671, of the act approved June 28, 1940, and further extends the power to establish priorities and allocate material.

You will recall that on January 7, 1941, the Office of Production Management was created by Executive orders. The Office of Production Management, referred to as the O. P. M., provides for three divisions: A Division of Production, a Division of Purchases, and a Division of Priorities. This bill, under consideration today, expands the priority power previously given to that division. The only mandatory power for the establishing of priorities is derived from the following clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, in which the Director of Priorities is authorized to exercise—

> deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts or orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

The Director of Priorities was advised by counsel that the foregoing statutory provision permits the granting of mandatory priorities only with respect to the deliveries of the end products—airplanes, tanks, guns, ammunitions, and so forth—ordered directly by the Army or Navy and the material, parts, and accessories which enter into the manufacture of such end products, under contract of the Army and Navy. This statutory provision was inadequate to cover the urgency of the present needs of the defense program and left out many important contracts and orders essential to the defense program.

E. R. Stettinius, Director of Priorities, Office of Production Management, pointed out four situations that the existing statute did not cover:

First. Contracts of the British Empire and other foreign governments under the lend-lease bill.

Second. Contracts for the expansion of production of scarce essential material and products.

Third. Contracts of other agencies of the Government, such as the Coast Guard, Maritime Commission, Panama Canal, and so forth.

Fourth. Other contracts of indirect importance to national defense.

It is well to remember also that the foregoing statutory provisions permit priorities to be granted under contracts "for private account or for export" but does not permit the establishment of preferences over other Government contracts.

The report and hearings accompanying H. R. 4534 also point out this necessity:

> When shortages occur and are imminent as a result of the impact of the defense program, it is necessary to take steps to conserve the existing supply for defense purposes and to direct the distribution of such materials so that defense needs may be met, and where there is an insufficient surplus to meet all civilian needs, it is further necessary to direct such surpluses into those uses which are most important to maintain the economy of the country and to eliminate the uses which are least important.

Counsel for the Director of Priorities pointed out that this authorization was not given in the existing statute and, therefore, the necessity of the pending bill.

I am in favor of the passage of H. R. 4534 as a further aid in expediting the national defense. The power to establish priorities and allocate material will be one of the strongest steps that we can take toward the perfection of our own national defense. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That section 2 of the act approved June 28, 1940 (Public, No. 671, 76th Cong.), as amended, is amended by inserting "(1)" after "Sec. 2. (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders for the Government of any country whose defense the Pres-

ident deems vital to the defense of the United States under the terms of the act of March 11, 1941, entitled 'An act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

Mr. VINSON of Georgia. Mr. Chairman, I present the following amendment, proposed by my colleague, Mr. Cox, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Cox: Page 3, strike out "The President" in line 6, and strike out lines 7 to 10, inclusive, and insert:

"(3) The President may exercise any power, authority, or discretion conferred on him by this section through a Director of Priorities (in this paragraph called the 'Director'), whom he is authorized to appoint by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of $12,000 per annum, and is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers under this section. The Director shall exercise his powers under paragraphs (1) and (2) of this section with the assistance of industry committees, which he is hereby directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deems pertinent. Such powers shall be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board."

Mr. VINSON of Georgia. Mr. Chairman, the amendment which I just sent to the desk is an amendment offered by my colleague the gentleman from Georgia [Mr. Cox]. At the time I offered it he happened to be out of the Chamber. I ask now that the gentleman from Georgia [Mr. Cox] be recognized in support of his amendment.

Mr. COX. Mr. Chairman, this amendment follows the arguments and suggestions that will be found in the Baruch report of the War Industries Board of the last war. The main purpose of the amendment is to give industry an opportunity to be heard. These committees provided for have no official status other than that to be accorded representatives of industry occupying an advisory position. The further purpose of the amendment is to translate into statute the Executive order relating to this Board now headed by Mr. Stettinius. A further purpose is an attempt to freeze Mr. Stettinius into the organization, to guard against an urge or effort to make it possible to move him out and substitute some other in his stead. Gentlemen debating the rule preceding the consideration of the bill had much to say with regard to Mr. Stettinius. I believe the whole country has great confidence in him and I believe that industry and others would like to see him kept where he now is. This amendment would tend to accommodate that situation which many of us think is a need.

Mr. MARCANTONIO. Mr. Chairman, will the gentleman yield?

Mr. COX. Yes.

Mr. MARCANTONIO. In other words, the gentleman's amendment in the long run would bring about a situation where the successor to Mr. Stettinius would have to be confirmed by the Senate.

Mr. COX. The amendment carries that provision, but I am not so much interested in that as I am in broadening the provisions of the bill and strengthening it if possible, because I regard this as one of the wisest steps which Congress has as yet been urged to take. We ought to know, and we do know, I am sure, not only as a result of our general information but as a result of the lesson taught by the last war, that the mobilization of industry is quite as important as is the mobilization of men. The purpose of the bill in this case is to make possible an easy mobilization of industry, and I wish it were possible that the bill might be accepted without a dissenting vote. The amendment that I propose is supported by the Baruch report and gives industry the same opportunity to submit suggestions and to offer advice as was carried on in the War Industries Board of the last war. I hope the chairman of the committee in charge of the pending bill may find the amendment acceptable to him.

Mr. VINSON of Georgia. Mr. Chairman, my colleague gave me the privilege of examining his amendment before he offered it. I want to state frankly and candidly that I think the amendment should be adopted because it strengthens the bill.

Now, let us understand what we are doing. We are amending section 2 of the speed-up bill, conferring certain additional authority on the President. To carry that out the President set up what is known as the Priority Board, through the Office of Production Management, by Executive order, on January 7. The Office of Production Management is broken down into three classes, the Division of Production, the Division of Purchases, and the Division of Priorities. Everything that the Office of Production Management does about it has only the authority of an Executive order. There is no statutory authority whatsoever for the activities of the Office of Production Management and the Division of Priorities. The amendment offered by my colleague from Georgia, Mr. Cox, breathes statutory life into the Office of Production Management. Why should it not do so? As one Member of Congress, I want to pass laws to govern the American people instead of governing them through Executive orders. [Applause.] For that very reason I reported a bill the other day from the Committee on Naval Affairs seeking to carry out by statute what the Mediation Board is trying to do. We are here—we are here to legislate. That is what we are paid for. When we have an opportunity to do so, let us go ahead and do it.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. TABER. How long would the tenure be?

Mr. VINSON of Georgia. Two years. It is fixed in the bill. The other thought in the bill is that it makes it mandatory that whoever heads this Priority Division shall be confirmed by the Senate. Why should not the man who almost holds the life and death of industry in this country be confirmed by the Senate?

In addition to that, we create by this amendment a legislative division known as the Division of Priorities, and instead of having a man at $1 a year, we pay him like he should be paid, a salary commensurate with the responsibility.

Another thing: I am getting sick and tired of so many dollar-a-year men coming down here. [Applause.] The Government is able to pay them. Let the Government pay them.

Mr. MARCANTONIO. Will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. MARCANTONIO. Certainly the gentleman does not feel that the dollar-a-year men are losing anything on the deal?

Mr. VINSON of Georgia. Well, I hope they are. I want to put them where they will not be criticized by such innuendoes as the gentleman from New York [Mr. MARCANTONIO] just made.

I trust this amendment will be adopted, because it establishes legally a Priority Division instead of by Executive order. It creates an office at $12,000 a year and the appointment must be confirmed by the Senate. Then you place some responsibility through the Congress on the Priority Division instead of by Executive order. [Applause.]

Mr. MAAS. Mr. Chairman, I move to strike out the last two words.

I simply want to say I thoroughly endorse everything the distinguished chairman of the Committee on Naval Affairs [Mr. VINSON] has said. I certainly hope this amendment will be adopted. This office is going to wield vast power and it should be a legislatively created office, controlled by the Congress and subject to confirmation by the Senate.

I strongly bespeak for the adoption of the amendment.

Mr. CANFIELD. Mr. Chairman, I ask unanimous consent that the amendment may again be reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment offered by the gentleman from Georgia [Mr. Cox].

There being no objection, the Clerk again reported the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. Cox].

The amendment was agreed to.

Mr. RICH. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, when we adopt this bill we just take one more step in giving power to the Chief Executive to conduct the affairs of Government and one more step to war.

When I view the legislation that has been put on the books in the past 2 or 3 months—the Conscription Act, the lease-lend bill, the $7,000,000,000 to aid Great Britain, the ship seizure bill that we passed yesterday, and now this bill, I wonder just where we are going and where we are headed for. I think surely to war. I wonder if the Congress knows where it is leading this Nation. Thank goodness, I voted against all of them.

We criticized Italy for going into Ethiopia because she did not declare war. We criticized Germany for going into Poland, to Belgium, to Holland, and a number of other countries because she did not declare war on them. We criticized Japan when she went into China and fought the Chinese for several years because she did not declare war. Now, what are we doing? Do you know? You are doing the same thing. The American people do not want war. I have been doing everything I can to keep us from getting into war, and I propose to do that very thing as long as I can honorably, or until Congress votes war. But when I criticize Congress for not declaring war after it has passed the laws that have been passed in the last few months—I said the other day when commenting on what you are doing, "Why not declare war and be done with it?" I received a postal card from Michigan with a 10-cent special-delivery stamp and a 6-cent air-mail stamp. This is what it says:

"Why not declare war and be done with it?" interrupted Representative ROBERT RICH (Republican, Pennsylvania).

Have you men lost your minds—do you expect people to respect you when you are speaking of human lives to say, "Why not declare war and be done with it?" Shame on you! It's easily seen you won't have to go. How would you like to have your head blown off in war? Stop crying now; I didn't mean to scare you.

A. V. MARSHALL,
Otsego, Mich.

The news representative from Michigan who put that in the paper wanted to deceive the public. He wanted to make them believe I was for war when I have fought it in every way I could, and I have voted against all these bills and I am against all of them now and this one we are discussing today.

Why would the newspapers in Michigan try to deceive in this manner? They know the public does not want war. They know I do not want war. They ought to be ashamed of themselves. I say this administration will be responsible if we get in war and no one else.

I never pay much attention to letters or cards that are not from my district, but I cannot pass over this attempt on the part of some newspaper to deceive, even going to the extent of wanting to make the public believe that the Members who are against war are asking for it. The only comment I can make is that there is a mighty deceptive press out in Michigan.

Whom are you going to believe here pretty soon? What are you going to do about it? Are you going to try to make the country and the world believe we are a peaceful nation? I do not think we are according to what you do. I am just as afraid as can be that you are going to get into this war. The President has said that convoys mean shooting and shooting means war. If we start convoys, as the Secretary of the Navy the other night implied we should, and they start to shoot at our vessels and some of them go down you will try to arouse the American people to the point of believing that some enemy went out of his way to shoot at American vessels. We passed a neutrality law and told the President and told the world we would not enter the war danger zone, but the President is tampering with that act and now he is going to send ships into this danger zone. When they get there they are liable to be sunk and with it this Nation may be sunk. God forbid that this Nation get into war.

We went to Europe in 1918 to make the world safe for democracy but we find out now it was a miserable failure, and you are getting ready to try it again. Will not you learn to stay at home and attend to your own business? When you meddle in other people's business you get into trouble. We have no business to try to police the world. I am 10 times more afraid of "fifth columnists" in America than I am in Hitler ever coming to America. Let us be for national defense and not for aggressive warfare.

[Here the gavel fell.]

Mr. VINSON of Georgia. Mr. Chairman, there are no further amendments, and the bill has been read. I ask that the Committee rise, under the rule.

The CHAIRMAN. Without objection, the pro forma amendments will be withdrawn.

There was no objection.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. THOM, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee having had under consideration the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, pursuant to House Resolution 189, he reported the same back to the House with an amendment.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. RICH. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. The Chair will count.

Mr. RICH. Mr. Speaker, I just want the Members to know I am opposed to the bill. I will withdraw my objection because of promises that have been made here.

The bill was passed.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair recognizes the gentleman from Illinois [Mr. BEAM].

MEMORIAL DAY, 1941

Mr. BEAM. Mr. Speaker, I submit the following resolution, and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 201

Resolved, That on Wednesday, the 18th day of June 1941, immediately after the approval of the Journal, the House shall stand at recess for the purpose of holding the memorial services as arranged by the Committee on Memorials, under the provisions of clause 40–A of rule XI. The order of exercises and proceedings of the service shall be printed in the CONGRESSIONAL RECORD, and all Members shall have leave to extend their remarks in the CONGRESSIONAL RECORD until the last issue of the RECORD of the first session of the Seventy-seventh Congress on the life, character, and public service of the deceased Members. At the conclusion of the proceedings the Speaker shall call the House to order, and then, as a further mark of respect to the memories of the deceased, he shall declare the House adjourned; and be it further

Resolved, That the necessary expenses connected with the memorial services herein authorized shall be paid out of the contingent fund of the House upon vouchers signed by the chairman of the Committee on Memorials and approved by the Committee on Accounts.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include an article concerning the development of the St. Lawrence seaway.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. KRAMER. Mr. Speaker, I ask unanimous consent to read a letter I have received from one of my constituents.

The SPEAKER. The Chair cannot recognize the gentleman to consume time unless those who have other special orders agree that he may.

Mr. KRAMER. Mr. Speaker, I ask unanimous consent to address the House for one-half minute.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

BASEBALLS TO THE HOUSE PAGES

Mr. KRAMER. Mr. Speaker, this is a letter from the W. J. Voit Rubber Corporation, of Los Angeles, Calif.

MAY 5, 1941.

The Honorable CHARLES KRAMER, M. C.,
New House Office Building,
Washington, D. C.

MY DEAR CHARLIE: Your letter of May 1 has just been received, and we appreciate the opportunity to be of some assistance to the House pages with their baseball program.

Accordingly, we are sending to your attention, via parcel post, special handling, a dozen Voit baseballs, with the hope they will prolong the charm of the House over the Senate.

Cordially yours,

W. J. VOIT RUBBER CORPORATION,
W. J. VOIT, *President.*

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow it adjourn to meet on Monday next.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, can the majority leader tell us what the legislative program for next week will be?

Mr. McCORMACK. Monday will be District day.

Tuesday we expect to take up the Interior bill, under the 5-minute rule.

Wednesday the Calendar of Committees will be called.

Thursday we expect to take up the legislative appropriation bill.

Mr. MARTIN of Massachusetts. Does the gentleman expect to conclude the Interior bill on Tuesday?

Mr. McCORMACK. I am not so sure that we can.

Mr. MARTIN of Massachusetts. Then it would probably be taken up again on Wednesday, following the call of the calendar.

Mr. McCORMACK. We will have to make some disposition. We will start on Tuesday, and I am in hopes that we can make some arrangements on Wednesday when that will be the first order of business for Wednesday, and if we get through quickly, to continue with Calendar Wednesday business.

Mr. HOFFMAN. Mr. Speaker, reserving the right to object, in view of the strike just called in Detroit in another defense industry, can the gentleman tell us when we will have the Vinson bill up for consideration?

Mr. McCORMACK. I am unable to state at the present time.

Mr. HOFFMAN. Has the gentleman any idea how many strikes we will have to have before that bill will be brought up?

Mr. McCORMACK. Of course, the gentleman has made an inquiry of me and now the gentleman makes an observation.

Mr. HOFFMAN. No; this is an inquiry.

Mr. McCORMACK. The gentleman from Massachusetts does not recognize it as an inquiry, especially in view of the state of the gentleman's mind.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, and returning to the program for next week, we will have a call of the committees on Wednesday. What committee will have the call?

Mr. McCORMACK. The Banking and Currency Committee.

Mr. MARTIN of Massachusetts. Will that committee proceed?

Mr. McCORMACK. Frankly, I am unable to state now, but I am giving this notice. and I am glad the gentleman from Massachusetts [Mr. MARTIN] makes the inquiry so that the chairmen of the various committees will have plenty of notice as to the intention to call the calendar on Wednesday next. Between now and then I will try to obtain the information and advise the gentleman and also advise the House.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts [Mr. McCORMACK]?

There was no objection.

EXTENSION OF REMARKS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a speech recently made by Assistant Secretary of the Treasury Gray.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts [Mr. McCORMACK]?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. VORYS of Ohio. Mr. Speaker, I ask unanimous consent that on tomorrow, after the disposition of business on the Speaker's table and at the conclusion of any special orders heretofore entered, I may be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Ohio [Mr. VORYS]?

There was no objection.

Mr. JONES. Mr. Speaker, I ask unanimous consent that on tomorrow, at the conclusion of the legislative program in order for the day and after any special orders heretofore entered, I may be permitted to address the House for 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Ohio [Mr. JONES]?

There was no objection.

EXTENSION OF REMARKS

Mr. POAGE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a short editorial from a Dallas newspaper.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. POAGE]?

There was no objection.

The SPEAKER. Under a previous special order of the House, the gentleman from Virginia [Mr. SATTERFIELD] is recognized for 10 minutes.

CONVOYS

Mr. SATTERFIELD. Mr. Speaker, I have prayerfully considered what I am about to say on the floor of this House. We have come now to the ultimate issue of the war raging overseas. We cannot stand in the middle of the road all summer engaging in halfway measures. Our foreign policy to date has been faithfully following after events, never ahead. The result is that we have reached the point now where any decision we make involves war risks. Standing between this country and the raw forces of destruction in Europe is the British Navy and the British people. If England is defeated, no longer may we rely upon that Nation as a buckler and a shield. There is no sentimentality in that statement. The effect of that statement is to bare an ugly fact, the fact that ultimately the American people will admit its truth in a rush to do for their own protection what they should have done months before. It may be then too late. I have watched one surrender after another—Spain, Manchuria, Ethiopia, Czechoslovakia. The fate of France and the smaller democracies of Europe induced by indecision merits the epitaph, "Too late."

I am for the use of our Navy and air force in convoying and making sure that the supplies, munitions of war, and food get through to the British.

I favor convoys, because I implicitly believe in the statement of Secretary Cordell Hull, who said:

> It Hitler wins the battle of the Atlantic, this ocean will become a broad highway for the swastika.

I am for convoys, because I do believe that with this assistance we can continue the protection which the existence of a British Navy will provide until we have had an opportunity to get further along in our own naval program.

I favor convoys, because, in my judgment, to fail to employ them now might result in the defeat of Great Britain, the loss of the British Navy, with the result that while we might be able to boast that our Navy was still intact we could not escape the serious consequences brought about by the fact that Hitler's Europe would have at its disposal all the navies and shipbuilding facilities of the Continent, plus that of the British Isles, and we would be hopelessly outclassed.

I favor convoys, because already our Latin American friends are showing signs of uneasiness, and we would be threatened with a break-up of the pan-American bloc.

I favor convoys for the further reason that I believe Japan is watchfully waiting the development of Hitler's power, and once the Japanese are convinced of his omnipotence in all of Europe it will be the signal for Japan to become a very active ally of the Axis.

I favor convoys, because I believe that America is being encircled today. The process of encirclement is now taking place in the case of Turkey. It is taking place in the case of Russia. As matters now stand, the American hemisphere is at this moment surrounded by Axis Powers.

I favor convoys, for the reason that so far Adolf Hitler has succeeded in victimizing all who stand about like helpless sheep; each of his victims thus far has thought of their national defense only in a negative way. It is high time that Americans engage in affirmative action, the only course of conduct that becomes an American.

I further favor convoys for the reason that history is primarily the record of courageous men. History is not what men wait for. It is what they do.

I favor convoys for the reason that the wisdom of acting affirmatively, quickly, and preventively rather than wait to face the power of the Nazis entrenched on every front is fully justified.

I favor convoys for the reason that just a few days ago the Japanese published a peace offer purporting to set forth the kind of world that the generosity of Germany and Japan would permit the United States to live in.

There is ample excuse and explanation for the slowness with which democracies move, but there is no reasonable excuse for our inability as a great nation to formulate now a definite, affirmative foreign policy. We have followed events long enough. This great decision now before the American people, sad to relate, is befogged by personal animosities and political partisanship. Every vote taken on the floor of this House relating to this war and touching the course of conduct that we as a nation should pursue has nearly every time resulted in a division marked by the center aisle. If ever this country needed leadership in every State, town, and hamlet it is today. I well know the import and the fearful responsibility which the statement I am making entails. Those of us here in Washington, fully conversant with the dangers of the present situation, must speak out now. In these cloakrooms, on the street corners, in clubrooms wherever Americans meet it is rare to find a person who does not sincerely suggest the use of convoys if without that assistance British defeat is imminent. We face that possibility now, and the time has come for a definite and courageous decision. Sinkings of ships leaving ports of this country for England thus far this year have not been so numerous. Sinkings of empty bottoms headed this way for cargoes have however been heavy. I favor convoys as a preventative of sinkings and as an earnest on our part that we fully intend to see that supplies reach England. This spring and summer Germany will launch her greatest attack of the war. It will be unrestricted submarine warfare in the Atlantic. Shall we wait for that, and follow events once again?

I favor convoys to be employed now, not tomorrow nor the day after tomorrow. Of course, there is an alternative—if we fail to convoy we must begin to dig in here, and who knows but perhaps to become prisoners within our own fortress. One thing is certain, digging in here when Britain is no more will neither preserve our peace nor our prosperity. We can no longer afford to stand another hour vacillating, wondering, doubting the future.

The SPEAKER pro tempore (Mr. HOUSTON). Under a previous order of the House, the gentleman from Michigan [Mr. CRAWFORD] is recognized for 25 minutes.

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent to insert as a part of my remarks a very brief excerpt from the decision of the Supreme Court in the Sugar Institute case, a statement made by Secretary Hull, consisting of one paragraph, a statement made by the President of the United States, consisting of a paragraph, and a statement made by Dr. Joshua Bernhardt, chief of the sugar section of the Department of Agriculture.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WHY DO SEACOAST REFINERS WANT TO DESTROY CONTINENTAL BEET-SUGAR INDUSTRY?

Mr. CRAWFORD. Mr. Speaker, several days ago the gentleman from New York, Hon. JAMES M. FITZPATRICK, introduced into the RECORD a letter from the Honorable Fiorello LaGuardia, mayor of the city of New York, on the subject of sugar quotas. An important feature of his letter is the development of the proposition that any new legislation, including any change in the present law pertaining to the importation and distribution of sugar, must be careful not to increase the amount of sugar permitted growers of sugar beets in continental United States, but, on the other hand, to encourage, if possible, the amount of raw sugar imported from Latin American areas to be refined by the sugar-refining industry located in the New York area.

Several days previously there was a luncheon meeting of the New York Board of Trade at which several prominent citizens made set speeches which were given wide publicity. All of them pleaded the cause of the seaboard cane refiners as against the farmers of the United States who produce sugar.

The LaGuardia letter will be found at page A1767 of the Appendix of the CONGRESSIONAL RECORD, and attached is an excerpt from the New York Journal of Commerce on the meeting.

The mayor's letter and similar statements I have seen convince me that the seaboard cane refiners are trying to gain public confidence by using prominent people as a front and screen through which they attack our domestic-sugar industry. In military language they may be said to be building up a smoke screen in order to cover up their own vulnerable position. It is not impossible that they have developed the technique of using well-known public names for publicity purposes and as mouthpieces for their propaganda, hoping that sugar-beet growers may be led to attack these prominent people instead of opposing and attacking the record of these seaboard cane refiners. Thus I have the well-founded suspicion that the cane refiners are appearing in sheep's clothing, but, in trade parlance, they are just the same old wolves.

Before I discuss the LaGuardia letter, let me suggest to the gentleman from New York [Mr. FITZPATRICK] that he ask the honorable mayor of New York whether he is informed about what such eminent authorities as the United States Supreme Court, the Secretary of State, and the President of the United States have said about the seaboard refiners, whose cause he pleads, and which I now submit.

COURT DECISION

In 1932 suit was instituted by the Government against cane refiners under the Sherman Act, seeking dissolution of the Sugar Institute on the ground that the organization was monopolistic and was operating in restraint of trade. The case was brought in the United States District Court for the Southern District of New York and decision handed down on March 7, 1934. The court found the primary motive to be not merely the elimination of vicious and unfair competitive practices within the industry, but in reality an attempt to create and maintain a uniform price level. On appeal by the institute, the United States Supreme Court sustained the lower court, holding that—

> The defendant's dominant purposes in organizing the institute were: To create and maintain a uniform-price structure, thereby eliminating and suppressing price competition among themselves and other competitors; to maintain relatively high prices for refined, as compared with contemporary prices of raw sugar; to improve their own financial position by limiting and suppressing numerous contract terms and conditions; and to make as certain as possible that no secret concessions should be granted. In their efforts to accomplish these purposes, defendants have ignored the interests of distributors and consumers of sugar.

This decision rendered illegal many of the institute's former activities. This fact, together with the unfavorable publicity resulting from the adverse decision, caused the institute voluntarily to be dissolved in 1936. In its place there was organized the United States Cane Sugar Refiners' Association, which still functions as the legislative representative of the industry. In addition the association also gathers statistical material and acts as a publicity agency.

STATEMENTS OF PRESIDENT AND SECRETARY HULL

In a letter dated August 7, 1937, addressed to Hon. PAT HARRISON, United States Senate, the Secretary of State, Hon. Cordell Hull, said:

> It is believed to be against the public interests for the Government to grant any further measure of protection to a group whose record repeatedly indicates it would resort to monopolistic practices and conspire to restrain trade in violation of the antitrust law. Only a little over a year ago the United States Supreme Court upheld a lower court ruling and found the Sugar Institute guilty on 40 separate counts of engaging in a combination and conspiracy to restrain trade in sugar.

The President, in his letter of April 11, 1940, to the chairman of the House Agricultural Committee, Hon. Marvin Jones, points out as being entirely unjustified and un-American. He said:

> Such a course of action, as I have pointed out on a previous occasion, would be tantamount to an imperialistic classification of citizens and a tyrannical abuse of minority rights that is utterly contrary to the American concept of fairness and democracy. Among the cases in point is the proposal to reinstate the former discrimination against the refining of sugar in the insular parts of the United States.

REFINERS HEAVILY SUBSIDIZED

According to the testimony of Dr. Joshua Bernhardt, chief of the sugar section, before the Committee on Finance, United States Senate, Seventy-fifth Congress, first session, on H. R. 7667, page 171, when the 1937 Sugar Act

was being considered, continental refiners received a subsidy which averaged $36,934,980 annually for the 3 years, 1934 to 1936, inclusive. On this basis, the refiners have received a total subsidy in the 7 years under the Sugar Act equivalent to $221,000,000, while the total refund payments made to all Puerto Rico raw sugar producers were only $32,831,227.

Moreover, the census of manufactures shows continental refiners employed in 1937 only 14,024 employees. Thus, they received a subsidy of about $2,300 for each person employed as against an annual average wage of about $1,005, according to the 1937 Census of Manufactures. Thus, to claim or insinuate that the 17 continental refiners have not received a subsidy under the tariff is simply sidestepping the facts.

Not only do the Eastern Seaboard refiners enjoy a full measure of subsidies, but the quota system also protects them in: first, the extraordinary form of an embargo upon shipments of refined sugar to the United States, in excess of a stated quantity, from the principal competing foreign country which is limited under present legislation to a quota for direct-consumption sugars of 22 percent of its raw sugar quota; second, in the protection the refiners enjoy against importations of direct-consumption sugars from the Philippines under the provisions of the Philippine Independence Act; and, third, in their protection, by quotas, against increased importation of liquid sugars which in some areas and in some industries have tended to replace ordinary commercial refiners' sugar.

REFINERS EMPLOY VERY LITTLE LABOR

It is generally known that the refining of sugar is one of the most completely mechanized industries of which there is any record. In 1937, as stated, the total number of employees engaged in refining raw cane sugar on the continent was 14,024. Thus, the labor employed amounts to an average of less than 1,000 persons for each of the 17 refiners in the United States, of which only 5 are located in the metropolitan area of New York City.

Getting back to the LaGuardia letter, at one moment the mayor seems to be pleading for an ample supply of sugar at low prices for the consumers of New York City; at another he appears to be putting in a word for the good-neighbor policy being developed by the United States and Latin American countries; but, when he gets down to the final word, it appears that he has assumed the role of political sponsor for the sugar refining industry and comes out flatly opposed tc the welfare of agriculture and opposed to an increase in the production of sugar in continental United States. He calls attention to a recommendation of the mayor's business advisory committee which included among other points the following conclusion:

> As a practical matter, this will mean placing the city in opposition to the further expansion of the beet sugar quotas * * * for it is the protection granted to the beet producers that is mainly responsible for the high price of sugar in New York City and elsewhere in the United States, compared with the world price.

It is not outside the realm of probability that the honorable mayor may not have prepared the letter in question. Indeed, a careful reading of his communication leaves the impression that it is merely a piece of propaganda prepared for his signature by those engaged in the refining industry whose only desire is for unlimited quantities of raw sugar from the Tropics as against the production of beet sugar within the United States, and whose concern is not primarily with the price to American consumers.

The basic problem of refiners is neither to make the tropical producers prosperous by paying them high prices for raw sugar, nor to protect American consumers by supplying sugar at low prices, but rather to secure a large volume of raw sugar in order to keep their factories operating on a basis that will allow satisfactory profits for their stockholders. This is not a statement of criticism of the refining industry which is merely pursuing recognized business methods. It is intended very definitely to call attention to the true fact which is, that beet sugar production in the United States has increased to the point where it is now offering real competition in the American sugar market. This leads us to a frank examination of some of the more important economic problems involved:

First. During the first 3 months of 1941 (January 2 to April 3) market quotations for duty-paid raw sugar advanced from 2.9 cents to 3.4 cents, an increase of 0.5 cent, in the New York market, as reported by the Willett & Gray Weekly Statistical Sugar Trade Journal. These market quotations are net cash without discount. Without getting into unnecessary details let me stress the fact that the corresponding price for refined sugar (wholesale f. o. b. factory) advanced approximately the same amount. This means that the price of sugar has gone up half a cent a pound. The actual increase to the ultimate consumer at retail stores may have been a little more or a little less, depending upon any number of temporary or local circumstances.

The increase in market quotations for raw sugar during the first 3 months of 1941 had nothing whatever to do with production of beet sugar in continental United States; and the increase in price of refined beet or cane sugar resulting, likewise was due to a situation entirely outside of our country. The Lamborn Sugar Market Report under date of January 21 refers to advancing freight rates on merchant vessels engaged in the transportation of raw sugar from distant areas to the United States. Again on February 18 reference is made to "increasing costs of ocean freight" with special reference to the Philippines. Again, on March 11 reference is made to the "increasing cost of ocean tonnage." Again, under date of March 25 reference is made to the ocean tonnage situation with the statement that there is no indication of improvement. Many other illustrations might be cited to indicate that the price increase during recent months has been due entirely to the foreign war situation.

In other words, American consumers are again finding themselves victims of a dependence upon foreign sources for an important food material. Any propaganda by interested refiner groups intended to throw the blame on important branches of American agriculture is just literally unfair or unjust. and that is one of the reasons why this explanation needs to be made. Fortunately American consumers are not as completely dependent upon foreign sources as they were at the outbreak of the first great World War in 1914. At that time production of sugar in continental United States had barely reached 1,000,000 tons annually and duty-free sugar from Hawaii, Puerto Rico, and the Philippine Islands amounted to about another 1,000,000 tons. At that time imports amounted to about 2,500,000 tons, or more than total production under American control. Fortunately during the last 2 or 3 years production of sugar in continental United States has been more than doubled what it was back in 1914; likewise the amount brought in from duty-free insular areas—Hawaii, Puerto Rico, and the Philippine Islands—has averaged about 2,700,000 tons. The total available under direct American control has thus averaged about 5,000,000 tons. On the other hand, foreign imports during recent years has averaged less than 2,000,000 tons. Thus, while ocean freights engaged in the transportation of offshore sugar are responsible for the present price advance, at least it may be said that the people of the United States are now assured a very large supply of sugar from sources entirely within our own control. Imports of sugar during the last 5 years—1935 to 1939—have been only about half of what they were 10 years earlier—1925 to 1929.

Second. Sugar prices in the United States have fallen fully 50 percent since the post World War period 20 years ago. During the last 10 years average retail price of granulated sugar to American consumers has only slightly exceeded 5 cents per pound, compared with 10 cents or more per pound when we were largely dependent upon foreign raw sugar 15 or 20 years ago. Not only have sugar prices come down to lower levels than those common in the United States before the great World War—1910 to 1914—but sugar prices in the United States are substantially relatively lower than prices of all other food products. During the years before the World War—1910 to 1914—the retail price of sugar averaged 6 cents per pound. Now during the last 5 years the average has been approximately 5 cents per pound. From this it must be apparent that sugar-beet producers in the United States and sugarcane producers in the insular areas have expanded to the point where they not only provide a very large portion of domestic requirements but they have literally brought the price down substantially, not only from the post-war level of 10 to 20 cents per pound but even below pre-war prices and below food prices in general.

Third. The mayor concluded his letter, or the letter signed by him, to the effect that it is the protection granted to the beet producers that is mainly responsible for the high price of sugar in New York City, and elsewhere in the United States, compared with the world price.

The truth of the situation is that the retail price of sugar to consumers in the United States is lower than in any other

important country in the whole world. And, what is more, the people of the United States consume as much or more sugar per capita than the people of any other important country in the world. In fact, most of the people in most countries consume less than half as much per capita as do we in the United States, while in most parts of the world the retail price of sugar to consumers is at least double the price now paid in this country. Much as all fair-thinking persons may wish for all industry to prosper, including the sugar-refining industry, let us not pin a recent advance of half a cent a pound on American farmers while pretending to protect American consumers and promote good relations with the people in Latin American countries.

Fourth. The mayor takes occasion to make reference to the tariff policy of the United States and apparently wishes to leave the impression that the present tariff on foreign sugar has reached unbearably high levels and that this is responsible for advancing sugar prices. It is well enough, therefore, to call attention to the fact that the present tariff on foreign sugar is at the lowest level during the last 20 years. It will not be denied that the relatively high rates of duty imposed between 1921 and 1930 stimulated expansion in sugar production in continental United States and the insular areas. But this in turn resulted in a steady expansion, increased supplies, and lowered prices to American consumers. And, as already noted, the present rate of duty is the lowest in 20 years, due to a series of tariff adjustments during the last decade. What the people of this country want is for American agriculture to have an opportunity to use our natural resources and to give employment to labor at the same time that consumers in this country are given bountiful supplies of important food products at low prices.

Recently the Department of Agriculture announced a desire to stimulate domestic production of a series of important food products—meat products, dairy products, and poultry products—and indicated an intention to stimulate the production of some other items, such as fruits and vegetables. Rumor had it that domestic producers of sugarcane in the Gulf States and of sugar beets in the Great Lakes region and the Western, Mountain, and Pacific States would be given an equal opportunity to slightly expand production. Indeed, the statement was made that an order had already been prepared removing acreage restrictions and granting an opportunity to expand in a small way. Now, however, the public is advised that the administration has decided not to carry through this program. In other words, strict limitations are to be continued during this year.

Again, recently it was found that the Philippine Islands were not in position to supply the entire quota originally allotted to that area. A reallotment of a deficit of 73,232 short tons was announced. But instead of allotting this additional amount to domestic producers of sugarcane and sugar beets, the administration a few days ago announced that this had largely been allotted to Haiti and the Dominican Republic, Mexico, Peru, Nicaragua, Salvador, Honduras, and some other miscellaneous foreign areas.

From these illustrations it is apparent that the Government takes the view that consumers must be made to pay higher prices for foreign sugar and that domestic producers must not be permitted to further increase production even though much land lies idle and farmers are ready and willing and anxious to expand and to supply the American market more completely.

Fifth. Finally, the question is raised as to what all this means to American consumers. The letter from the mayor says—

> Although the protection at present granted the domestic producers is costing the consumers of New York City about $15,000,000 a year, I realize it would be too much to expect legislation increasing the volume of sugar refining at the port of New York.

The refiners did not tell the mayor that the price of sugar has been reduced during the last 20 years roughly from 20 cents per pound to 5 cents per pound due to the policy of encouraging the production of sugar in continental United States and the insular areas. Since the good people of New York consume about 100 pounds of sugar per capita per annum, it would seem that a reduction of 5 cents per pound would represent a saving of $5 per person comparing recent years with the postwar years. Assuming no more than 6,000,000 people in the central city of New York, a saving of $5 per capita would represent a net saving of $30,000,000 per annum to these good people because of the development of sugar under American control. This is a saving of $30,000,000 per annum rather than an added cost of $15,000,000 per annum referred to in the mayor's letter.

Other comparisons might very well be made. While costs of all food and indeed of all commodities of every kind are now fully 25 percent higher than during the years before the last World War (1910–14) it is significant, as already noted, that the price of refined sugar is at least 1 cent per pound lower. Thus, the good people of the city are saving millions of dollars annually whether comparison be made with sugar prices back 25 years ago or sugar prices during the decade following the World War.

I think it is appropriate for me to recommend to the gentleman from New York [Mr. FITZPATRICK] that he secure a copy of the CONGRESSIONAL RECORD of May 29, 1939, beginning at page 8874, in which I went into great detail to explain all about the fantastic and erroneous charge that the domestic-sugar industry is a great burden to the consumers. I would like to have the gentleman read the RECORD himself and then send a copy of it to the mayor, so that he will be better informed the next time the refiners ask him to write a letter, without them giving him all of the facts.

In conclusion, it would seem important that public men who have a real responsibility should not permit themselves to be used as propagandists for special interests (however meritorious the activities of these special groups may be) and certainly that public men should serve the public by truly directing attention to the interests of the great mass of people whether engaged in agriculture or industry, whether wage earners or the great body of consumers.

Mr. H. CARL ANDERSEN. Mr. Speaker, will the gentleman yield?

Mr. CRAWFORD. I yield to the gentleman from Minnesota.

Mr. H. CARL ANDERSEN. Did the gentleman notice the other day an observation by the Secretary of Agriculture to the effect that the unused portion of the allocation to the Philippines of sugar would not be reallocated to the farmers in America but would in all probability go to some foreign nation, in order to promote the good-neighbor policy?

Mr. CRAWFORD. Yes, I noticed that, and it is a continuation of the policy which the Department of Agriculture adopted some years ago.

Mr. H. CARL ANDERSEN. Does it not seem peculiar to the gentleman from Michigan that our Secretary of Agriculture does not look after the interests of the farmers of America in preference to those of the foreign producers?

Mr. CRAWFORD. It is surprising to me that he takes that attitude, and furthermore, that he permits the Department of Agriculture to be dominated by the wishes of the State Department, in charge of the diplomatic phase of our activities. [Applause.]

ADJOURNMENT

Mr. MILLS of Arkansas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock p. m.) the House adjourned until tomorrow, Friday, May 9, 1941, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON FLOOD CONTROL

The Committee on Flood Control will continue hearings on the following days:

1. Friday, May 9: Proponents and representatives of the Corps of Engineers for the lower Mississippi River and tributaries other than the Arkansas, the White, the Red, and the St. Francis Rivers.

2. Monday, May 12: Proponents and representatives of the Corps of Engineers for other projects in other regions and in other parts of the United States.

3. Tuesday, May 13: Representatives of the Department of Agriculture and other governmental agencies.

4. Wednesday, May 14: Senators and Members of Congress.

COMMITTEE ON THE JUDICIARY

The special subcommittee on bankruptcy and reorganization of the Committee on the Judiciary will hold public hearings on H. R. 2673 (a bill proposing to amend the Municipal Bankruptcy Act, relating to preliminary stays), on Friday, May 9, 1941, at 10 a. m., in room 346, House Office Building.

The Committee on the Judiciary will hold public hearings on H. R. 4017, a bill permitting exemption from certain restrictions on political activity in municipal affairs, on Wednesday, May 14, 1941,

at 10 a. m., in room 346, House Office Building, before Subcommittee No. 1.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

The Committee on the Merchant Marine and Fisheries will hold public hearings on Wednesday, May 14, 1941, at 10 a. m., on H. R. 3361, to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

519. A letter from the Attorney General, transmitting a copy of the will of the late Samuel Wilson Williams, which will has been contested by some of the heirs; to the Committee on the Judiciary.

520. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment, House of Representatives, for the fiscal year 1941, in the amount of $1,400 (H. Doc. No. 207); to the Committee on Appropriations and ordered to be printed.

521. A communication from the President of the United States, transmitting an amendment to the estimates of appropriations included in the Budget for the fiscal year 1942 for the legislative establishment, Library of Congress, involving an increase of $50,000 in such estimates (H. Doc. No. 208); to the Committee on Appropriations and ordered to be printed.

522. A letter from the Secretary of War, transmitting a draft of a proposed joint resolution extending the application of section 6 of the act entitled "An act to expedite the strengthening of the national defense" approved July 2, 1940 (54 Stat. 714), to all Territories, dependencies, and possessions of the United States, including the Philippine Islands, the Canal Zone, and the District of Columbia; to the Committee on Military Affairs.

523. A letter from the Acting Secretary of the Navy, transmitting a draft of a proposed bill to authorize the advancement of certain officers whose accomplishments have been outstanding; to the Committee on Naval Affairs.

524. A letter from the Under Secretary of Agriculture, transmitting a draft of a proposed bill to amend the act providing punishment for killing or assaulting Federal officers; to the Committee on the Judiciary.

525. A letter from the Under Secretary of Agriculture, transmitting a draft of a proposed bill to authorize the Secretary of Agriculture to designate employees of the Department of Agriculture to make arrests for violation of the laws relating to and the rules and regulations established for the protection of lands acquired under or transferred for administration under title III of the Bankhead-Jones Farm Tenant Act; to the Committee on Agriculture.

526. A letter from the Under Secretary of Agriculture, transmitting a draft of a proposed bill to amend the act approved October 10, 1940 (54 Stat. 1105), to permit such responsible officers as may be designated by heads of departments or establishments to authorize or approve the allowance and payment of expenses incident to the transportation of the household goods of civilian officers and employees when transferred from one official station to another for permanent duty; to the Committee on Expenditures in the Executive Departments.

527. A letter from the Acting Secretary of Agriculture, transmitting a draft of a proposed bill to add certain lands to the Boise National Forest, the Salmon National Forest, and the Targhee National Forest in the State of Idaho; to the Committee on Agriculture.

528. A letter from the Acting Secretary of Agriculture, transmitting a draft of a proposed bill to authorize the Department of Agriculture to make open-market procurements where the aggregate amount involved does not exceed $100; to the Committee on Expenditures in the Executive Departments.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COLMER: Committee on Rules. House Resolution 200. Resolution for the consideration of H. R. 4545, a bill to provide for the acquisition and equipment of public works made necessary by the defense program; without amendment (Rept. No. 509). Referred to the House Calendar.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 4109. A bill to provide aid to the dependent children in the District of Columbia; without amendment (Rept. No. 510). Referred to the Committee of the Whole House on the state of the Union.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 4365. A bill to give additional powers to the Board of Public Welfare of the District of Columbia, and for other purposes; without amendment (Rept. No. 511). Referred to the Committee of the Whole House on the state of the Union.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 4498. A bill to provide for the admission to St. Elizabeths Hospital of insane persons belonging to the Foreign Service of the United States; without amendment (Rept. No. 512). Referred to the Committee of the Whole House on the state of the Union.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 4599. A bill to authorize the Federal Security Administrator to accept gifts for St. Elizabeths Hospital and to provide for the administration of such gifts; without amendment (Rept. No. 513). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEAGALL: Committee on Banking and Currency. H. R. 4674. A bill to extend the operations of the Disaster Loan Corporation and the Electric Home and Farm Authority, to provide for increasing the lending authority of the Reconstruction Finance Corporation, and for other purposes; without amendment (Rept. No. 514). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN of Louisiana:

H. R. 4684. A bill to authorize the improvement of Bayous Rapides, Boeuf, and Cocodrie, La., for flood control and other purposes; to the Committee on Flood Control.

By Mr. BARRY:

H. R. 4685. A bill to extend to closed building and loan associations and for the liquidation of assets of such associations the same assistance that is now extended to closed banks and for the liquidation of their assets; to the Committee on Banking and Currency.

By Mr. MAAS:

H. R. 4686. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 with respect to the treatment of certain personal-property taxes; to the Committee on Military Affairs.

H. R. 4687. A bill to authorize officers and enlisted men of the United States Navy and United States Marine Corps to accept such medals, orders, decorations, and presents as have been tendered them by foreign governments; to the Committee on Naval Affairs.

By Mr. MARCANTONIO:

H. R. 4688. A bill to provide a Nation-wide system of social security and a guaranteed minimum family income; to extend opportunity for gainful and useful employment to all willing workers; to establish a program of Federal public works and services; to expand the domestic market for agricultural and industrial products; to assure a more equitable distribution of national income; to establish a basic American standard of living; and for other purposes; to the Committee on Ways and Means.

By Mr. O'CONNOR:

H. R. 4689. A bill to provide for the construction and maintenance of a bridge on United States Highway No. 2 in the State of Montana; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN:

H. R. 4690. A bill providing for the payment to each selectee under the Selective Training and Service Act of 1940 of $100 upon his discharge to enable him to purchase civilian clothing and other necessaries; to the Committee on Military Affairs.

H. R. 4691. A bill to amend the Federal Credit Union Act; to the Committee on Banking and Currency.

By Mr. RANKIN of Mississippi:

H. R. 4692. A bill relating to the disposition of personal property of certain deceased patients or members of United States Veterans' Administration facilities; to the Committee on World War Veterans' Legislation.

By Mr. STEAGALL:

H. R. 4693. A bill to amend the National Housing Act, and for other purposes; to the Committee on Banking and Currency.

H. R. 4694. A bill to continue Commodity Credit Corporation as an agency of the United States, to maintain its capital unimpaired, to increase its borrowing power, and for other purposes; to the Committee on Banking and Currency.

By Mr. THOMAS of Texas:

H. R. 4695. A bill to enable school districts in which real estate has been acquired by the United States for national-defense purposes to maintain school facilities and other school essential services and to pay principal and interest on bonded indebtedness; to the Committee on Public Buildings and Grounds.

By Mr. HÉBERT:

H. Con. Res. 32. Concurrent resolution creating a special joint committee to investigate the matter of losses resulting from the white-fringed beetle eradication and control program in Louisiana; to the Committee on Rules.

H. Con. Res. 33. Concurrent resolution authorizing appropriation for expenses of special joint committee created by House Concurrent Resolution 32; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. COLE of New York:

H. R. 4696. A bill granting a pension to Vurle Bahnmiller; to the Committee on Pensions.

By Mr. RIZLEY:

H. R. 4697. A bill for the relief of Charley C. B. Bokis; to the Committee on Military Affairs.

By Mrs. ROGERS of Massachusetts:

H. R. 4698. A bill for the relief of Mrs. Hannah Whalen; to the Committee on Claims.

By Mr. SMITH of Virginia:

H. R. 4699. A bill for the relief of Straties Theodosiou; to the Committee on Claims.

PETITIONS, ETC.

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

1016. By Mr. FENTON: Petition of President Abe Hawkes and members of Mahanoy City Borough Council, Mahanoy City, Pa., requesting that the original wage of Work Projects Administration employees in the sum of $60.50 be restored immediately as the basic monthly wage in order that Work Projects Administration employees can be provided with the bare necessities of life; to the Committee on Appropriations.

1017. By Mr. HAINES: Petition from the President, members of faculty, and students of Wilson College at Chambersburg, Pa., urging support of President Roosevelt's statement of American policy, etc.; to the Committee on Foreign Affairs.

1018. By Mr. KEOGH: Petition of the Temple Mens' Club of Sharri Zedek, of Brooklyn, N. Y., favoring the McCarran-Mead-Flanagan longevity bill (H. R. 1057); to the Committee on the Post Office and Post Roads.

1019. By Mr. LAMBERTSON: Petition of T. B. Torkelson and 29 others, urging the passage of House bill 4000; to the Committee on Military Affairs.

SENATE

FRIDAY, MAY 9, 1941

(Leigslative day of Thursday, May 8, 1941)

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

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

Almighty God and Heavenly Father, by whom we are bound to life with many holy ties of home and loved ones, around whom the tendrils of our hearts are twined and about whom our plans and purposes revolve: We beseech Thee to reveal the sanctions of Thy will unto Thy servants here, that they may feel Thee drawing nearer to each urgent need for help and direction in all the deliberations of this day.

Help us to put our whole trust and confidence in Thee, for Thou art the true and living God, who, when we are alone, art by our side. If multitudes surround us, lo! Thou art there also.

Enable us more and more to realize that, though the past bears witness to Thy providential care and the future holds Thee in reserve, it is only the consciousness of Thy presence now that robs us of our helplessness, setting all anxieties at rest.

Be Thou our all in all, and create within us a passion for the reign of righteousness, which shall issue in the spread of brotherhood and peace among the nations of the world. We ask it for His sake whose merit doth exceed our own demerit, Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Thursday, May 8, 1941, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Megill, one of its clerks, announced that the House had passed a bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. HILL. 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	Ellender	Murray
Aiken	George	Norris
Andrews	Gerry	Nye
Austin	Gillette	O'Mahoney
Bailey	Glass	Overton
Ball	Green	Pepper
Bankhead	Guffey	Radcliffe
Barbour	Gurney	Reynolds
Barkley	Hatch	Schwartz
Bilbo	Hayden	Smathers
Bone	Herring	Smith
Brooks	Hill	Spencer
Brown	Holman	Stewart
Bulow	Hughes	Thomas, Idaho
Bunker	Johnson, Calif.	Thomas, Okla.
Burton	Johnson, Colo.	Thomas, Utah
Butler	Kilgore	Truman
Byrd	La Follette	Tunnell
Byrnes	Langer	Tydings
Capper	Lee	Van Nuys
Caraway	Lodge	Wallgren
Chandler	Lucas	Walsh
Chavez	McCarran	Wheeler
Clark, Mo.	McFarland	White
Connally	McNary	Wiley
Danaher	Maloney	Willis
Davis	Mead	
Downey	Murdock	

Mr. HILL. I announce that the Senator from Mississippi [Mr. HARRISON], the Senator from Tennessee [Mr. MCKELLAR], and the Senator from New York [Mr. WAGNER] are absent from the Senate because of illness.

The Senator from Idaho [Mr. CLARK], and the Senator from Georgia [Mr. RUSSELL] are unavoidably detained.

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

EXECUTIVE COMMUNICATIONS

The VICE PRESIDENT laid before the Senate the following communication and letters, which were referred as indicated:

DRAFTS OF PROPOSED AMENDMENTS—DEVELOPMENT OF LANDING AREAS (S. DOC. NO. 51)

A communication from the President of the United States, submitting drafts of several proposed amendments to the bill (H. R. 4276) making appropriations for the Department of State, the Department of Commerce, the Department of Justice, and the Federal judiciary, for the fiscal year ending June 30, 1942, and for other purposes, relative to the development of landing areas for aircraft under the Department of Commerce, involving an increase of $61,477,750 (with an accompanying paper); to the Committee on Appropriations, and ordered to be printed.

BEQUEST TO THE UNITED STATES OF THE LATE SAMUEL WILSON WILLIAMS

A letter from the Attorney General, transmitting copy of the will of the late Samuel Wilson Williams, of White Bluff, Tenn., filed for probate in the Cheatham County Court at Ashland City, Tenn., on March 4, 1941, in which the decedent leaves all his property to the United States, "in the event of * * * sudden death," upon certain conditions, and recommending that the bequest be not accepted (with an accompanying paper); to the Committee on the Judiciary.

OPEN MARKET PROCUREMENTS BY DEPARTMENT OF AGRICULTURE

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Department of Agriculture to make open-market procurements where the aggregate amount involved does not exceed $100 (with an accompanying paper); to the Committee on Agriculture and Forestry.

DESIGNATION OF AGRICULTURAL DEPARTMENT EMPLOYEES TO MAKE ARRESTS IN CERTAIN CASES

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to designate employees of the Department of Agriculture to make arrests for violation of the laws relating to and the rules and regulations established for the protection of lands acquired under or transferred for administration under title III of the Bankhead-Jones Farm Tenant Act (with an accompanying paper); to the Committee on Agriculture and Forestry.

TRANSPORTATION OF HOUSEHOLD GOODS OF CIVILIAN OFFICERS

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act approved October 10, 1940 (54 Stat. 1105) to permit such responsible officers as may be designated by heads of departments or establishments to authorize or approve the allowance and payment of expenses incident to the transportation of the household goods of civilian officers and employees when transferred from one official station to another for permanent duty (with an accompanying paper); to the Committee on Expenditures in the Executive Departments.

PUNISHMENT FOR KILLING OR ASSAULTING FEDERAL OFFICERS

A letter from the Under Secretary of Agriculture, transmitting, with renewed recommendation for its enactment, a draft of proposed legislation to amend the act providing punishment for killing or assaulting Federal officers (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate by the Vice President, or presented by a Senator, and referred as indicated:

By the VICE PRESIDENT:

A resolution of the class of 1896 of New York University Medical Department, favoring the granting of all aid to Great Britain, and, if necessary, the use of the United States Navy, to the end that food, arms, and munitions may be delivered to that country; to the Committee on Foreign Relations.

A resolution of the General Court of Massachusetts; to the Committee on the Judiciary:

"Resolutions requesting Congress to call a convention for proposing an amendment to the Constitution of the United States relative to taxes on incomes, inheritances and gifts, and to provide a mode for the ratification of said amendments.

"*Resolved*, That the General Court of Massachusetts, acting in pursuance of article V of the Constitution of the United States, hereby requests the Congress of the United States that it call a convention under said article for the purpose of proposing an amendment to said Constitution, as follows:

"ARTICLE —

"'SECTION 1. The sixteenth article of amendment to the Constitution is hereby annulled.