The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Elroy of Massachusetts, for November 12, on account of death in family.

ADJOURNMENT

Mr. DELANEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 1 o'clock noon, the House adjourned until Monday, November 16, 1942, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization on Wednesday, November 16, 1942, at 10 a.m., to consider H. J. Res. 245 and H. R. 5764, H. R. 6858, H. R. 7550, H. R. 7709, and H. R. 7746.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were referred to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS of Arkansas: Committee on Claims. H. R. 6856. A bill for the relief of L. Arthur Kramer and Georgene Kramer, a minor; with amendment (Rept. No. 2627). Referred to the Committee of the Whole House.

Mr. HARRIS of Arkansas: Committee on Claims. H. R. 7171. A bill for the relief of Mrs. J. O. Tomney; with amendment (Rept. No. 2639). Referred to the Committee of the Whole House.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XII, private bills and resolutions were referred to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEAND M. FORD: H. R. 7778. A bill for the relief of Cecil Bay Murphy, for the absorption of his estate in the Consular service.

By Mr. KLEBERG: H. R. 7779. A bill for the relief of Luther C. Nanny, to the Committee on Claims.

By Mr. MANSFIELD: H. R. 7780. A bill for the relief of O. M. Minatree; to the Committee on Claims.

SENATE

FRIDAY, NOVEMBER 13, 1942

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Father God, Thou hast made us for Thyself, and our hearts are restless until they find the rest of Thy peace. Thou hast taught us to love truth and beauty and goodness. May Thy truth make us free, free from prejudice and pride, from narrow nationalism and racial hatreds, and from all the ugly sins that do so easily beset us. Lift us above the mud and scum of mere things into the holiness of Thy beauty, so that the trivial round and the common tasks may be edged with crimson and gold. In times of crisis and war, as we offer our very lives for the preservation of all the precious things we hold nearest our hearts, give us courage, give us vision, give us wisdom, that we fail not man nor Thee. Lead us in the paths of righteousness for Thy name's sake. Amen.

The JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, November 12, 1942, was dispensed with, and the Journal was approved.

AUGUST 1942 REPORT OF THE RECONSTRUCTION FINANCE CORPORATION

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Reconstruction Finance Corporation, transmitting, pursuant to law, a report covering operations of the Corporation for the month of August 1942, which, with the accompanying report, was referred to the Committee on Banking and Currency.

PETITION

Mr. CAPPER presented a petition of members of the Lydia Bible Class of the First Baptist Church, Manhattan, Kans., praying for the enactment of Senate bill 880, to prohibit the sale of alcoholic beverages and liquor and to suppress vice in the vicinity of military camps and naval establishments, which was ordered to lie on the table.

THE PRESIDENT'S MESSAGE TO THE FRENCH PEOPLE

Mr. BARKLEY. Mr. President, on Monday last an English translation of the President's message of November 8, 1942, to the French people was published in the Record. I now ask unanimous consent to have printed in the Record the French version of that message of November 8, 1942, which was delivered in the French language to the people of France on that date.

There being no objection, the message was ordered to be printed in the Record, as follows:

[From the Washington Post of November 18, 1942]

The AXIS HAS MET ITS MAINE—PERSHING ASKS HIS COMRADES IN FRANCE TO JOIN ALLIED MARCH

Gen. John J. Pershing last night issued a dramatic invitation to "my former comrades in arms" in France "to form their battalions again and join the Allied march past Chateau Thierry, St. Mihiel, and Verdun to victory at Berlin." "We have met our Maine," the aging commander of the American Expeditionary Force assured his French colleagues in the 1918 victory over Germany, who in inflicting the horrors of a new war on the world have reached "the high-water mark of their conquest" and are now "in recession," he said.

General Pershing's declarations were made in a letter to President Roosevelt, only a day after he had stood with the Chief Executive at Arlington and paid tribute to one of his men of 1917 and 1918, the Unknown Soldier.

The general wrote:

"Yesterday I was privileged to stand by your side at Arlington before the tomb of an American soldier of 1918 who gave his life to save our country. I stood by as the Chief Executive of the United States of America..."
not long ahead, be liberated. I am convinced with you that the civilization which Germany and its allies have attempted to turn back will be restored, with features real and without sophistry, on a more solid basis which does not contain this time the seeds of another catastrophe.

"Over the last week end our troops, side by side with the fighting men of Britain and of France, have taken the first great step toward the total liberation of French soil and the soil of all the unconquered peoples. Patriotic France will know that our presence in north Africa is put, I suggest the absence of a quorum.

Bridges
Burton
Bilbo
Barkley
Brewster
Byrd
Spencer
Doxey

The VICE PRESIDENT, Mr. DOXEY. A parliamentary inquiry.

The VICE PRESIDENT. The Senate will state it.

Mr. DOXEY. Is the motion of the Senator from Kentucky debatable?

The VICE PRESIDENT. The motion is not debatable.

Mr. DOXEY. If it shall not be acted on until the end of the morning hour, at 2 o'clock, will it be debatable then?

The VICE PRESIDENT. It would not be debatable after 2 o'clock.

Mr. DOXEY. I desire to make a point of order against the motion made by the Senator from Kentucky [Mr. Barkley]. I make the point of order because the bill is not properly on the Senate Calendar, for the reason that there was not present and voting a quorum of the committee, and the bill was not reported by a majority of the committee present and voting.

Mr. President, I desire to state the facts briefly.

The VICE PRESIDENT. While points of order are debatable, the Chair would like to have a statement of the relevant facts, for his own information.

Mr. DOXEY. I appreciate that, and I can readily understand the position of the Chair, because I am sure he is not familiar with the facts. They were discussed briefly on the floor of the Senate on Monday, October 26, but the present occupation of the Chamber, the seating of the officers and the fact that there would be no possibility of a quorum of the committee being present at that time. Therefore, I shall proceed, with the indulgence of the Chair, to state the facts, which I think are undisputed, so that I should like to discuss the rule, and then we will consider the precedents.
When the Senator from Nebraska came onto the Senate floor Monday morning, October 26, he stated that he was reporting the bill. When the distinguished Senator from Nebraska asked leave to make the report, and made the request that if the majority report were not moveable he be permitted to file it in the interim in case the Senate recessed until Thursday, of course, no objection was made, and at the same time he secured consent for the filing of the bill as late as the third or fourth day of the week.

Thereupon I addressed the Chair—the Vice President was presiding at the time. I made a parliamentary inquiry, as to whether I must make my point of order at that time against the bill and the reporting of it, or whether I would have an equal right to make the point of order at any time. The Recess shows that the Chair stated that a point of order would lie at any time. This is the first opportunity I have had to make the point of order, and present the matter before the Senate. I am sure that the Vice President would not object to my making a point of order at this time, because the bill is not before the Senate; but I feel, in the light of what has happened, that it is certainly necessary to state to the Senate at this time the reasons for my action, because this motion goes to the very root of things.

Mr. President, what was the situation in the Judiciary Committee? I am happy and deem it a great privilege to be a member of that committee. It is one of the great committees of the Senate. It is composed of fine, able Senators, and is presided over by the very distinguished and lovable Senator from Indiana (Mr. Van Buren) and a peculiar combination of character and a high regard for him. The point of order, however, which I continuously made in the Judiciary Committee was overruled.

The Senate has a rule, known as rule XXV, which provides that shall constitute a quorum in meetings of committees. It is as follows:

**QUORUM OF COMMITTEES**

3. That the several standing committees of the Senate having a membership of more than three Senators are hereby respectively authorized to fix, for each of itself, the number of its members who shall constitute a quorum therefor for the transaction of business by a majority vote. The rules of committee procedure which have been adopted by the Senate and ordered to be printed in the calendar.

I will read the following rules of committee procedure which have been adopted by the Senate and ordered to be printed in the calendar.

I read rule No. 1:

That hereafter whenever a nomination for an appointment to the office of judge of any Federal court (noting the course of any Territory or possession) is referred to the Committee on the Judiciary, the nomination shall be referred to a subcommittee composed of at least three members to be selected by the chairman of the committee within 3 days after such reference to the committee.

That it shall be the duty of the subcommittee to which the nomination is referred to fix a date, which shall not be less than 7 days after the date such nomination is referred to such subcommittee, on which all interested parties shall have an opportunity to be heard with respect to the nomination, to insert in the Congressional Record a notice to that effect as soon as such date has been determined by the subcommittee, and to notify both Senators of the State of which the nominee is a resident.

That no motion to adjourn shall be made until the Senate shall have considered the nomination of the committee, and the Senate shall be adjourned to a day certain.

That no appropriation bill shall make its report to the full committee with respect to any such nomination until the date so fixed has expired.

Following each rule of committee procedure there is shown the date on which the rule was adopted by the committee. I now read rule No. 2:

That hereafter no bill, resolution, or nomination referred to such subcommittee on the Judiciary shall be reported to the Senate until it has been acted upon at a meeting of the committee at which a quorum is present.

Mr. President, that rule is printed in the calendar of the Committee on the Judiciary under the heading "Rules of committee procedure." There is another rule of committee procedure printed in the calendar. I submit for the information of the Chair and of the Senate that there is no rule of the Committee on the Judiciary, evidenced by any written resolution, or any printed rule, to the effect that a quorum of the committee would constitute a quorum of that great committee less than, of course, 10, which would be a quorum, there being 18 members on the committee.

Mr. President, I wish to be entirely frank, and if I mistate any facts it certainly will not be done intentionally on my part. I know it will be said that the Committee on the Judiciary has been proceeding when only six Senators were actually present at a committee meeting. When I made my point of order that there was not a quorum of the committee present at the meeting, the distinguished chairman of the committee, in overruling my point of order, said, "We have been considering a quorum of the committee to be present when six of its members are present, and nine members are now present." This was said in executive session. I do not mean to state anything about any other member of the committee if it is not entirely true. I agree with the distinguished chairman of the committee will bear me out when I say that that was the reason he gave when overruling my point of order.

Mr. President, I am sure the facts with respect to the number of Senators present at the meeting of the Judiciary Committee will be undisputed. The Committee on the Judiciary has a legislative and administrative quorum. The calendar of the committee are the rules of committee procedure. For the information of the Chair and of the Senate, the number of its members who shall constitute a quorum thereof for the transaction of business by a majority vote. The rules of committee procedure which have been adopted and printed and shown upon the minutes of the committee; but no rule has been adopted by the Committee on the Judiciary, so far as I am acquainted with the facts, which would constitute a quorum; no such rule has been adopted in writing, by resolution, or motion, or in any other way. Therefore, the Committee on the Judiciary, according to my contention, has not fixed, according to law, and according to rule, the number of members who shall constitute a quorum by providing that there shall be a quorum less than 10 members of the committee shall constitute a quorum of the committee.

Mr. President, in investigating this question I have studied precedents established by various Senate committees. I have before me a precedent with respect to the Interstate Commerce Committee. I do not know if there is a precedent rule, but when the precedent which I have before me was cited, the committee had a membership of 17, and the committee had fixed 7 as the number of members which would constitute a quorum under rule XXV. But how did the Interstate Commerce Committee fix that number? It fixed it by a definite, clear, and candid resolution passed upon by a majority of the members of the committee.

Mr. President, it can be seen how this situation might arise. I have not been a member of the Committee on the Judiciary for longer than a year, but I know that the committee if it is hot even a perfect right to object if a motion or resolution had been presented to the committee by its distinguished chairman which would constitute a quorum at any figure less than a majority. We all have high regard for the chairman's judgment, and endeavor to follow him when we can, but he has no more right to an action on the Committee than has any other member of the committee, other than to preside and to call meetings of the committee.

Let us suppose that the chairman of the committee were to say, "We will consider 6 members of the committee to constitute a quorum of the committee." Some members of the committee might say that they felt that perhaps 7 should be the number fixed as a quorum. Members would have a perfect right to say that. Other members might say, "No; we should not transact business without a regular quorum being present, which is 10 members." It is the privilege of each committee member to present his own view of the matter. How are these views to be settled when it can be settled in no other way but by a regular quorum being present, and fixed how? It would be fixed definitely, positively, and concretely by an overt act,
as it might be called. I submit that nothing of the sort has been done in the Committee on the Judiciary. I submit that if any number is fixed, other than what is known as a quorum, which is a majority of the entire membership of the committee, it has to be done in a positive, not in a negative, way.

That is the situation, Mr. President, with reference to Senate rule No. XXV, and that is the part of the rule I have ascertained to be, as they relate to the Committee on the Judiciary.

The members of the committee know that I have consistently opposed anti- poll-tax bills, and those are the facts, as I have ascertained to be present would be the adoption by the committee of a rule of its own, pursuant to rule XXV. The facts in the precedent, were that five members of the committee were present. Then, as one Senator was leaving to go to a very important meeting at the White House, another Senator came in, and those were the members of the committee present. Senator Weeks, who was about to go to the White House, came back with his colleague and said:

"There are now six of us here. Record me, Mr. Chairman, as voting for the bill."

It developed that the bill was reported to the Senate. The resolution of Senator Hitchcock was the bill to be referred to the Committee on Banking and Currency. There were some efforts to have the resolution involving the allowance to the Senate to pass on such questions. This precedent shows that the bill was immediately referred back to the Banking and Currency Committee of the Senate.

As I say, there was no question in that precedent about rule XXV, but there was a statement by Senator Clarke, one of the authors of the rule, as to what was the intent of the authors of rule XXV. It developed that Senator Smoot was the author of the second portion of rule XXV, which provides that, regardless of what number is determined to be a quorum of a committee, no bill may be reported by a committee unless it is voted upon favorably by at least a majority of a majority. It developed—that was not the turning point of the decision—that only 3 members of the committee voted for the bill. The committee being composed of 12 members, a majority of the committee would be 7, and a majority of the majority would be 4, and, in accordance with the second portion of rule XXV, it would be necessary for 4 members of the committee to vote for the bill. When the Senate voted on Senator Hitchcock's resolution, the Senate referred the stock-exchange bill back to the committee.

I have tried in a general way to give the Chair the substance of this precedent, but I believe I can say without successful contradiction that he will not find a precedent involving this question, where objection was made in the committee immediately under discussion. In every one of the precedents I have been able to find the bill was reported without the point being made, or the point being made, but, I am sure that every member of the Judiciary Committee who was present on that day knew that I insisted at every stage of the debate that the committee could not transact any business because of the absence of a quorum.

The precedent which I have cited occurred on June 26, 1914, beginning on page 11166 of the Congressional Record for that date, having occurred on July 8, 1918. It is reported in the debates of the Sixty-fifth Congress, second session, beginning at page 8680 of the Record for that date, and continuing for a number of pages. This precedent is involved as a precedent for the control of telephone and telegraph facilities to be placed in the custody of the President, and most of the debate was on the subject of the merits of the bill.

The Senator from South Carolina [Mr. SMITH], who at that time, I believe, was chairman, reported the bill, and the following colloquy occurred between him and Senator Penrose:

"Mr. Penrose, If the inquiry is proper, I should like to be assured by the Senator that a quorum of the committee was present.

"Mr. SMITH. A quorum of the Senate had charge of the bill, because the chairman of the committee was not present, but that amendment was rejected. The Senate was passing the bills in question involving the right of the committee, particularly the Senate, to allow the Senate to pass on such questions."

"Mr. Penrose, What are the rules of the committee as to a quorum?"

"Mr. SMITH. The Senate from South Carolina. That a certain number shall constitute a quorum, and that absent Senators may request to be counted as a quorum."

The debate continued:

"Mr. Penrose, That is the standing rule of the committee?"

"Mr. SMITH. Of South Carolina. It is the standing rule of the committee. Enough were present to make an ordinary working quorum, and the request to be counted as a quorum made it absolute."

So far as I know, there is nothing in writing on the subject in the rules of the Judiciary Committee, but never since I have been a member of the committee, have I known it to be a quorum to be counted by proxy. I believe that such procedure would not be in accordance with the rules of the Senate or good parliamentary practice in the absence of a definite resolution to that effect. Do we find from the discussion between Senator SMITH and Senator Penrose, which I have read, that the Commerce Committee was governed by custom? No. By a resolution voted upon by the 17 members of the committee, or a quorum thereof, the committee determined and provided that 7 members of the committee should constitute a quorum. It could not in any other way have constituted as a quorum any number other than a majority of the full committee.

I maintain that without a definite, positive, and specific act of the committee—and the record shows that the committee to which I have referred did
take such action, and that the Judiciary Committee did not—no number can constitute a quorum, especially when a point of order is made, except by a clear majority of the committee. In the Judiciary Committee I hold that such majority constituted 10 members, whereas when the pending bill was reported only 8 members were present.

Mr. President, the facts I have stated, the rule I have read, and the precedents I have discussed, all support my point of order.

Relative to the precedent I have just cited, let me point out that the following question was asked by the Presiding Officer:

Does the Senator object to the reception of the report because a majority of the majority has not concurred in it?

Mr. Penrose. Yes; and I object on general principles.

During the discussion it developed, there being 17 members of the committee, that 8 constituted a majority. So it was necessary to have 5 members voting in the affirmative in order to have a majority vote of the committee voting in favor of reporting it. That would be so, according to a strict construction of the third paragraph of rule XXV, if the committee in presenting the number which should constitute a quorum had acted with due regularity and conformed to the procedure laid down by the rule. Of course, when the Chair found that not even a majority of a majority had voted in favor of reporting the measure, the Chair promptly referred the measure back to the committee, and sustained Senator Penrose’s point of order; because the committee had adopted its own procedure and had definitely adopted a resolution stating that 7 would constitute a quorum.

Mr. President, in view of the facts, in view of the rule, and in view of the precedents—and I have not been able to find any later precedent which is adverse to any of the precedents I have cited—I submit in all seriousness and good faith that the point of order I have made is the majority who are absent, not counting, it is true, the proposition is a far-reaching one but because it will be a rule for the guidance of future Senate committees. I maintain that all the precedents which I have been able to find hold that a constructive quorum can be counted only by unanimous consent. To my mind there can be no question about that. That is true in our deliberations in the Senate. Perhaps at times we do business when a quorum is not present; but the moment suggestion of the absence of a quorum must be called, and the Chair must ascertain whether a quorum is present. If a quorum is not found to be present, no business can be transacted until a quorum is present. I cannot find any precedent to the contrary.

The pending measure should be referred back to the Judiciary Committee for reconsideration by the committee of a quorum thereon; and if the measure is reported, it should be reported because of the favorable vote of a majority of the quorum.

Mr. President, I realize that if my point of order is sustained, of course the bill automatically will be referred back to the committee. No great harm will be done. I am not a prophet, but I know I will not take long for the distinguished chairman of the committee and the other members of the committee to assemble in the committee room, and, in orderly procedure and with the presence of a quorum, to vote to report the bill. Then the bill will be reported and will be placed on the calendar, and certainly it will not be subject to the present point of order.

Mr. President, the facts I have stated, the rule I have read, and the precedents I have discussed, all support my point of order.

Perhaps at times we do business when a quorum is not present, would any court take his vote to show that there was anything irregular or wrong with the action of the committee. I desire to discuss that point fully, and then the question from the point of view the Senator from Mississippi has taken.

No one will contend, for instance, that the Senate itself does not frequently pass laws of great importance and act on nominations of great importance when a physical quorum is not present. But suppose an attorney sought to have a law declared unconstitutional; would a court nullify the act on the ground that when the bill passed the Senate there was not a physical quorum of the Senate present, would any court take his statement for that fact? Could he get the Supreme Court to grant him his Honors, at that time I was a Member of the Senate or I happened to be in the gallery and I know, from my own knowledge, and no one will dispute the statement, that there was not an actual physical quorum present.” Would that be accepted by a court? Is that the proper way to seek to nullify a law? If a law cannot be nullified, could be nullified by more than half the laws of Congress and perhaps
of every legislature in the land would be nullified. The Chair will assume I take it that everything was regular unless the contrary appears.

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

THE PRESIDING OFFICER (Mr. La Follette in the chair). Does the Senator from Nebraska yield to the Senator from Texas?

Mr. NORRIS. I shall yield in a moment. The Chair will not take the statement of a Senator that such and such was the fact. I now yield to the Senator from Texas.

Mr. CONNALLY. If the Senator was present, I will ask him were there ever more than 9 members of the committee present?

Mr. NORRIS. I do not know that there were. I am coming to that after a while; I am going to take up that point.

Mr. CONNALLY. The Senator was present, and he knows that there never were. I am coming to that after a while; I will say to the Senator from Mississippi may be right. I am stating my recollection of the incident. It may be that the Senator from Kentucky made the statement at a preceding meeting.

Mr. DOXEY. It was so made.

Mr. NORRIS. I do not think so, but, if he did, that would not make any difference, in my opinion. The point I am making is that the Senator from Kentucky let the committee know how he wanted to vote; he did it in person, and when the roll was called and the name of the Senator from Kentucky was reached, he was, by unanimous consent—no member of the committee objected to it—put down in favor of reporting the bill.

Mr. CONNALLY. There is no other way to find out the truth except by the testimony of those who were present.

Mr. NORRIS. The only way to find out the truth is from the record, and the record does not show that there was not a quorum present.

Mr. CONNALLY. The record does show it.

Mr. NORRIS. We could come in here and say that nobody was there but the chairman, if we wanted to and, if that were true, that would be assumed as the record.

Now I shall discuss the question on the ground the Senator from Mississippi discussed it, that there was not a physical quorum present at the time the bill was voted to be reported to the Senate. I will say to the Senator from Mississippi and the other Members of the Senate that I member of the committee, the junior Senator from Kentucky (Mr. Chambers), while this matter was being discussed, was physically present in the committee, and he rose in his place there and said to the committee members who were there, "I have got to go; I cannot stay here until this discussion ends." He had some appointment; I do not know but that he said—I am not sure about it—he had to take a train; at any rate, he had some definite appointment making it necessary for him to leave the committee, and he did leave. But he said there to the members present, "I want to vote for the Pepper bill; I want to stay out all after the enacting clause of the House bill and insert the Pepper bill and report the bill in that way" I will ask the Senator from Mississippi if I am not telling the truth about that?

Mr. DOXEY. It is possible the Senator from Mississippi did not know that at all.

Mr. DOXEY. I want to beg to differ from my distinguished friend. He may be right; but the action was taken on March 26, and, as I remember, the Senator from Kentucky was not in the committee on that day at all. I have a record here as I kept it. I did not think we had to try a lawsuit; I thought we could proceed on a brief statement of facts, but, if my memory serves me well, the Senator from Kentucky was not present that day, and made no such statement. He may have been present and made a similar statement on another day prior to the time when a vote on that particular measure was taken, but on that particular day, Monday, October 26, if my memory serves me aright, the Senator from Kentucky was not present, and that statement could not have been made at the time of the hearing.

Mr. NORRIS. The Senator from Mississippi may be right. I am stating my recollection of the incident. It may be that the Senator from Kentucky made the statement at a preceding meeting.

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Now I shall discuss the question on the ground the Senator from Mississippi discussed it, that there was not a physical quorum present at the time the bill was voted to be reported to the Senate. I will say to the Senator from Mississippi and the other Members of the Senate that I member of the committee, the junior Senator from Kentucky (Mr. Chambers), while this matter was being discussed, was physically present in the committee, and he rose in his place there and said to the committee members who were there, "I have got to go; I cannot stay here until this discussion ends." He had some appointment; I do not know but that he said—I am not sure about it—he had to take a train; at any rate, he had some definite appointment making it necessary for him to leave the committee, and he did leave. But he said there to the members present, "I want to vote for the Pepper bill; I want to stay out all after the enacting clause of the House bill and insert the Pepper bill and report the bill in that way" I will ask the Senator from Mississippi if I am not telling the truth about that?

Mr. DOXEY. It is possible the Senator from Mississippi did not know that at all.

Mr. DOXEY. I want to beg to differ from my distinguished friend. He may be right; but the action was taken on March 26, and, as I remember, the Senator from Kentucky was not in the committee on that day at all. I have a record here as I kept it. I did not
Mr. NORRIS. He did not get back until after the bill had been reported, but he was permitted to vote.

Mr. DOXEY. Will the Senator permit me or will it be proper for me to tell him, so far as the record kept by me goes, who was there and who was not there?

Mr. NORRIS. I do not care.

Mr. DOXEY. It was an executive meeting, and I want to refer to it with due regard to propriety.

Mr. NORRIS. I am sure the Senator does. I am not accusing the Senator of any sharp practice or any dishonorable act.

Mr. DOXEY. I am sure of that. Mr. NORRIS. I do not want to insinuate anything of that kind.

Mr. DOXEY. I may say to the distinguished Senator just who was there, because I was keeping a record. I was as interested as the Senator was. He was there, I know I was on the other side. Mr. NORRIS. I think I could state who was present, too; but I do not care. I will yield to the Senator.

Mr. DOXEY. I should be happy if the Senator would announce who was present. Mr. NORRIS. I do not care who was present. I am relying on the record which was made there.

Mr. DOXEY. Will the Senator permit me, or feel that it is not out of the way for me to state who was present?

Mr. NORRIS. If the Senator wants to do it, I will yield to him and let him state it.

Mr. DOXEY. I have here the number present the day we were considering this matter.

Mr. NORRIS. Very well. Mr. DOXEY. Senator CONNALLY, of Texas, was present; Senator KIRKHAM, of West Virginia, was present; Senator MURDOCK, of Utah, was present; Senator McFARLAND, of Arizona, was present; Senator MINOR, of Idaho, was present; Senator NORRIS, of Nebraska, was present; Senator DANAHER, of Connecticut, was present; Senator BURTON, of Ohio, was present; and the chairman, Senator Van Nye, was present and presiding. That makes nine present and nine absent, according to the record I kept. I do not now what value it would be given members of five or six or seven the same day, at the same hour. It is a point of order was made by me all along that there was not a quorum present, was it not?

Mr. NORRIS. Not at all. I am willing to say that the Senator's point of order was standing right out all the time, but he was not urging it every minute. The Senator himself participated in action on the amendments, for instance, when we changed the Pepper bill to make its meaning plain, when we struck out the whereases. We went along by unanimous consent, practically everyone agreeing. We all thought it improved the bill.

Mr. DOXEY. The Senator knows I voted on some of the amendments, and on some of them I did not. I said that while I was for striking out the pernicious political activity, that was the only thing I am sure the Senator will say that I made a continuous point of order against every step.

Mr. NORRIS. I am not trying to raise the point that the Senator did not make the point of order. I do not do that.

Mr. DOXEY. Let me ask a further question. If a Senator were in some other part of the Capitol, or anywhere else, he would not be voted here on a question in the Senate, would he?

Mr. NORRIS. No; but that is a different thing from action in a committee. The Senate cannot take my vote if I am out in the corridor.

Mr. DOXEY. Can a committee do so unless there is some definite, positive rule permitting it to be done?

Mr. NORRIS. The committee cannot do it, a rule would not help.

Mr. NORRIS. If a committee cannot do it, they cannot make a rule that would permit them to count one who is out in the hall in order to make a quorum, or
permit him to vote, although they knew just how he would vote.

Mr. DOXLEY. I did not know that point could be seriously contended. It was certainly not held by the Chair, because the question was not there, but there was a discussion to the effect that proxies could not be taken by telephone.

Mr. NORRIS. Oh, no.

Mr. DOXLEY. The Senator will agree with me that never during the committee meeting that morning were more than nine members present.

Mr. NORRIS. I would not say that. That may be true, and probably was true, but members at that meeting, as in the case of every other meeting, were coming in and going out. The members came in at different times. Some of them went out. Some of them went out and came back.

Mr. DOXLEY. Did any member of the committee come into that meeting who was not there when the final vote was taken?

Mr. NORRIS. I do not know that. If I am right about the Senator from Kentucky, there was no member there at least. If what I have stated about him happened some other day, I am not right about it.

Mr. DOXLEY. We differ because, if the Senator will permit me, I make the statement that there never were more than nine present.

Mr. NORRIS. So far as I am concerned, as far as the legal question and the parliamentary questions involved are concerned—I do not care.

Mr. DOXLEY. I merely want to keep the record correct. I want to state that I can refer the Senator to the Record of Monday, when we had a discussion, and the Senator from Tennessee (Mr. McKellar) was in the chair. I can refer to it, because it is a public record.

Mr. NORRIS. I heard the discussion. Mr. DOXLEY. Our distinguished chairman, the Senator from Indiana (Mr. McNary), said, as did a Senator from Texas (Mr. CONNALLY), that never were more than nine present at the committee meeting.

Mr. NORRIS. I have never disputed that.

Mr. DOXLEY. I realize that, but I wanted to have it made definite.

Mr. NORRIS. The Senator wants me to state positively that something was the case when I do not know whether it was or not. That might have occurred one way or the other.

Mr. DOXLEY. The Senator knows I would not ask him to do anything which I thought would embarrass him.

Mr. NORRIS. No; and nothing happened in this matter that the Senator may ask about that would embarrass me.

Mr. DOXLEY. I thank the Senator for yielding to me. I merely wanted to keep the record straight.

Mr. NORRIS. I do not know that I have anything else to say on the point of order. It seems to me perfectly clear what the ruling should be. Probably the Chairman of the Committee on the Judiciary will himself have something to say about it. When the chairman ruled on six being a quorum to consider a bill there was not any evidence that the committee had ever adopted that rule. The rule of the Senate permits of the committee adopting such a rule. The chairman of the committee said that so far as he was able to determine the committee, from time immemorial at least, he has always assumed that six members of the committee was a working quorum, and the chairman overruled the point of order.

Mr. DOXLEY. Does the Senator from Mississippi want the President of the Senate or the Senate to pass on the ruling of the chairman of the committee in overruling the point of order? In making his ruling the chairman said—and I do not think there is any contradiction of his statement to be found—that the committee had proceeded by unanimous consent on that, if I think, immediately before he had been chairman. He asked other members of the committee who were present, who had formerly been chairmen of the committee, if they knew anything about it. No one has ever found anything to the contrary. So for 50, or 60, or 75 years, that has been the rule of the committee, the rule under which it has acted and proceeded all this time, and the chairman assumed that the committee had a right to continue that procedure, and he made his ruling accordingly.

Mr. President, even if the chairman's ruling were wrong, it would not affect the legality of the report of the bill. It is admitted that the bill has been itself. Whether the committee's procedure in ascertaining that total is in line with the individual opinion held by any Senator or of the Senate as a whole, the committee has always acted in that way. All Senate committees act in that way. Legislation depends upon the legality of the report. We have proceeded on that theory. I do not think the Senate of the United States has the constitutional right to say to one of its committees, "You shall not do business unless a quorum of your committee is present." I do not think the Senate can say to a committee, "You cannot count a member who is in another room." You cannot permit the continuance of a practice which has been in effect in all Senate committees ever since the foundation of the Government. You cannot do anything of that kind.

Mr. President, the Presiding Officer could not take such action. No one would advocate that sort of procedure in committee. Frequently a few members of a committee get together and discuss bills of various kinds. Many times all the members of a committee are not present, but those who are present know what the absent members think about certain proposed legislation, and what they want to do, and they may produce the report measures, and in doing so count absent members according to their position with respect to the measures.

Mr. President, in this case I understand nine members were physically present, and the remaining members of the committee were counted for or against the measure, based on their position with respect to it. That is a procedure of the committee which, no one will deny, has always been pursued. It seems to me there can be no question about the committee having the right to do that. Perhaps the Senate itself would not pursue such a course, but that is not the question. The question is, Did the committee the right to do what it did? If it had the right to do it, I am simply because we do not like the rule of procedure which was followed should not make any difference now.

Mr. CONNALLY. Mr. President, I do not want to weary the Chair or the Chamber, but I desire to submit a few remarks, inasmuch as I am a member of the Committee on the Judiciary, and then it is a good idea for Senators and Representatives to forget all the blacksmith-shop political talk and urges from certain quarters and little groups of voters hid in the brush and go back to what the Constitution provides.

Mr. President, the only warrant for the existence of this body is the Constitution of the United States. The Constitution provides that each body shall have a quorum—

Mr. McNARY. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

Mr. CONNALLY. I yield for that purpose.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

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

Austin Davis Murdock
Barkey Doxey Norris
Billings George Pepper
Breaston Gillette Roster
Bunker Green Trotter
Bunker Hill Thomas, Okla.
Bunker La Follette Tunnell
Burton Lang Ferguson
Clapp Lucas Van Nys
Casaway McNary Wagner
Chase Maloney White
Connally Maybank Mosley
Danaher Maybank Mud

The PRESIDING OFFICER. Thirty-seven Senators have answered to their names. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk called the names of the absent Senators, and Mr. Johnson of California, Mr. Kilgore, Mr. McFarland, Mr. Millikin, Mr. Nye, Mr. Truman, Mr. Tydings, and Mr. Wiley answered to their names when called.

The PRESIDING OFFICER. Forty-five Senators have answered to their names. A quorum is not present.

Mr. BARKLEY. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

Mr. CONNALLY, I cannot hear the Senator.

Mr. BARKLEY. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.
The PRESIDING OFFICER. The motion is not debatable.

Mr. CONNALLY. I move that the Senate adjourn until Monday next.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senate from Texas.

Mr. BARKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senate from Texas.

The motion was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senate from Kentucky [Mr. BARKLEY] that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. CONNALLY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. Did the motion of the Senator from Kentucky carry with it the arrest of absent Senators?

The PRESIDING OFFICER. No. The motion was that the Sergeant at Arms be directed to request the attendance of absent Senators.

There was a little delay, Mr. ANDREWS, Mr. GUFFREY, Mr. LEE, Mr. MECKELAR, Mr. O'DANIEL, Mr. OVERTON, Mr. RUSSELL, Mr. SPENCER, Mr. TOBEY, Mr. WHEELER, and Mr. WILLIS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-six Senators having answered to their names, a quorum is present. The Senator from Texas is recognized.

Mr. CONNALLY. Mr. President, it is highly important that the Senate of the United States be regarded by the country as responsive in the business it transacts to the mandates and the clear commands of the Constitution of the United States. We are in a great struggle for the maintenance of representative government, constitutional in form. That is much more so as a president. Mr. President, to the statement that under the Constitution the House of Representatives and the Senate each are required for the transaction of business to have a quorum, and a quorum is stated in the Constitution to be a majority of those elected.

Why was the roll called here? Why was nearly a half hour of time consumed in that way? In order to get an actual quorum, not men out on the ranches of Wyoming and other men down in the dining room. Why should they have their lunch interrupted? According to habits of the Senator from Nebraska, they should continue to eat and merely send a little note to the floor saying, "Regard me as present and just put me down; I am present." The Constitution did not contemplate that kind of a Senate; it did not contemplate that kind of a House of Representatives; it did not contemplate that kind of a committee.

What are the facts in this case? I happen to be a member of the Judiciary Committee. I was present at all the transactions of the committee. I call the attention of the Chair to rule XXV of the Rules of the Senate to which reference was made by the Senator from Nebraska. I should like to read paragraph 3, which is the concluding paragraph of rule XXV. It is headed "Quorum of committees." It states:

3. That the several standing committees of the Senate having a membership of more than nine members, respectively authorized to act, each for itself, the number of its members which shall constitute a quorum thereof for the transaction of such business as may be considered by said committee; but in no case shall a committee, acting under authority of this resolution, fix as a quorum thereof any number less than one-third of its entire membership, nor shall any report be made to the Senate that is not authorized by the concurrence of more than one-half of a majority of such entire membership.

In other words, if the committee, by some formal action, such as a resolution, wants to make a quorum less than a majority, it must be in case such quorum be less than six; and, furthermore, even when it is six, no report of a bill can be made unless by a majority vote of the membership.

Mr. President, this rule has not been obeyed in this case. Members of the committee who are present in the Chamber and who were present in the committee will bear witness that the committee had never by resolution at any time in the past exercised the authority conferred by the rule I have read to fix the number of a quorum. The answer was that the committee had never exercised that power, except, later on in the discussion, it was said, "Oh, well, we have been in the custom of counting for a quorum those who could be recorded as voting."

But, Mr. President, that kind of proceedings was not in the face of a challenge of no quorum being present. Every other member of the committee will bear witness that the Senator from Mississippi [Mr. DOXET] when this matter first came to the attention of the committee made a point that there was no quorum of the committee present, and that the committee had not exercised its privilege under the rule to fix less than a majority for a quorum.

The committee now knew that obtains in every legislative body of which I am aware is that no action can be taken except by a majority, which is a quorum. That is fundamental. If there is no quorum present, there is no committee present. The Senator from Connecticut asked, with a great show, "Was not the Senator from Vermont [Mr. AUNIN] in the Chamber when the other committee was in another committee room or whether he was on the western front in Europe. The point is that he was not present in the committee; he never was in the committee room; and the Senator from Vermont, if he had been there, would have voted against reporting this bill, for he signed the minority report.

Mr. President, I have before me the record of the committee. Some question was made about the transactions. The record shows that there were never at any time more than 9 members present; counting every member who came and went, only 9 members were ever present in the committee room. The committee membership consists of 18. It takes 10 to constitute a quorum.

Mr. President, here is what the record shows, if the Chair wants the record. I do not think there is any necessity for holding a court of inquiry and putting us all under oath, but I am prepared to take the oath, if it is necessary, because I have stated nothing and I shall state nothing that is not here in the record.

Here are the minutes of the clerk:

92 S. 1250; 82 H. R. 1024: The roll-call bills.

Mr. CONNALLY objected to the consideration of the bill on the ground that a quorum was not present; that the bill required that a majority of the committee be present to report a bill; that only eight members were present; (Mr. KILGORE later came in, making nine.

Later he made none.

Discussion. Senator CONNALLY stated that he did not wish to appear technical or unfair, withdrew his objection. Senator DOXET then made the same objection to a consideration of these bills.

All these things happened, of course, before the bills were voted upon. I temporarily withdrew objection, but the Senator from Mississippi [Mr. DOXET] made the point of no quorum.

The chairman overruled the objection, stating that the committee had for years functioned on a quorum basis of one-third of the membership.

Mr. President, I wish to call attention to the rule of the Senate, or XXV of the Constitution, as a challenge to one-third of the membership, or 6, is not affirmative; it is negative. There is no grant of power there; it says that a committee may not be considered a quorum at any number less than 6, but that does not mean that automatically 6 is a quorum. The committee can only determine the number that constitutes a quorum, if it is less than a majority, by resolution of the committee. That has never been done, and the record is absolutely blank on that point. So, in that state of affairs, it takes 10 members to constitute a majority.

The chairman overruled the objection, stating that the committee had for years functioned on a quorum basis of one-third of the membership, or 6. Mr. DOXET stated that he would continue to urge his objection on the floor of the Senate when the bill came up.

Then the minutes proceed to state that Mr. NOMS moved that all after the enacting clause be stricken out, and so on. The committee then went ahead with their little group and perfected the bill. On the roll call of reporting the bill, the committee did permit absent members by proxy to indicate how they would
vote, if present; but that was not on the quorum, because the question of a quorum had already been raised; and the chairman had already overruled it; so that the presence of members by proxy could not reach the jurisdictional question at all.

Furthermore, Mr. President, whatever the customs of committees may have been in the courts of ancient Rome, they had disappeared by unanimous consent, but that does not legalize what was done. The point I make is that, in the face of a point of no quorum, the committee could not go ahead without a quorum. The Senator from Nebraska says that frequently we transact business in the Senate without a quorum. That may be true, but we do not transact business if a Senator rises and says "Mr. President, I suggest the absence of a quorum."

One Senator can hold the Senate at bay with a simple point of no quorum, and hold it there for a short time, when the minority leader, the Senator from Oregon [Mr. McNary], made that point of no quorum. He did not require our support; his views did not require a battle with heavy armament, but he prevailed under the Constitution of the United States, because a jurisdictional question going to the very heart of constitutional government, requires any army to support his views; he prevailed under the Constitution of the United States, which requires that the Senate shall have a majority, and when it acts through its agents, the committees, they must have a majority, unless they observe the rule which has been authorized by the Senate. Being a jurisdictional question, the Constitution gives a single Senator with a sword in his hand the authority to arrest the action of all the other Senators who may be present, simply because a quorum is not present.

I regret that the Senator from Utah [Mr. McConnel] is not at present in the Chamber. I wanted to call upon him, as he was present throughout the proceedings, and I am authorized to state that the Senator from Utah agrees with the position which I submit; that the point of order is well taken. He was present during all the transactions.

Mr. President, it seems to me the issue is very clear and very simple. I plead with Senators that in their mad rush to cram this bill down the throats of unwilling but innocent victims, they at least observe the forms of the Constitution. In their haste and anxiety to gorge us, I ask them, please, to use a little constitutional crotchet, or something of that nature, not to leave all the rough edges, not to violate the Constitution itself. But if they proceed in the exercise of the arbitrary threshold, of the discussion of this question. We seem to hear them say, "Constitution or no Constitution, we have made up our minds, we have mixed the potion." What is it the witches mix? Eye of newt and toe of frog, Wool of a bat and tongue of dog, Adder's fork and blind-worm's sting, Lizard's leg and howlet's wing.

That is what has been mixed up.

Mr. President, I note that the Senator from Utah [Mr. Mosscock] has returned to the Chamber, and I should like to ask him whether he has any remarks about what happened in the committee as to there being only nine Members present physically at any time during the consideration of the anti-poll-tax bill, and that a point of no quorum was made all along, through all the proceedings, and the presence of a quorum challenged.

Mr. MURDOCK. I am very sorry that I did not hear the distinguished Senator's remarks, but there is no question in my mind that the point of no quorum is a positive rule of law, any custom to the contrary a majority of any body is required in order to constitute a quorum.

Mr. MURDOCK. I recall that the Constitution gives a single Senator with a sword in his hand the authority to arrest the action of all the other Senators who may be present, simply because a quorum is not present.

Mr. CONNALLY. I yield.

Mr. CONNALLY. Let me ask the Senator whether he was present when I asked the chairman and the clerk whether the committee had ever by resolution adopted any rule providing that less than a majority should be a quorum.

Mr. MURDOCK. I recall that.

Mr. CONNALLY. Does the Senate recall that the answer was in the negative; that the committee had never taken such action?

Mr. MURDOCK. I think that the answer given the Senator was that there was no such resolution been.

Mr. O'DANIEL. Mr. President—The PRESIDING OFFICER. Does the senior Senator from Texas yield to his colleague?

Mr. CONNALLY. I yield.

Mr. O'DANIEL. Let me ask my colleague whether, when the Senator from Mississippi [Mr. Doxey] was raising the question that no quorum was present, the committee did not at that time have the right and the privilege to adopt a rule fixing the number of members who would constitute a quorum?

Mr. MURDOCK. I say not, because it did not have a quorum. If it did not have a quorum to report this bill, it would not have had a quorum to adopt a rule or resolution.

Mr. O'DANIEL. The committee was made?

Mr. CONNALLY. No; no offer of that kind was made.

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

Mr. CONNALLY. I yield.

Mr. OVERTON. It is an accepted maxim of law, is it not, that where there is a positive rule of law, any custom to the contrary does not detract from the force of the rule?

Mr. CONNALLY. Certainly.
this time. Why can not the bill be sent back to the committee? Why is such a hocus-pocus made about it at this late day in the session? It has taken the house at least 2 years to bring the bill here. Why did it take so long? Is there anything in the Constitution for 150 years? This is the first time, so far as I know, in those 150 years, when it has ever been claimed that the Government possesses the constitutional powers asserted to be possessed in this bill which is dragged in here.

The question is: Will it be 2 years before we are through? Are you through? Let me say to Senators that if they want to dispose of this bill, why not do it now? Why is it that we have to be required to pass upon it before the committee pass upon it? Why is it that after the committee has reported it, we are not to consider it until it has had the chance for success we raise campaign funds and send them to New York or Washington or somewhere else—do I not know where—i.e. I never see them after they come here. In 1936 the Democrats of Texas, sent here to the National Democratic Committee $285,000, and the committee never spent 5 cents of it in my State. We sent that money back to the Committee on the Judiciary for further action.

Mr. VAN NUYS. Mr. President, as chairman of the Committee on the Judiciary, I have little to say on this bill. I made 2 weeks ago Monday when the bill was reported to the Senate. There is no controversy over much that has been said here this afternoon. Why we should build up a straw man to tear it down when there is no controversy, is beyond my comprehension. There were never at any time more than nine members present in the committee when the bill was being considered, and there are many members of the Committee on the Judiciary present who will sustain me on that point. I hope that statement will settle that aspect of the question.

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

Mr. VAN NUYS. Yes, sir.

Mr. DOXEY. Mr. President, the distinguished chairman, was the junior Senator from Kentucky [Mr. CHANDLER] ever present in the committee at any time during the morning of October 26, at the time this bill was ordered to be reported?
Mr. VAN NUYSS. The junior Senator from Kentucky was not present at any time on October 26. He was present the following day. I remember I remarked distinctly he was sent for by a page a minute or two before 12 o'clock. He had been designated as Acting President pro tempore, and was asked to come to the Senate Chamber to open the session of the Senate. On that occasion, before he left, however, he said in the presence of the entire committee, or of those members present, that he was emphatically in favor of the passage and approval of this bill, and wanted to be so recorded, and was so recorded by proxy on the 26th of October.

Mr. DOXEY. That was 1 week prior to the filing of the report.

Mr. VAN NUYSS. That is correct.

Mr. DOXEY. May I ask my chairman a further question?

Mr. VAN NUYSS. Yes.

Mr. DOXEY. Is it not a fact that the Senator from Kentucky was not in town on October 26?

Mr. VAN NUYSS. Of that fact I am not advised.

Mr. President, I have been a member of the Committee on the Judiciary for more than 10 years. The distinguished Senator from Nebraska [Mr. Norris] has been a member for many years, and has also been chairman of the committee. I say without fear of contradiction that during the last 10 years—and I remember the re-election of the Senator from Nebraska for many years prior thereto—there has never been any business transacted unless six members of the committee were present in person.

Mr. President, there is a distinction between counting absent members for a quorum and counting them in the total of the votes cast. I say without fear of contradiction that in the 2 years I have been chairman of the committee there has been no action of any kind or character ever taken by the committee unless six or more members were present in person.

I say also from 10 years' experience on the committee that it has been an invariable rule to count absent members 'in favor of' or 'against' the request. What was done on this occasion. Three of the negative votes on the bill were cast by proxy. Six were cast in favor of the bill by proxy. It is a significant fact that not one of the nine absent members has signed here and challenged the vote. They had a right to be recorded. That has been an invariable rule and practice.

So far as I am concerned, Mr. President, I have no pride in the matter of this bill, but when it comes to the Committee on the Judiciary I do have a pride, because I think it is one of the outstanding, if not the outstanding major committee of the Congress, both of the House and the Senate, and when its integrity is assailed, it is a personal attack on me and every other member of the committee. I do not want to be the broadcast that this great, distinguished committee has done anything unfair, underhanded, or illegal. I deny any such imputation, because in everything we did on the occasion in question, and everything we have done during the past 10 years or 20 years, according to the Senator from Nebraska [Mr. Norris] we followed all the rules and practices and precedents.

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

Mr. VAN NUYSS. I yield.

Mr. McKELLAR. The Senator knows in what high regard I hold him, and how great my esteem for him is. I feel the same way toward the other members of his committee. His is a great committee. I do not want an opinion on the committee—it certainly is not intended by me to be a reflection on the committee—to state that when the bill was reported from the committee the committee consisted of 18 members; that only 9 members were present; and that the point of no quorum was made. Under those circumstances I ask the Senator whether it would be any particular hardship for him to call a meeting of the Judiciary Committee, when a majority of the committee can be present, and under those circumstances report the bill? Is it not my duty to constitute a quorum?

Mr. President, it is not thought it would be any reflection on the committee. It would demonstrate the desire of the committee to be fair, to consider beyond the shadow of a doubt. Knowing the members of the committee as I do, I believe that they feel the same way. It seems to me that it would leave a better taste in the mouths of the members and put us all in a better humor if the committee were called together again to pass upon this matter with a majority of the committee present.

Mr. VAN NUYSS. Mr. President, in answer to the able Senator from Tennessee, I wish to call his attention to the fact that the Senate Judiciary Committee and the House Judiciary Committee have labored over this bill for many months. The subcommittee gave very careful consideration to the constitutional aspects of the bill. It held public hearings; leading attorneys and constitutional students appeared and expressed their opinions.

Mr. DOXEY and Mr. PEPPER addressed the Chair.

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

Mr. VAN NUYSS. I yield first to the Senator from Mississippi.

Mr. DOXEY. I am sure the distinguished Senator from Indiana knows that nothing that I said or intended to say, and nothing I have done, is in any way a reflection on any individual member of the committee or on the committee as a whole—certainly not on the chairman, whom we all hold in the very highest regard. I merely wished to ask him whether he had reference to anything I have said or done, or any act I have committed, which might in anywise cause me to think that I have done anything that was not my legitimate constitutional duty.

Mr. VAN NUYSS. In answer to the Senator from Mississippi, as I said on the floor of the Senate last Monday, I handled myself in a particularly dignified and parliamentary manner in the committee, as he has done on the floor of the Senate. Not a thing in the world could be inferred from his remarks as reflecting upon the integrity of the committee.

Mr. DOXEY. I deeply appreciate that statement by the Senator. He knows how highly I regard the committee and believe in it and hope that I am to be a member of it. As I explained when I first made my point of order in the committee, I do not intend to do anything except what the rule requires me to do. I appreciate what the chairman says. He knows of my affection, not only for him but also for the entire committee.

Mr. VAN NUYSS. Speaking not only for myself but for the entire membership of the committee, we shall be very, very sorry to see the Senator leave us next January.

Mr. DOXEY. I shall be sorry to leave. The Senator overpowers me.

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

Mr. VAN NUYSS. I yield.

Mr. PEPPER. It was not sure whether the able chairman of the Judiciary Committee stated, in his remarks in regard to a fair opportunity having been given to consider all aspects of this measure, that special opportunities were afforded the attorneys general and the Governors of certain States to be present and to testify before the committee. So far as I know, all who requested such privilege were accommodated. I am sure that several attorneys general and several Governors actually appeared before the subcommittee.

Mr. VAN NUYSS. That is true.

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

Mr. VAN NUYSS. I yield.

Mr. LANGER. It has a bearing on whether or not a quorum of the committee can be present. The hearings had been closed 2 weeks previously.

Mr. OVERTON. Did the Governor of the States where the Governors counted for a quorum?

Mr. LANGER. They were given an opportunity to be heard.

Mr. OVERTON. The mere fact that governors and attorneys general appeared before the committee has no bearing on whether or not a quorum of the committee was present when the bill was ordered to be reported.

Mr. LANGER. It has a bearing on the good faith of the committee.

Mr. OVERTON. I do not think it is a question of good faith. It is a question of the rule.

Mr. VAN NUYSS. Mr. President, it has been said that it is necessary to have a majority of the committee present in order to constitute a quorum. Rule XXV, which has been quoted so often, reads as follows:

But in no case shall a committee, under authority of this resolution, fix as a quorum thereof any number less than one-third of its entire membership—
Coupled with that is the provision—nor shall any report be made to the Senate that is not authorized by the concurrence of more than one-half of such entire membership.

If it were the intent of the Senate to require a majority of every committee to be present, what is the reason for the provision that only a third may constitute a quorum?

It is the position of the chairman of the committee that by practice—the Senate from Nebraska (Mr. Norris) has said, since time immemorial—we fix the number constituting a quorum in the committee. I admit that it would have been better to have a specific, written rule, properly adopted by the committee. That is true; but over years and years of practice we have followed the rule that six constitutes a quorum. I think the Parliamentarian will bear me out when I state, as an authority from Kentucky, that a rule established by Mr. Calloway, one of its representatives, by Mr. BARKLEY, I yield. Mr. BARKLEY. Mr. President, does the Senator from Kentucky yield to the Senator from Tennessee?

Mr. BARKLEY. Yes. Mr. BARKLEY. Mr. President, we have been a nation for more than 180 years, and during that time the Constitution has been under constant discussion. I doubt if we can do very much to it in 6 weeks. I believe everyone realizes that a man in the position which I happen to occupy has difficulty in appraising and satisfying all elements in the Senate, or in the country. I do not think of the proposed legislation from the beginning, because I do not believe that it is in harmony or in consonance with our theory of democracy, under which we can tell a man to shoulder a gun, fight, and die for his country, to tell him that he cannot vote without paying a poll tax.

Mr. BILBO. Will the Senator yield? Mr. BARKLEY. I yield.

Mr. BILBO. If the statement which the Senator has made is true, upon what theory shall we induct 18-, 19-, and 20-year-old boys into military service?

Mr. BARKLEY. I will deal with that subject when it arises. Were those boys inducted and permitted to vote, I assume that even the Senator from Michigan (Mr. Van Devan) would not amend his resolution on the Judiciary, but would vote for it when it was reported to the Constitution so as to require 18- and 19-year-old boys to pay a poll tax before voting.

I do not think it unwise to enter into a discussion of the merits of the proposed legislation. I realize how controversial it is. I realize how easy it is to impinge upon what may be thought to be the rights of localities in regard to a situation of this kind. As I have said, I was in favor of the legislation from its inception. When we had under consideration the measure permitting absentee voting on the part of soldiers and sailors, which was later passed, and this bill was offered as an amendment thereto, I stated that I was in favor of the bill and that I would vote for it when it was reported to the Senate from the Committee on the Judiciary, but that I could not support the amendment because I believed it would delay enactment of the pending legislation so long that very few soldiers would be permitted to vote under it. Whether I was wrong about that I do not know. I believe it to be true that comparatively few have voted. It is true that the injection of the amendment into the consideration of the absentee soldier voting bill delayed the bill in the House of Representatives for a number of weeks. In that as it may, when the bill was brought up I announced my support of the bill, and I then expressed the hope that the Committee on the Judiciary would promptly report it to the Senate in order that that the Senator from Tennessee, if it were brought up, the Committee on the Judiciary would promptly report it to the Senate in order that the bill having been in committee for a year and a half without having been acted upon, I do not make that statement in any critical sense, but as a fact that the bill was introduced by the Senator from Florida (Mr. Pepper) some time in 1941—I do not recall the date, but I believe it was about 18 months ago—and that for a long time no action was taken by the committee. When the House of Representatives displayed enough interest in the bill to discharge one of its committees under a rule which it adopted, pass it by an overwhelming majority, and send it to the Senate some 2 or 3 months ago, I felt that it was entitled to the consideration of the Senate, and urged the Senate Committee to report it in order that it might have a chance to be acted upon by the Senate.

I am not a member of the Committee on the Judiciary; but I accept as true, of course, as we all do, the statement made that there was not a numerical quorum present at the time when the committee voted to report the bill.

I did not call the steering committee, let me say to the Senator from Tennessee, in order to get their permission to make the motion. I never have called the steering committee together in order to get permission to make any motion. The steering committee is a partisan committee. It is made up of only Democrats. It is supposed to function in the steering of legislation in the Senate. I have not called a meeting of the steering committee to pass upon legislation since Pearl Harbor, because all the legislation we have enacted has been of a nonpartisan nature, and I have felt it unwise to put a partisan flavor upon the deliberation by calling the steering committee to pass upon whether the legislation should come before the Senate. I have not done it in the instance of the steering committee in order to get legislation before the Senate. I did not do so in the present case, and I think I acted properly in not doing so.

It was not my original intention to make the motion. Usually I defer to the chairman of committees who have charge of legislation here, although I recall that during the early days of the present administration, when my predecessor, Senator Robinson, occupied this seat, in most cases he himself moved for the consideration of various measures. However, I have always tried to defer to the chairmen of committees, if possible, in the matter of moving that the Senate proceed to consider certain measures; and when we met yesterday I supposed that would be the course of procedure. However, the Senator from Indiana (Mr. Van Nuys), in view of the interest I had manifested in the measure and in view of the fact that I had urged the other members of the committee to get
the bill on the floor, the Senator from Nebraska [Mr. Norcross], and the author of the bill, the Senator from Florida [Mr. Fayre], who introduced the bill originally, had drafted it and made an amendment.

I made the motion, as majority leader of the Senate, I felt it my duty to make it, and I still insist that in such a situation, if the members of the committee need any instructions from the steering committee in order to justify me in making the motion. Someone had to make it. It had to be made. I thought that I might as well make it as anywhere else. I was willing to make it, and I made it. It is now before the Senate.

Mr. President, it may be that the House of Representatives had not acted upon the measure, or the circumstances which I have indicated there might not have been as much urgency upon the Senate Committee on the Judiciary as this bill had; because the Senate committee had reported its own bill and if it had passed here, it would then have had to go to the House and be acted upon there. However, everyone understands that this subject cannot be disposed of by defeating the pending bill at this session by any method whatever.

We know that when the Congress meets in January, if the bill has not been disposed of by that time, it will still be on our doorstep, and in all likelihood if the Senate does not act promptly upon it the House of Representatives will have not acted.

The rules of the Senate are designed to be made by the members, of course we all realize that it would be more difficult for the Senate to transact business through its committees; for, in the very nature of the case of the Senate are members of many committees which frequently meet at the same time. I have had as many as three committees of which I have been a member meet at the same time.

Mr. CONNALLY. Mr. President, let me inquire whether the Senator was present at all three at the same time?

Mr. BARKLEY. In the Senator's committee I have done the same thing. I have been called up by the Senator's committee and asked if I would be willing to be recorded in order to make a quorum. That may be irregular and illegal.

Mr. CONNALLY. Mr. President, let me inquire whether the Senator was present at all three at the same time?

Mr. BARKLEY. I grant that.

Mr. CONNALLY. And the number of the committee had made the point of no quorum, the situation would have been different. It is analogous to pairs in the Senate. When a Senator pairs he simply indicates that if he were present he would vote "aye" or "nay," but he is not counted as present on the roll call.

Mr. BARKLEY. Of course, the Senator knows that all committees operate with a great deal less formality than does the Senate. I think it would be impossible for committees to function if they had to observe meticulously all the rules which are provided for the conduct of the business of the Senate itself.

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

Mr. BARKLEY. I yield.

Mr. DOXEY. I should like to make this observation: In the consideration of legislation which may come before the Senate, it is not uncommon, of course, to have three or more committees meeting at the same time, and at the same hour, and a Senator may be a member of all three committees. The Banking and Currency Committee and the Finance Committee and the Appropriations Committee, for instance, may be meeting at the same time, and it is impossible for a member of the three committees to attend them all. So he is permitted to have his vote recorded at one place, and the chair in the Committee and the Appropriations Committee, and in the Finance Committee, and there is no objection.

That is a different set of facts from what we have in this case. There is no question of the facts about one Senator voting if a quorum had been present. But no quorum was present, no vote counted, and no business could be legally transacted.

Mr. BARKLEY. If the Senator's contention is correct, and if the Chair so
Mr. President,

not base my contention upon the fact that
side Washington.

... if he can do it from the next room he .

... I have no information about that, and I do

... any member having his vote recorded

... it was never legally organized, it could

... in inquiry is

... voters voted for the report and three

... when a bill is voted on, it would preclude

... that he wanted to be recorded for the

... I think he had a right to

... It seems to me that, although there is

... to determine this issue just as if it were any

... if there were no legal organization of the

... because he does not happen to be present

... the point of controversy.

Mr. GEORGE. Mr. President, will the

Mr. BARKLEY. I do not know when he

Mr. BARKLEY. I am not talking

Mr. BARKLEY. I yield.

Mr. BARKLEY. I am not talking

Mr. GEORGE. Mr. President, will the

Mr. BARKLEY. I think the Senator .

Mr. BARKLEY. I yield.

Mr. DOXEY. Mr. President, will the

Mr. BARKLEY. I yield.

Mr. BARKLEY. I think the Senator from

Mr. DOXY. I am glad to yield.

Mr. DOXEY. I should like to make a

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Mr. DOXY.

Mr. GEORGE.

Mr. GEORGE.

Mr. GEORGE.

Mr. DOXEY.

Mr. DOXEY.

Mr. DOXEY.
would certainly have to be sustained, whether they were in the room, upstairs, or anywhere else.

Mr. BARKLEY. I agree that if I could not get a majority of the committee to report a bill, I would have to call for the roll. In polling, of course it would be subject to a point of order; but I do not believe I could go out on the floor of the Senate and legally, even though I got all the members to sign the report, and had their signatures on the bill, unless the same members could do the same thing with respect to another bill in another committee, although some of the other committee members were meeting in a room. If Senators can authorize me or any other Senator here on the floor to vote them to report a bill, by polling the committee, they certainly have the same right, it seems to me, to make their wishes known if they cannot attend a committee meeting or authorize that they be voted in the committee.

Mr. DOXEY. The Senator is making quite a distinction between polling a committee for the purpose he indicates and having a committee meet in regular session and report a bill.

Mr. BARKLEY. The principle is the same. I think the Senator is bound to recognize that a committee can take action only in formal meeting, where there is a quorum present, it applies just as much to the polling of a committee which is not in session as it would to absent members of a committee which is in session.

Mr. DOXEY. If the Senator undertakes to poll a committee and there is stronger objection to it, just all the time objection is being interposed, would that procedure be followed?

Mr. GEORGE. Mr. President—

Mr. BARKLEY. Of course, if a sufficient number of the members of the committee objected to that method of report to indicate that it should not be done, certainly no chairman who had considered the members of his committee would insist upon it. I certainly would not.

I yield to the Senator from Georgia.

Mr. DOXEY. The question was whether the polling of the committee is a matter done purely by consent. In my honest opinion, if a single member objected to reporting a bill and entering it on the calendar, although all but one member had signed the bill informally, on the street, or in the offices, from time to time, I think that single member would have a right to make a point of order, and to have the point of order sustained, because by no stretch of the imagination, as I see it, can it be said that the act of individual members of a committee is the act of the committee, when the committee has not been legally organized by having a quorum present.

Mr. BARKLEY. I apologize to the Chair for taking this time.

The PRESIDING OFFICER. The Chair recognizes—

Mr. OVERTON. Is the Chair about to rule?

The PRESIDING OFFICER. The Chair is prepared to rule.

Mr. OVERTON. I think it would be well to have a quorum called, so that all the Members of the Senate who desire to hear the ruling of the Chair may be present.

Mr. BARKLEY. I might suggest to the Senator that we probably have more Members of the Senate present than we would have at the end of a quorum call. That was true as to the last call.

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

Mr. LEE. Will the Senator withdraw that point until I can make a report?

Mr. OVERTON. I am willing to withdraw it.

Mr. LEE. I wish to report a bill from the Committee on Military Affairs, and I ask unanimous consent to have a very brief statement of explanation printed in my remarks at this point in the Record.

The PRESIDING OFFICER. The report will be received and go to the calendar, without objection.

Mr. NORRIS. I have a point of order to object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. NORRIS. If this is a filibuster, we might just as well start into it.

The PRESIDING OFFICER. Objection is heard, and the Senator cannot report the bill, since reports are not in order at this time. The request could only be entertained and the report received by unanimous consent.

The Chair overrules the point of order made by the Senator from Nebraska, since a considerable period of time has elapsed since the last quorum call, and the precedents permit at least two or three quorum calls before a call can be held to be dilatory. So, if the Senator from Louisiana insists upon his point of no quorum, the clerk will call the roll.

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

Andrews Dossy Millikin
Austin George Norris
Ball Gudey Overton
Barkley Hill Pepper
Billo Kigerne Tats
Brewster La Follette Tobey
Bulow Leamer Truman
Bunker Lee Vandenberg
Burton Lucas Van Vyu
Canaway Mecollar Wheeler
Connally McEvoy
Dannemer Mankey
Davis Mead Wills

The PRESIDING OFFICER. Thirty-nine Senators having answered to their names, a quorum is present. Mr. BARKLEY. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on the motion of the Sergeant at Arms to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

A little delay, Mr. CHAVEZ, Mr. GILLETTE, Mr. SPENCER, and Mr. MAYBANK entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty Senators having answered to their names, a quorum is present.

The Chair recognizes that there is a very controversial question at issue. It seems that the genesis of paragraph 3 of rule XXV should be taken into consideration. It was not proposed as a rule to decrease the necessary number of Senators present to transact business. A study of the debate shows that the rule was adopted very early to indicate that the author of the resolution and a majority of the Senate desired to provide for a larger attendance in person of Senators to prevent the Senators at the time felt an abuse—namely, two or three Senators getting together, constituting themselves a quorum of the committee, and utilizing proxies. The precedents have been brought to the attention of the present occupant of the chair. They do not seem to be in point, since in those instances it was clearly developed that not even a majority of the committee was recorded on the measures under consideration. As the Chair understands, there is no contention that a majority of the committee was not recorded on the measure. In fact, the entire membership of the committee was recorded.

It seems to the present occupant of the chair that in this amendment to the rule a distinction has been made in the presence in person of a quorum and the authorization to more than one-half of a majority to act upon a bill or resolution.

It is clear that at all times but one the entire membership of the committee was present at the time action on the instant bill was taken.

Therefore it seems to the present occupant of the chair that the only question involved is whether or not the committee, under this rule, has ever established a quorum constituting not less than one-third of its membership. The purpose to be served is to indicate that the committee ever took such action. However, it is a proper procedure of parliamentary bodies to build up rulings and precedents by continued action and practice. As a matter of fact, the rules of the Senate are not understandable, as they are exercised and practiced, except as one studies the rulings, precedents, and practices.

Therefore the Chair holds that the point of order is not well taken.

Mr. CONNALLY. Mr. President, I appeal from the ruling of the Chair.

The PRESIDING OFFICER. The question is whether or not the appeal to the decision of the Chair shall be sustained. Would the Senator from California care to respond to that?
Chair stand as the judgment of the Senate?

Mr. BARNEY. I ask for the yeas and nays.

Mr. CONNALLY. Just a moment. That motion is debatable, is it not? The PRESIDING OFFICER. The motion is debatable.

Mr. BILLINGS. Mr. President, I wish first to invite the attention of the Chair, as well as that of my colleagues, who will vote some day on the pending motion, to the fact that there are two sessions of the Congress in one term of 2 years, and that the Senate and the House reorganize at the beginning of a new term by electing a Speaker of the House and a new leader in the Senate. Clerks, the Sergeant at Arms, and other officers of the Senate are elected for a term of 2 years, covering the two sessions of the term.

It is my belief that it is necessary for the Senate, in some affirmative way, to adopt the rules by which it shall transact business, for the reason that article I, section 5, of the Constitution provides as follows:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a Member."

The Constitution delegates to each House the right, power, and function of determining the rules of procedure under which it shall operate.

For example, after an election such as that which took place on the 3d of November last, we may have an entirely new personnel in the House. It is their business to meet, elect a Speaker, and other officers of the House, and to order business. The House may determine the rules of its proceedings, punish its members for disorderly behavior, and expel a Member with the concurrence of two-thirds. The Constitution does not authorize the Senate to do anything except what is here provided for and what is done in the House.

The Constitution provides that each House shall have the power to fix its rules of procedure. The personnel of the coming Congress will be somewhat different, and it will have the right to establish the rules under which it shall operate.

The same thing is true of a new term of the Senate. Every 2 years we are supposed to have 32 new Members of the Senate. The founding fathers believed it wise to clog the membership of the Senate by requiring that one-third of the membership be elected every 2 years.

Some new Members are elected every 2 years. I regret to say that new faces will appear in the Senate on the 3d of next January, and that that will also be true in the House.

Referring to the observations of our distinguished leader, who said that he did not feel obligated to call a steering committee together to tell him whether he should make a motion to take up this monstrous—let us say, a lawmaking body in the world. We make laws. It is not our duty to break laws. If we are making laws, certainly we should be willing to live up to the law; and the law of the Senate—not of the Constitution—is that any committee appointed by the Senate can avail itself of the privilege of having a lesser number committee, or a quorum, to take affirmative action to show that they have and are operating under rule XXV, section 3.

To my mind, I think the ruling is entirely wrong; it is in violation of the facts; it is not just. Now the chairman of the Committee on the Judiciary will tell the world that under no circumstances would he count a proxy or any instrument in writing, or if any person at the committee meeting in order to be counted and to be considered in the making of a quorum. When the committee was in session, after due notice had been given, and when the whole committee knew that the committee was meeting on that occasion, and meeting to consider that particular measure, only nine members were present. They had no right to count anyone else. Being outnumbered there was not one parliamentary rule—because they had failed to avail themselves of the privileges granted by section 3 of Senate rule XXV.

So the Committee on the Judiciary, as a committee, as a governmental entity, not having taken advantage of the rule, has not yet acted upon the bill.

For example, that the chairman of the committee in good faith had proxies covering the entire personnel of the committee; but that is not the question. We have never raised that question. The only point we are making is that not a majority of the Committee on the Judiciary was present when the action was taken which reported the bill to this body, and the committee had no right to take affirmative action to show that they have and are operating under rule XXV, section 3.
chair and who ruled on the question; but I have no hesitancy in saying that he was entirely wrong.

At this point I desire to call the attention of the Senate to some of the facts and issues involved in this controversy. Let me say to the Senators now present that if they have any business to transact in the Senate, I hope they will feel at liberty to attend to it; because I propose to hold the floor until the Senate adjourns. I am not speaking to them especially with reference to the Reece and to the country.

I wonder if my colleagues have taken time to read in the hearings before the subcommittee of the Committee on the Judiciary of the Senate, second session, held on July 19, 1941, and March 12, 13, and 14, July 30, and September 23 and 24, 1942, on Senate bill 1280, a bill I think the memorandum filed by the Honorable Arthur G. Edwards, of Montana, N. J. To my mind, Mr. Edwards covered the matter thoroughly; and he covered it in such an interesting way, in such a classical way, and in such a forceful way that if any Senator will take time to read and to analyze the contents of the memorandum I believe he will be convinced that if the present members of the Supreme Court impose this unconstitutional bill would stop and think, they would change their course.

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

Mr. BILBO. I yield.

Mr. OVERTON. Let me inquire whether the Senator is about to read from the committee hearings.

Mr. BILBO. I am about to read from the committee hearings on the anti-poll-tax bill.

Mr. OVERTON. From what page?

Mr. BILBO. From page 404.

Mr. BILBO. The distinguished leader, the Senator from Kentucky [Mr. BARK- NAY], says that he has been for this bill because he believes that everyone should have the right to vote, and that it is wrong—criminal wrong, grievously wrong—to call a man to fight for his country unless he is given the right to vote.

In his memorandum Mr. Edwards states:

I. The bearing of the United States Supreme Court on the problems presented by the bill, S. 1280, have been most ably discussed by many speakers, including notably Hon. Hansom Page in the House of November 1, 1942. For that reason, I will confine my discussion largely to a detailed consideration of the meaning to be ascribed to the word "voter" as used in the Constitution of the United States. It appears to me that the bill seeks to alter or extend the meaning of that word, and, if so, it seeks to withdraw elements of this meaning which have been a part of the Constitution since 1787 in article I, section 2:

"And the Electors in each State shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature." And in 1817, the nineteenth amendment was added for the popular election of Senators with identical wording. There is also included a brief view of two very crucial and very recent cases.

II. Why should a bill come up for consideration at this time following a long succession of cases thoroughly and judicially defining its subject matter, expressed in terms like such as the 110 U. S. 693 (1885); Williams v. Mississippi (170 U. S. 213 (1898)), and culminating in Breadloave v. v. v. (170 U. S. 416 (1910) and Pirtle v. Brown (118 Fed. (2d) 218 (1941)) in the United States Court of Appeals and 62 Sup. Ct. Rep. the Court's view except so we give credence to frank editorial comment: "Proponents of the anti-poll-tax bills feel, however, that the present members of the Supreme Court would probably take a different view." (Congressional Digest, December 1941, p. 305.)

I digress from the reading to make a passing observation. I have talked to a great many distinguished lawyers; practically all of whom admit that the Constitution of the United States absolutely prohibits and denies the right of Congress to have anything to say about the qualifications of the voters within the sovereign States.

It is passing strange to me that after the expiration of 150 years in the life of the Republic some "wise guy" has suddenly decided, in the Congress the power of regulating the qualifications of voters in the various States. It took them an exceedingly long time to find it out. It is the first time that anyone has had the audacity to propose such legislation. The secret of it is that, in all the years which have gone by, no one was brave enough to introduce into the Congress a measure of this type or even dared to attempt to regulate the qualifications of voters of the sovereign States, because they knew that there was a Supreme Court in the land, and that, as the Court has been composed, such a law, if enacted, would not last 5 minutes. Today, however, when the proponents of the measure think the personnel of the Court is different than when the time was 150 years old, they entertain the hope that if this question is ever brought to final adjudication in the Supreme Court of the United States, as now composed, the Court would uphold or strike down the proposed constitutional law to be constitutional

I think it is an insult to the personnel of the present Court, as now composed, to intimate they are the same. It is 150 years that would dare override the express provisions of the Constitution and declare such a law to be constitutional and in keeping with the constitutional provisions.

That is the only reason why, after 150 years, this proposed legislation is now before the Congress. Someone has been led to believe that the present members of the Supreme Court, as now constituted, will declare such a law to be constitutional. At the same time they know it is not constitutional.

I am glad to note that some of the best talk on the joint resolution, oppose the pending measure. I do not say that all those who favor the proposed legislation are ignorant, but the men who have the reputation of being profound lawyers, noted for their broad learning and erudition, regardless of the section of the country in which they may live, have joined those of the Senate who believe that this proposed legislation is unthinkable. I note with special interest the position in the committee taken by the Senator from Vermont [Mr. AINSWORTH], who has the reputation of being the most astute and able Member of the Senate, who has one of the broadest preparations in the ways of the law and a wide understanding of the principles of jurisprudence.

It is not a sectional question. I notice that some of the radio announcers say that the Senators from the South are fighting this measure. That is a very unfair indictment. It is not the Senators from the South but the Senators from the North, such as the Senator from Vermont [Mr. AINSWORTH] and the Senator from Wyoming [Mr. O'MAHONEY], who come from sections of the country far removed from the South, pursuing their convictions that legislation of this character is clearly unconstitutional. With them it is not a question of sectionalism; it is not a question of polls.

I think it is purely a question of observing and obeying the obligation they took when they were sworn into this body to uphold the Constitution, and they do not propose, for the sake of party gain or partisan feeling, to swallow this kind of legislation which has suddenly been thought up and brought before the Congress at this late hour. It has not been "doing business here at the same old stand" for 150 years. The advocates of the bill think there is now a Supreme Court that will go along with them.

III. The decisions in two recent cases deserve careful study and attention as giving a definite indication of the attitude of the present members of the Supreme Court on the principles involved: U. S. v. Carlton et al. (218 U. S. 299 (1914)) and Pirtle v. Brown (62 Sup. Ct. Rep. 64 (1941)).

I am extremely anxious to have this legislation referred to the Judiciary Committee. I do not think the Senate should override the advice of the President of the Senate and other distinguished Senators.

I notice that the sponsors of this proposed legislation have covered the whole
field of elections. They have amended the House bill so that it will cover not only primary elections but all other elections conducted by federal officers or judges.

Second. Because it furnishes numerous clues as to how the present justices regard the principles declared in Ex parte Yarbrough, as well as the qualifications, it is highly significant that in this classic decision Mr. Justice Stone, now Chief Justice, as well as Mr. Justice Brandeis, then Associate Justice, the Circuit Court of Appeals for the Sixth Circuit in 1929, said in an opinion concurred in by Mr. Justice Laski and Mr. Justice Van Devanter, as well as Mr. Justice Cardozo, that "the power conferred on the States by the enaction of qualifications is for Congress to adopt the word qualifications" and in particular that "the power to adopt qualifications is for Congress to designate which class of persons shall be qualified to vote in the States." It is equivalent to saying that Congress has power to make a law that the qualifications of a citizen for electing members of Congress to be the judges of the United States, as provided by the Constitution, do not depend on the qualifications of the Supreme Court of the United States, or any other court of the United States, for the purpose of determining whether the qualifications of a person for voting in the States are sufficient to enable him to be a member of the Senate or the House of Representatives. The legal effect of this disposition of the case, as I understand, is equivalent to saying that eight members of the Supreme Court of the United States are satisfied that the case was properly disposed of by the circuit court of appeals.

V. F. 1930. The objective beyond the powers of Congress to enact. Congress has no power to subtract elements from the meaning of qualifications, as used in the American Constitution, and in particular from "qualifications." For Congress to attempt to enact "that a poll tax be paid as a prerequisite to voting" or "that the use and enjoyment of a qualification of voters or electors" or "that the term 'qualification' mean anything but the meaning of section 2 of article I of the Constitution" is for Congress to deny to the word "qualifications" meaning which it possessed as a part of the "vocabulary of the people which adopted it." (A) When used in the Federal Constitution when adopted in 1787-89 and when amended in 1819.

The remaining question is as to whether Congress can set qualifications precedent or elements considered essential to the qualifications of electors for their own State and have them in determining qualifications for the electors of his State legislature.

Of course that refers to the constitutional provision relative to the qualifications of electors who are entitled to vote for the members of the most numerous branch of the State legislature.

IV. The Pirtle against Brown case, supra, we are advised, carried to the United States Court of Appeals with the intention of there testing again all features of constitutional protection of voters covered in other respects in the review of that problem, with the expressed hope that it would disclose grounds for court of appeals finding power to determine which of the qualifications would warrant it in reversing the previous stand of the supreme court.

As I read the decision, handed down in 1941, some 4 years after Breedlove v. Suttles, supra, the circuit court of appeals made a careful review of the question whether the Tennessee Constitution authorized the legislature to have any citizen of the State who could pay a poll tax for school purposes as a condition precedent or elements considered essential to the qualifications of electors for their own State legislature.

The basic theory underlying the Pirtle case relating to the qualifications of voters, and is still the authentic text and guide on this subject. I can see no reason for believing—or for anyone hoping—that the proposed redefinition or limitation by Congress of the word "qualifications" would carry weight, or give up the idea that Congress would hold that Congress had any power to make it a crime for a local election official to observe the laws of his own State in determining qualifications for the electors of his State legislature.

It is highly significant that in 

October 13, 1941, the United States Senator from Mississippi, Mr. Overton, introduced a resolution that the case was properly disposed of by the circuit court of appeals. It took 150 years to dispose of this case which has had 32 Supreme Court Reports 94. The only notation therewith says Justice Jackson took no part (presumably on account of his having been a party in the case). The other members of the present six-member Supreme Court have found that the qualifications of electors in the United States were being denied a republican form of government, while during the 150 years the other 40 States had qualifications for their elections similar to those held by the Supreme Court in this case. People in these States, it is said, have been denied for 150 years a republican form of government, and now we find that the Senate and House of Representatives, as already stated, are going to amend the federal Constitution. I now resume the reading:

(B) When used by various States in their State constitutions during the past century period. It was a usage again, in the XVII amendment added in 1919.

That was when we took away from the legislatures the power to elect Senators and put it in the hands of the people.

(C) When defined in Webster's and Century dictionaries of the English language in their definitions published in 1913.

(D) When defined by the United States Supreme Court in the Yarbrough and Breedlove cases cited above.

Congress might as well aspire to legislate that black is white, as to say that the conditions precedent or elements considered essential by various States for qualification for the right to vote shall hereafter cease to be necessary because of congressional redéfinition of the word, and thereby deprive States of their reserved power to say what conditions precedent they consider essential as qualifications for electors for Members of Congress, as a necessary condition precedent or elements considered essential to the qualifications of a man to vote in a popular election for Representative or Senator in the United States.

The case was properly disposed of by the court.

In my State the poll tax money goes into the various county treasuries, to be expended for the education of both blacks and whites.

Mr. OVERTON. Mr. President,—The PRESIDING OFFICER (Mr. BUNKER in the chair). Does the Senator from Mississippi yield to the Senator from Louisiana?

Mr. LEBLEU. I am delighted to yield. Mr. OVERTON. I am taking the liberty of interrupting the very able presentation being made by the Senator from Mississippi on the point to which he has just been referring. It is contended by the proponents of the bill that it is unconstitutional for any State to prescribe as a prerequisite to voting, in an election for elective office, that any person in order to be elected, the prepayment of a poll tax, and that therefore the Congress of the United States has amply the power to enact legislation of the character proposed.
Mr. BILBO. Of course the Senator understands that it took them 150 years to find out they had the power.

Mr. OVERTON. There can be no question either in that connection, of course, our predecessors in this body, and the predecessors of the sponsors of the proposal in the other House, whenever they may add a qualification or withdraw a qualification, proceeded in the constitutional way. They proceeded to amend the Constitution of the United States, by a two-thirds vote, adopted a joint resolution proposing an amendment to the Constitution of the United States, for instance, to permit the Negro to vote; that is, that there could be no discrimination on account of race, color, or previous condition of servitude. Also, when they desired to permit the women of our country to vote, they undertook legislatively to decree that the women of these 8 States, for instance, could vote, appealing as that would be—much more appealing than the subject matter in which I was interested, to which the passage from which the Senator from Mississippi has the authority to prohibit any State from requiring the prepayment of a poll tax as a qualification to vote, because the prepayment of a poll tax is unconstitutional. That is the argument made by the proponents of the bill. If the requirement that there should be the prepayment of a poll tax as a prerequisite to voting is unconstitutional, is it a legislative question? Is it not a judicial question? If it is unconstitutional, the courts are open to pass upon that question. If the Congress has the power to reach over into the States, to determine whether or not an act of the Congress, any act of the legislature of any State, is repugnant to the organic law of the government?

So I take it that anyone who is deprived of the right to vote because he had not previously paid a poll tax, or any other tax, could go into the courts and say, "I have been deprived unconstitutionally, by the legislative enactment of my State, of the privilege of casting my ballot, and the act of the legislature which deprives me is repugnant to the Constitution of the United States, and, therefore, I ask relief."

The courts are open to the granting of such relief. They are as much open to it as they would be if we were to pass 10,000 bills upon the same subject matter. It is not a legislative question at all. When the proponents of the proposed legislation bottomed their case on the theory that the restrictions imposed by the different States on the qualifications of electors violate the Constitution of the United States, then they removed the question from this legislative body, because they immediately conceded it to be a judicial question to be determined by the courts of the land.

Therefore I ask the able Senator from Mississippi, who has given a great deal of thought and study to this question, whether the proponents of the proposed legislation are right in their contention, the courts are then open to pass upon the question whether these qualifications prescribed by the different States are constitutional or are unconstitutional. Does the able Senator agree with me in that position?

Mr. BILBO. I thoroughly agree with the conclusion reached by the distinguished Senator from Louisiana. His argument is unanswerable, because the sponsors of the bill have politically altered that which is of course a difficult question;

that if the proponents of the proposed legislation are right in their contention, the courts are then open to pass upon the question whether these qualifications prescribed by the different States are constitutional or are unconstitutional. Does the able Senator agree with me in that position?

Mr. OVERTON. Mr. President, if that be true, of what benefit would any legislative declaration made by the Congress be upon the question? Would such a declaration be at all controlling upon the courts? Would the courts then sit down and ascertain what the purpose of the Congress was in enacting such a piece of legislation, or would they not take up the question to determine whether or not the State's qualification—in this particular instance the prepayment of a poll tax—was constitutional? Would the courts then sit down and determine the question solely upon the provision of the Federal Constitution, and not upon any legislative enactment we might undertake?

Mr. BILBO. Yes; most assuredly.

Mr. OVERTON. Then why consider this bill? Why is the bill before the Congress at all? I am sure the able Senator from Mississippi is probably not in a position to answer that question. It really ought to be answered by the proponents of the bill. The proponents of the bill should have come to his feet during the course of the debate and undertook to speak in favor of the bill, I shall certainly propound to him the question I have raised, because I think it is a sound question; I think it is a question which goes to the very root of the matter, and I think we ought to be afforded some explanation of the reason why the sponsors of the bill have, of course, the right of human beings to participate in the Presidential and Senate elections.
the Government of this country simply because they were females. The tedious and long-drawn-out process of amending the Constitution in order to gain such a right to women was simply a waste of time. But the Senator from Louisiana forgets that that took place in the days when the people were not so informed as they are today. BILBO, was not in the days of the Framers and the BARKLEYS who know how to reach the result in a more direct way, through an act of the legislature. I hope that the Supreme Court will sustain them in their attempted rape of the Constitution.

I continue to read from page 404 of the hearings:

VI. I will further develop these points (A) to (D) specified in the preceding section V: (A) As to meaning and usage in 1787 no southerner source can be cited than Sir William Blackstone whose classic Commentaries were published in 1765-69 and already authority.

In the same category.

If the tax being voted at the polls. And has no section 9, clause 4, is permitted to levy; a tax. I have no more patience with the tax on the poll or head and not upon the tax as a prerequisite to participation in the people of my State. For 4 or 5 years I have been fighting and urging the Legislature to do away with the tax.

The poll tax is a prerequisite to voting. I say that question came up. He is a very fine Negro, highly educated, and an excellent scholar. Before I finish my speech I shall introduce into the Recorn the letter which he wrote to me. In the letter he very strongly urges the enactment of any legislation which would give the Negro the right to vote; but he is just as strong against this bill, because he knows that under the Constitution it is not the way to secure the rights of franchise to the class of people in whose behalf the sponsors claim they are urging the proposed legislation.

Mr. OVERTON. Mr. President, will the Senator yield for a question? Mr. BILBO. I yield.

Mr. OVERTON. Does the Senator happen to that in the State of the Louisiana? That tax was never as a prerequisite to voting, and that a number of years ago the State of Louisiana, by proper enactment, abolished that qualification for voting in the State of Louisiana, but that the Louisianaians do not come to Congress for relief? It proceeded in the constitutional way. The State took its own action, and by State enactment abolished the poll tax as a prerequisite to voting.

Mr. BILBO. I was so advised at the time Louisiana abolished the poll tax as a prerequisite to voting.

Mr. OVERTON. May I ask the Senator a further question?

Mr. BILBO. I yield.

Mr. OVERTON. Under the law of Louisiana today there is no requirement for the prepayment of a poll tax in order to vote.

Mr. BILBO. That is true.

Mr. OVERTON. Does the Senator know that when that question came up the Louisiana Legislature did not make any resolution? It is the identification of voters at the polls, and in no relation whatever to that kind of poll. Webster defines: "Poll tax, a tax levied by the poll, or head, a capitation tax." It is the identification of voters which Congress, by section 1, clause 4, is permitted to levy; a "capitation tax" when properly assessed by the State, which seems to be identifying the Constitution in order to give suffrage to Negroes. In fact, it would enfranchise about 200,000 white persons in my State.

Only last week I received a letter from one of the professors of the Alcorn Agricultural and Mechanical College, of my State, which is a Negro college. I happen to know the Negro who wrote the letter. He is a very fine Negro, highly educated, and an excellent scholar. Before I finish my speech I shall introduce into the record the letter which he wrote to me. In the letter he very strongly urges the enactment of any legislation which would give the Negro the right to vote; but he is just as strong against this bill, because he knows that under the Constitution it is not the way to secure the rights of franchise to the class of people in whose behalf the sponsors claim they are urging the proposed legislation.

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upon the eight States of the South which still have the qualification under discussion as a prerequisite they are adminis-
tered exclusively by the State constitution and laws as to who are qualified for this list. This list, the United States by virtue of the Constitution accepts "sight unseen." and hence no prior authorization, makes it, in its entirety, the list of those qualified to vote for Congressmen and Senators. While the approval of qualifications flows from these two different sources—the Federal Constitution and the State constitutions—the two streams are not separable, since the former adopts the latter in toto. The body of eligi-
ble individual voters is identical in each State.

I do not know whether the sponsors of the pending measure have ever stopped to think what a predicament there would be in the eight poll-tax States if the
pend pending bill should become a law. There
would be candidates to be voted for in
the November election for Federal offices,
such as Senators and Representatives.
There would also be candidates nomi-
nated by the party primaries, to be voted
for in November at the general election;
and all those names would be on the
same ballot. Two classes of voters would
appear this time. All the voters in the
school class would be qualified to vote for can-
didates for Federal offices and State offices;
they would be qualified to vote the whole
ticket, all the way down. Another class of
voters would be those in the polls in No-
ember, a class composed of those who
could vote only for candidates for Fed-
eral offices; they would not be qualified
to vote for candidates for Governor or
other State offices or county offices. So
a muddle would be created at the polls.
Two classes of voters would be on hand on
election day. The law of my State provides
that all the tickets shall be on the same
ballot; but that is a complica-
tion which is just about as justifiable as
the rest of the bill.

Mr. PEPPER. Mr. President, will the
Senator yield?
Mr. BILBO. I yield for a question.
The Senator from Nebraska says I can-
not yield for any other purpose.

Mr. PEPPER. But if we ask if the able
Senator from Mississippi shares the hope
of the junior Senator from Florida that the
growing awareness of the need for the
removal by the action of Congress of the
requirement that a sum of money be paid before a citizen can vote, might
not induce other States which still have
the poll tax as a requirement for voting
to eliminate that requirement as many
States—these two States of the Union,
so that there would not be the difference
in the classes of voters to which the able
Senator has referred?
Mr. BILBO. It may be the prayer and
the hope of the Senator from Florida, who is sponsoring the proposed legisla-
tion, that the States will attempt to fol-
low the lead and suggestion of his bill to abolish the requirement of the poll-
tax by voters for all offices, but I will say
to the Senator from Florida that we will
do just what his State has done, we will
remove these prerequisites for voting in
our own good time and in our own way,
and I think we can do it without any
intervention on the part of Congress.

I understand that the poll tax has been abolished by the Legislature of Florida,
by the citizens of Florida, and immedi-
ately after the repeal the Senator from
Florida [Mr. PEPPER] appeared on the
scene and was promptly elected to office.

Mr. PEPPER. Will the Senator yield?
Mr. BILBO. I yield for a question.

Mr. PEPPER. The Senator is correct
in assuming that I was voted upon in the
vote upon repealing the action of the
State legislature in repealing the poll-
tax law for both State and Federal
officials. The action of the legislature
was after my election to the Senate, and
after I had served a period in the Senate.
Mr. BILBO. Does the Senator mean
to say that the Senator was elected after
or before the repeal of the poll-tax law?
Mr. PEPPER. Both.

We hear talk about wanting unity.
The proponents of this bill are doing
much to disturb the unity of the country
in time of war, when we need to be brought
together and to stand shoulder to shoulder as brothers, to con-
tribute everything to the winning of the
war. Yet they inject a question here
which has been undisturbed for 150 years
and connected with which is the desire
to force 8 States to conform to the
ideas of 49 other States, in time of war.
Not only is that being done but the
finishing touches, I verily believe, are
being put upon the success of the Demo-
cratic Party, of which I am a member;
and I do not deny being a party man.
I say that because the National Demo-
cratic Party will not have a ghost of a
chance in any election to elect a Presi-
dent or to control the affairs of the Gov-
ernment unless it is backed up always by
the votes of the South, and the eman-
ation of the law will do more to lose the South to the Democratic Party than any legisla-
tion that has been brought forward in
years. Mark my prediction, we have had enough manifest justice with
some of the bureaucrats to lose many
votes to the Party in the South, but this
is the coup de grâce, which the sponsors
are administering to the Party of which
they claim to be members.

For Congress now to attempt to declare
"that a poll tax be paid as a prerequisite
for voting is a tax upon the right of privilege of voting" is likewise for
it to declare that the Justices of the Supreme
Court were unanimously in error in 1887.
In those decisions it was decided:
"Moreover, Georgia poll taxes are laid to raise
money for educational purposes, and it is the
father's duty to provide for the education
of his child." "Aliens are not permitted to
vote, but the tax is laid upon them, if within
the defined class."

In other words, everyone has to pay a
poll tax in Georgia, even if he has no money
and the money is used for the education
of all the children, whether they are the
children of aliens or not. It is also a
qualification for voters.

The privileges of the citizens of the United States and their qualifications as
voters are not identical, as "privileges" do not
include the right to vote for Senator and
Representative unless the citizen is also
qualified by his State to vote for members of
the "most numerous branch of the State
legislature."

To assert by differing phrasing in the
four sections of S. 1280 that obedience by
any State or municipality, or by its officials,
to the constitution and laws of the State
with respect to the determination of those
voters who have the right to vote for members of
the State legislature which requires that a poll tax be
paid before voting "shall be deemed an inter-
ference with the manner of holding elections
for national officers" and "it shall be un-
lawful" and be considered a tax upon the
privilege of voting, appears the height of
parody, and a most aggravated invasion of
State affairs.

We seem to have forgotten the doc-
trine of State rights and the sovereignty
of States.

XI. The right to vote in America has never
been universal. Americans have always exercised their power of limiting
the right to vote; that is, have denied this
right to certain persons, have qualified or
abridged the right to those persons. In general, women were denied this right until 1920. The Colonies and the early constitutional conventions permitted only men to vote. Women's votes were permitted only in the States of Rhode Island and Connecticut in 1787. In Rhode Island it continued until 1842 and was the reason for the attempt—largely by women—to overthrow the existing constitutional Government, resulting in Dorr's Rebellion.

The existence of this legislative practice of excluding women is clearly recognized by the Constitution makers, and in the 1787 Convention no effort was made to define the qualifications required to bring about the right of women to vote. According to their viewpoint, it would not have been necessary to amend the Constitution in order to permit the women of the land to vote. In their view, it would simply have been necessary to pass an act of Congress on that subject. They would have said that the States are denying the right of women to vote by not permitting the women to vote, and then would have passed a law on the subject. Oh, no; a constitutional amendment would not be necessary, especially when the majority of the men have the court they think they have now—but I think the sponsors of the proposed legislation are going to be faced with this simple argument.

Legal types of qualification or abridgment of suffrage have been based on characteristics, qualities, possessions, and conditions precedent, which I may classify as:

(a) Inherently personal: Sex (before 1920), age, literacy, or ability to read and write, intelligence or ability to interpret State constitutions, habits of criminal offenses as bribery and felony, desertion from Army or Navy.

Mr. President, I wish to say that in my State we do not permit idiots or insane persons to vote, nor do we permit Indians who are not taxed to vote. We have a considerable number of Indians in our State who are not taxed, and they cannot vote, and no person is permitted to vote who has committed a felony.

(b) Acquired personal or technical: Ownership of property of given value, pauperism, payment of property taxes, payment of poll taxes (these all essentially in the same category of financial ability), vagrancy;

(c) Community relationship: Citizenship; term of residence in State and voting districts, registration as a voter with taking of statutory oaths, possession of a grandfather who had voted prior to 1867 or thereafter, teaching or preaching.

Qualifications to vote have included impartially not only the things a person is but also the things a person has and the things he does. Whether a person pays a tax required by a State constitution is a technical condition precedent—and if he has not paid the State does not inquire into his reason or circumstances for nonpayment. Some have otherwise classified these rights and restrictions on two fundamental principles—the theory of individual rights and the theory of the good of the State—but they are never effectively qualified. And I do not think the status as a contributor to the good of the State through tax payments has rights or obligations which are to be imposed by different States, as evidence of attachment to the community.

XIII. A few words in further rebuttal of certain arguments of proponents of S. 1280 who lay such great stress on their own "definition of "qualifications" that it may be said to almost hypnotize their arguments. They say:

"Congress has the right to decide whether a given condition is in fact a qualification, that is, a given condition which is the main theme of the unintended statement mentioned at XI, above, from which the lines are quoted. And from the same statement:

"If in the States at the time of making the constitutional amendments the word 'qualification' in relation to voting was used in the sense of a test of fitness, it seems reasonable to insist that it was understood that sensory of State delegates to the conventions, and that is the meaning of the word in the Constitution."

There can be no question about that. Any argument based on that theory is utterly valueless because the premise is untrue. Confining at this time the review of word usage to the situation in 1913 when the seventeenth amendment was ratified, again placing this word "qualification" before the people of the States, the constitutions and continuously thereafter the word 'qualification' in relation to voting was used in the sense of a test of fitness, it seems reasonable to assure them that it was understood that sensory of State delegates to the conventions, and that is the meaning of the word in the Constitution."

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. Is it not the custom, when a Senator has the floor, and a recess or adjournment is taken, if he has not concluded his remarks, that he be permitted to proceed the day following? The PRESIDING OFFICER. The rule provides that the Chair shall recognize the Senator who first addresses the Chair.

Mr. CONNALLY. I realize that; but following the ruling of the Chair today, while there is a written rule, there is in many cases oral understanding of conversations, and agreements, which establishes a custom.
tended special favors to labor politicians, and to labor racketeers at the expense of the average citizen through the denial of protection of constitutional rights to American workers.

FOREIGN POLICY NOT APPROVED

The people with whom I talked had no admiration for the provocative foreign policy of the President which did not keep us out of war. They had no patience with the policy of the President which followed a line which day after day and month after month threw us ever nearer the war and which in the end permitted us to become involved in the war unprepared.

FOREGONE BUT NOT FORGOTTEN

The people to whom I refer are willing to forgive the administration's folly, its mistakes, its stupidity which occurred prior to Pearl Harbor, but they have no patience with the people of India—all other peoples have no patience with, the Communists and the new internationalists who think they see in America the liberty declared in Independence Hall, won barefoot, half-starved, under the barefoot, half-starved soldiers of the Revolution.

Yes; the people with whom I talked during the campaign are back of this war, not because they believe it was necessary, not because they believe it was inevitable, not because they believe it is being fought to preserve the so-called American way of life, but they are back of it because they are and they are determined that it shall be won.

As one sailor on furlough from active duty said to me at one of those meetings, after he asked me, "For what are we fighting?" and I had suggested that some answers might tend to impair his fighting spirit he made answer, "Mr. Horyman, nothing that can be said will lessen our determination to win this war, but if we know" and "by" he meant the boys on his ship—"that we are not fighting for the four freedoms here at home." I further said that unless we want those in Washington, we will lose those "four freedoms," find them absent when we return. Then he said, "We are going to win this war; we are going to fight until it is won; but when we come back, the people in Washington are going to answer to us."

An ensign from the Navy on leave for the first time in 5 months, with a brother in the service, made a similar statement to me.

A mother who came up with tears in her eyes to grasp my hand and urge me to fight for the maintenance of our constitutional form of government, a woman who had lost one son, who had two others in the armed forces, made a similar statement in the presence of the President himself, going to the war, who have been met the production of goods for civilian use will have to be reduced by one-third. The people know that this administration is determined that it shall be won.

BACK OF THE WAR

Yes; our people are back of the war, but they have not been fooled as to why or how we became involved. Nor have they any mistaken notion as to the issue involved. They are not unaware of what the Communists and the new dealers will do to this Government of ours if they are given an opportunity. Our people know that this administration is not devoted to unaided efforts to the winning of the war, nor to war production.

Our people are aware that the President is calling for an armed force of 6,400,000. Walter Reuther is the man who has so often instigated action in violation of our laws. Yet he escapes to sit down strikes in Flint, Michigan in 1937. Walter Reuther is the man who has been in the forefront in so many of the strikes, the beatings, and the slurrings which have held up production in Michigan, which intimidated law-abiding citizens.

If those internationalists who live along the eastern seaboard have the idea that the patience of the American people is inexhaustible; that the financial interests of the East, with their foreign connections; that the great corporations, with their interlocking boards of directors on which sit financiers from the Old World, which are in effect but the tail on the dog, are, after our armies have been successful, going to wag the dog, they better prepare for a war here at home which will make it necessary to employ 60 percent of the average nonfarm housewives over 45 years of age without children in war industries; that 15 percent of the youth between 14 and 19 who would normally be in school and 15 percent of the workers who normally retire from work will be required to serve in industries. They know, too, that to support the armed force demanded by the President it will be necessary to have an average 40-hour week for all workers, men and women, young and old. They know that even when all these demands have been met the production of goods for civilian use will have to be reduced by one-third. The people know that this administration so far has not permitted Congress to take the steps necessary to support such an armed force.

Our people who have seen the land stripped of those who must furnish the labor to supply the food if the armed force and the civilian population is to live, have not been fooled by that which awaits us if that policy is not changed.

Our farmers whose young men have gone to the war, who have been forced to give up the cultivation of their crops, who are impatient when they learn that Walter Reuther has been deferred from military service. Walter Reuther is the man who when in Russia with his brother wrote book, "The end of the road," in which he said, "they should fight for a Soviet America." Walter Reuther is the man who was one of the leaders in the bloody violence during sit-down strikes in Michigan in 1937. Walter Reuther is the man who has been in the forefront in so many of the strikes, the beatings, and the slurrings which have held up production in Michigan, which intimidated law-abiding citizens.

Walter Reuther is the man who is the pet of this administration and he is the man who has so often instigated action in violation of our laws. Yet he escapes to sit down strikes in Flint, Michigan in 1937. Walter Reuther is the man who has been in the forefront in so many of the strikes, the beatings, and the slurrings which have held up production in Michigan, which intimidated law-abiding citizens.

Our people are disgusted because the President takes under his protection the notorious Walter Winchell, known by hundreds of thousands of our people to be a dirty, lying spreader of scandalous gossip and of false charges.

Our people are astounded when they learn that the Communist, Earl Browder, the leader of the Communist Party in America, twice convicted and sentenced to prison, was released by the order of the President himself, goes without rebuke from the President to the city of Chicago and assails the patriotism of Senator Bundini, a veteran seven times wounded in the First World War, solely because Brooks was a candidate for United States Senator on the Republican ticket.

I say the absurdity of it! It outrages the memory of every patriotic American here.

The people in my district did not vote for me because they like me; they do
not; they tell me so to my face. They did not vote for me because they think I am smart; they know I am not; they voted for me because they know I represent here in Washington their convictions, and they vote for me, in the largest percentage—69 percent of the vote cast—the largest percentage that was ever given, to send me back. Do not make any mistake about this; there is no contest in my mind; I am not deceived about that vote. I do not take it as a compliment; it was not; it was a repudiation of some of the things that have been going on not only in the administration down here at the other end of the Avenue, but right here in Congress. It was a vote of protest against our lack of courage to meet and deal with the situation which confronts us.

The President is free with his quips, his jests, his smart remarks, he is free with his ericism, his insinuations of a lack of patriotism on the part of his opponents, but we fail to find that he has ever criticized by a single word the dirty, nasty Winchell, the convicted Browder, or Walter Reuther, the advocate of violence, or the people of the Avenue, but right here in Washington, in the American worker, the political commingling of this administration with labor politicians and racketeers.

Mr. ROBBINS of Kentucky. Nearly every Sunday night we listen to some of the speeches of Walter Winchell, and in all of his tirades he directs attention to the gentleman from Michigan. I would like to know if the gentleman from Michigan had in his district; what his majority was, and so forth. I would like to know that.

Mr. ROBBINS. In the last Presidential year, with the wonderful Williekie oratory and all that, the vote for Congressman was 61 percent. This time it was 69 percent of the total vote.

Mr. Speaker, will the gentleman yield further?

Mr. COX. I yield briefly.

Mr. COX. Maybe this Congress will straighten itself out before the end of the war.

Mr. COX. Mr. Speaker, will the gentleman yield further?

Mr. COX. Mr. Speaker, I want to say to the gentleman from Michigan that there are serious Members of the House who belong to the Democratic Party, who are unwilling merely for the sake of conformity to continue to be forced into attitudes that they think is the policy of their party. I venture to predict to the gentleman from Georgia that we are not going to do anything about straightening out the labor situation until the people get after us again.

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Mr. ROBBINS of Kentucky. Will the gentleman yield?

Mr. COX. I yield to the gentleman from Kentucky.

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The Republican Party has not as yet, nor have the Democrats in Congress as yet, listened to the resentment which has been growing against that kind of procedure throughout the country. Yet, the House twice has passed legislation which would have tended to remedy the situation. But the other body across the desk and at the conclusion of any special session of Congress approved March 24, 1934, entitled "An act to provide for the complete independence of the Philippines Islands, to provide for the adoption of a constitution and a form of government for the Philippine Islands, and for other purposes," I transmit herewith, for the information of the Congress, the fifth report of the United States High Commissioner to the Philippine Islands covering the fiscal year beginning July 1, 1940, and ending June 30, 1941.

F. D. ROOSEVELT.

THE WHITE HOUSE, November 12, 1942.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—INDEPENDENCE OF THE PHILIPPINE ISLANDS (H. DOC. NO. 883)

The President, by the Secretary of State, transmitted to the Congress the following messages:

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES:

The people of America are patient; they are loyal; their patriotism is such that they are God-fearing; but let them once be convinced that their freedom is at stake; that their Government is playing politics with the lives of their boys, and retribution will be swift and sure and terrible in its consequences.

It is long past time when all Americans, good, bad, or indifferent, either come to the aid of their country or take the consequences.

PAY DAY IS COMING

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THE WHITE HOUSE, November 12, 1942.
The Clerk read House Resolution 571 as follows:

Resolved, That Evan Howel, of Illinois, is hereby appointed Chairman of the Committee on Interstate and Foreign Commerce.

The resolution was agreed to.

The Speaker. Under a previous order of the House, the gentleman from Mississippi [Mr. Rankin], is recognized for 2 minutes.

RELATIONS BETWEEN THE BRITISH EMPIRE AND INDIA

Mr. Rankin of Mississippi. Mr. Speaker, I was shocked to note that a member of another body, speaking in Boston last week, took the Prime Minister of Great Britain to task for his statement that he was not appointed or selected to liquidate the British Empire.

For some time now we have had these allegations against Britain, our chief ally in this war, because of the way she handles her internal affairs.

In 1926 the Premiers of the British Dominions met in London and adopted a conference agreement under the chairman of the various members. I inserted that report in the Congressional Record, and you will find it at page 2552 of the Recorders of January 23, 1927. In that report they called attention to the status of India and said that the relationship between India and Great Britain was governed by the Act of India of 1919. That act has been renewed recently by an act of the British Parliament. Yet we find members of another body, speaking in another Parliament, saying that we must turn to the British Empire and then go back to Russia, that they are not satisfied with what the United States is doing with reference to our holdings. Suppose she were to say that the United States must turn Puerto Rico loose. Suppose she were to say we have no right to hold Alaska, that it should go back to Russia, that she would give the British Empire trouble, which means trouble for us and all of our Allies during these trying times.

Great Britain has its form of government and she is not going to give it up. We have our form of government and our institutions, and we are not going to surrender them. We do not want any revolution in America, and I do not relish the words of men in this Chamber who go about this being a "people's revolution." This is not a revolution we are carrying on; it is a war between the United States, England, and those Allies fighting with us, and the dictators of Germany and Japan and Italy, and the countries associated with them.

The greatest blessing mankind has ever known from a governmental standpoint is the Government of the United States, and next to that is the Government of the British Empire. Probably a Britisher would put it the other way around, and according to him this greatest blessing has been the British Empire and that next to that would be the Government of the United States. The British Empire built representative government. It was not created by Magna Carta. It was created by those old Whigs in the British Parliament, who fought and struggled until representative government was established for the people of Great Britain, and along with it came the development of the common law, and then, with the Declaration of Independence, and the...
In our wars, episodes are largely heroic
but the final result has hitherto been sati
dactory. And as the tide of battle now
bear us forward on its broad, restless
flow.
In the last war we were uphill almost
to the end. But in this war we have
more reason to be hopeful. We have had
innumerable close calls, but in the
main our position has not deteriorated.
And I have no doubt that in the final
analysis our victory is assured.
We have not so far in this war taken
as many German prisoners as they have taken
British, but these German prisoners will, no
doubt, come in droves at the end, just as
they did before.
I have never promised anything but blood,
tears, toil, and sweat. Now, however, we have
a new experience. We have victory—a renok-
markable and definite victory. The bright
beam has caught the helmets of our soldiers
and warmed and cheered all our hearts.
The late M. Vienoels observed that in all
her wars England—he should have said Brit-
ain, of course—always won one battle, the
other day, they will find the same flag
fluttering over the same institutions our forefath-
ers left to perish in the waterless desert.
But the fighting between the British and Germans
was intense and fierce in the extreme.
It was an engrossing and inspiring battle,
and there was no prison that could
hold, while there are men
left to perish in the waterless desert.
But the fighting between the British and Germans was
intense and fierce in the extreme.
It was a battle of
victory—a victory that has been fought
throughout the world. The Germans were
left to perish in the waterless desert. But the
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communities gathered in and around the ancient British monarchy, without which the good and evil of the world would have no existence. There was a time not long ago when for a whole year we stood all alone. Today, after frantic appeals to our Shipping Board, less than 30,000 tons of foodstuffs are reaching Puerto Rico each month.

Now, let us look at the situation and see what are the food staples of the Puerto Ricans. Beans, rice, codfish. Dealing with the latter, may I inform my colleagues that all of the codfish supply in Newfoundland was purchased by the Portuguese to Nazi Germany. In Puerto Rico there is therefore no supply whatever of codfish.

In New Orleans there are tons and tons of rice. I have before me a recent report of October 24, by Mr. Paul Edwards, administrator of W. P. A. in Puerto Rico, in which it is stated that Puerto Rico there is practically no rice. The normal consumption of rice in Puerto Rico is about 18,000,000 pounds.

Prices have gone sky high. For instance, let me read from an index recently prepared by the Office of Statistics, by Mr. S. A. Price. There is an office of statistics in Puerto Rico. I shall read only a portion dealing with beans, just to give you an example. It reads as follows:

The decline in beans was due to a drop from 10 cents to 12 cents to 13 cents to 14 cents to 15 cents per pound of the imported pink beans which are the ones consumed in largest quantity in Puerto Rico, but the locally produced red beans rose from 13 cents to 14 cents a pound, and locally produced red beans from 12 cents to 14 cents a pound. The greatest increase in starchy vegetables was that of taniers which rose from 5 cents to 7 cents. Sweetpotatoes rose from 3 cents to 5 cents a pound and plantains from 20 cents to 27 cents. The increase in the price of matches is practically nonexistent. The increase in the price of oil is now 75 cents a gallon, making the monthly cost of oil for a family of six approximation $10.00. Since the end of September 1942, according to the W. P. A. report filed here by its director in Puerto Rico, Mr. Paul Edwards, there were 240,000 unemployed persons on the island. The report submitted to the Governor of Puerto Rico by the Committee on Unemployment, prior to that showed that there were 175,000 unemployed. Since this report of November 1942, we have estimated that unemployment in Puerto Rico has now reached the figure of approximately 325,000 people, affecting about 165,000 families.

I realize, of course, that to most of us here in Congress Puerto Rico is a far, far away place, but Puerto Rico to us from a very realistic standpoint is most important, so important that we have spent many millions of dollars to fortify it so as to make it the Gibraltar of the Caribbean. It is also very vital to us from the standpoint of winning this war when we consider that this island is one of the important link in the chain of Western Hemisphere solidarity. It has been so since the early days of Spanish colonialism, when Puerto Rico was the vanguard of the Americas. The peoples of Puerto Rico are Latin Americans; they are an integral part of the great 100,000,000 Latin Americans. A most important factor in extending good and reasonable confidence.

Mr. FULMER. Mr. Speaker, will the gentleman yield?

Mr. MARCANTONIO. I yield.

Mr. FULMER. The gentleman spoke of high prices, with the tremendous hardships on the great masses of Puerto Ricans. I am wondering if anything is being done to hold down these prices or put a certain check on the interest of that class of people that is unable to pay such fancy prices.

Mr. MARCANTONIO. I am coming to that. I have just been picturing the conditions as they exist down there, and I am going to discuss what efforts have been made and then point out what I think should be done.

Office of Price Administration, the Department of the Interior, and the Agricultural Marketing Administration have been grappling with this problem, but first let us analyze the problem. The primary immediate problem is that of getting food supplies down there, the problem of shipping. We all know there is a shortage of ships; every available ship is needed for war purposes, but I believe that before the end of September 1942, according to the W. P. A. report filed here by its director in Puerto Rico, Mr. Paul Edwards, there were 240,000 unemployed persons on the island. The report submitted to the Governor of Puerto Rico by the Committee on Unemployment, prior to that showed that there were 175,000 unemployed. Since this report of November 1942, we have estimated that unemployment in Puerto Rico has now reached the figure of approximately 325,000 people, affecting about 165,000 families.
tar to prevent what exists in Puerto Rico—food shortage, starvation, and widespread unemployment. This most deplorable and tragic situation in Puerto Rico requires a positive order directing the allocation of ships sufficient to rush needed foodstuffs, seeds, fertilizers, and medicines, so urgently required down there. Secondly, we have got to control prices in Puerto Rico. As I understand it, O. P. A., in fixing a spread and in taking into consideration the cost of transportation and the price which has to be paid for the foodstuffs purchased in the States for Puerto Rico, cannot bring prices within the reach of the average consumer in Puerto Rico. We must report to Congress to subsidize the Department of the Interior with $15,000,000 for Puerto Rico, the Virgin Islands, and Alaska, but the fund is being used scarcely at all for this purpose. The very first thing that is required is to direct the Agricultural Marketing Administration and the Department of the Interior to use the funds the departments have now of subsidizing so as to bring the prices down to a level within reach of the people of Puerto Rico.

Thus, we must first get the food there; second, we must get the prices down by subsidies and O. P. A., regulating; third, these people must have money with which to buy—and they have none.

Now, if I may come back to the question of ships:

Puerto Rico comes under our coastwise shipping laws. Cuba has ships; according to the information I have, Santo Domingo has 5 ships and is building more. I believe ships can be made available from some of the South American countries. Under our coastwise shipping laws they cannot sail down our coast and bring foodstuffs to Puerto Rico and cargo back. So there is a need for the period of the emergency at least is this: The coastwise shipping laws must be suspended so as to permit the carrying of foodstuffs down in Puerto Rico. There is a tonnage system of permits, providing for the picking up in Puerto Rico of sufficient cargoes, is cumbersome and does not meet the time element. That is why a blanket lifting of the coastwise shipping laws, so that ships of other nations may drop and pick up any cargo in Puerto Rico and from the United States will be of some help.

[Here the gavel fell.]

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to proceed for 5 additional minutes.

Mr. SABATÉ. Is there objection to the request of the gentleman from New York? [Mr. MARCANTONIO?]

There was no objection.

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. MARCANTONIO. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. I observe that the statement by the gentleman about getting supplies into Puerto Rico, the scarcity there and the high prices. Perhaps the gentleman stated this, but I did not observe that he said anything about the amount of production in Puerto Rico. It has a fertile soil. How is the production carrying on? Do they have ships there to carry their products away from this country or others so they can receive a return?

Mr. MARCANTONIO. They have no ships whatsoever.

Mr. ROBSION of Kentucky. They are not furnished any?

Mr. MARCANTONIO. They have none and they are not furnished any except ships delivering no more than about 30,000 tons a month in the place of over 100,000 tons delivered in normal times.

Mr. ROBSION of Kentucky. Do they have products down there ready for shipment?

Mr. MARCANTONIO. Yes. Mr. ROBSION of Kentucky, I wish the gentleman would tell us something about that.

Mr. MARCANTONIO. The warehouses of Puerto Rico have tons and tons of sugar on hand, and there is plenty of rum. The main tax revenue is from rum. If they could get the ships down there to bring food supplies to the island, these ships could bring back rum and they could bring back sugar.

Mr. ROBSION of Kentucky. What about cotton?

Mr. MARCANTONIO. There is no cotton to be grown in Puerto Rico.

Mr. ROBSION of Kentucky. How about fruits?

Mr. MARCANTONIO. Yes. They have pineapples and other fruits roving in the fields because they cannot be shipped. Incidentally, the development of a pineapple cannerry in Puerto Rico would help cut down United States appropriations for Puerto Rico. Development of fisheries would be a substantial factor. There is also some coffee down in Puerto Rico which, incidentally, is the best coffee in the world. Tobacco was at one time very important in the list of Puerto Rico's exports.

Mr. ROBSION of Kentucky. If they could get their coffee, sugar, and fruits away from there to other countries, then they will have a stimulus to back up and we would not have to subsidize them?

Mr. MARCANTONIO. That is true only to a limited extent. Puerto Rico must have ships, price subsidies, and funds for a large work-relief program, for the development of native industries and for a land program of subsistence crops.

Mr. ROBSION of Kentucky. I mean, if they had ships.

Mr. MARCANTONIO. Because of the gravity of the situation as it has developed, even if they had the ships we have got to subsidize their price so they could bring them there. We have got to implement the funds of the Department of the Interior and other Government agencies to bring prices down within the reach of the people of Puerto Rico. The island itself is doing its utmost. The other day the Legislature of Puerto Rico adjourned after having appropriated $10,000,000 to deal with the unemployment, to give them some purchasing power. It passed one of the steepest revenue bills in the history of the island. It adopted a Victory tax and it also provided that 70 percent of the revenue which would be derived from taxation on rum is to go toward assisting the unemployed in Puerto Rico. But we know the President knows, and even President Roosevelt knows, the problem of Puerto Rico knows, and even if you are not familiar with it, you will take the figures given to us by W. P. A. down in Puerto Rico, which show that in September last year 240,000 unemployed, and it is estimated as of last week that the figure has reached 325,000, you must come to the conclusion that they certainly do need funds which must come from us. Puerto Rico's plight is not the fault of the Puerto Rican people. We are responsible for it, and we must accept our responsibility as a true democratic people. I do not like the use of the term "work relief," but I do not see what else you can give them at this time but work relief as an emergency measure by direct appropriation by the Congress of the United States. If Congress fails to do so, until Congress acts, then I think, as a necessary war measure because of the vital military position of Puerto Rico to us, we should exercise his power under the lend-lease war powers to use lend-lease funds to alleviate the suffering which now exists in Puerto Rico. It is my most considered judgment that a minimum of $50,000,000 is needed for immediate food relief, price subsidies, and for a land program for subsistence crops.

Mr. FULMER. Will the gentleman yield?

Mr. MARCANTONIO. I yield to the gentleman from South Carolina.

Mr. FULMER. The gentleman has been giving a really interesting picture of the situation in Puerto Rico. As I understand it, they have tons and tons of products that should be sent into this country if they had the ships to move those products.

Mr. MARCANTONIO. Yes.

Mr. FULMER. In the meantime, in spite of doing some of the things that MARCANTONIO proposed, could we not understand that we are shipping into Puerto Rico some of the same products that they have down there for exportation to take care of our Army and our armed forces. Therefore, if some plan could be worked out to bring into this country their major product, sugar, which is rationing in this country, and let the products of that country be furnished to our servicemen instead of shipping our own products down there, it would tend to relieve the situation?

Mr. MARCANTONIO. I think it would help relief the situation to some degree, but it would not solve the problem. Further, we have never permitted Puerto Rico to develop its own refineries and other essential industries. We are contributing cause to the unemployment problem down there is the fact that they are unable to get rid of what they have already produced and cannot go ahead and produce more?

Mr. FULMER. In contributing cause to the unemployment problem down there is the fact that they are unable to get rid of what they have already produced and cannot go ahead and produce more, Mr. MARCANTONIO, you still think Puerto Rico is contributing cause there. There are other
causes; the most decisive is colonialism; but I do not want to enter into any controversy at this time when I am pleading for relief from starvation. I simply point out that the war has brought sharply to the attention of the world, particularly to the Puerto Rican and his 100,000,000 Latin-American brothers, the diametrically opposed policy of colonialism in Puerto Rico.

Mr. FULMER. The shipping in and out of that country under some program and under some guarantee. To work down there, or else giving them work somewhere else where they are needed, are two important things?

Mr. MARCANTONIO. I think the gentleman has offered some very valid suggestions. Our War and Navy Departments have not availed themselves of the opportunity to make direct purchases in Puerto Rico. May I say that I tried to get the War Department to purchase Puerto Rican coffee for the armed forces.

Mr. FULMER. The trouble with that, said the gentleman, is that they are hell-bent on doing some of these things that will cost more money. For instance, when they took the Japs away from California they had been used to buying them from the small packers. As they were interned, the products that were bought for them had to be Federally inspected and had to be brought miles and miles from the large packers instead of using the packers in that community. That is the same thing as exists with reference to shipping into Puerto Rico products that could be utilized in Puerto Rico without transportation down there from here.

Mr. MARCANTONIO. There is no question in my mind but what the armed forces could use some of the products that Puerto Rico now has on hand or else are rotting in the fields or kept in the warehouses. Some time ago, I placed in the Record copies of correspondence between the Department of Agriculture in which I implored them to make direct purchases in Puerto Rico.

Mr. GWYNNE. Will the gentleman yield?

Mr. MARCANTONIO. I yield to the gentleman from Iowa.

Mr. GWYNNE. Is it not true that they have established some kind of a pooling arrangement down there for the buying of food for Puerto Rico?

Mr. MARCANTONIO. Yes.

Mr. GWYNNE. That is responsible for some of the trouble.

Mr. MARCANTONIO. There is this $15,000,000 which is to be used for Alaska, the Virgin Islands, and Puerto Rico. A very small, insignificant amount has been used for the purpose of subsidizing prices, bringing prices down; in other words, subsidizing the seller so as to bring the prices down to the ultimate consumer.

Mr. GWYNNE. I have heard this criticism, and I wish the gentleman would discuss it, that the pooling arrangement did not have the effect of breaking up the normal channels of trade and trade itself reduced the flow of food.

Mr. MARCANTONIO. That is an incorrect statement. The situation must be considered very realistically. It is a question of having ships. Our coastwise shipping laws prevent us from using whatever ships may be secured from places like Cuba, Argentina, and Santo Domingo for trade between Puerto Rico and the United States.

The lifting of the coastwise shipping laws would help in that direction. But then you have to come down to the problem of what the people are going to buy these foodstuffs with. You may have a newspaper problem only to a limited extent by the sale of whatever foodstuffs Puerto Rico now has, but experience has shown us that that does not solve to any considerable extent the rock-bottom number of unemployed in Puerto Rico. This problem and its causes I shall discuss some other time. Today you have no longer that rock-bottom number, you have 325,000 unemployed, affecting 160,000 families.

What are we going to do about it? What are our Latin-American brothers and cousins going to think of us? Are we going to let the people in Puerto Rico to be really the Gibraltar of the Caribbean, or permit Puerto Rico to continue to be an Ireland for us, or shall it become a Singapore and a Burma? That is the real question. I submit to you that if war either Congress or the President or both must act boldly and must act immediately.

Mr. Speaker, I include herein a report on food prices in Puerto Rico, prepared by S. L. Descartes, of the Office of Statistics.

The index of the retail cost of foodstuffs in Puerto Rico increased to 180 on October 14, compared with 155 on December 15, 1942, or 3.7 percent. The rate of increase rose from 4.2 percent to 2.72 percent from August 18 to September 15.

The index of imported foodstuffs declined from 224 to 219, or 2.2 percent from September 15 to October 14, 1942, but the index of locally produced foodstuffs increased from 159 to 171, or 9.6 percent during the same period.

All of food groups, there were declines in prices of beans, gizzards, and tomatoes; increases in prices of black beans, chicken, eggs, and milk; and no change in prices of other products. The decline in beans was due to the fact that they are consumed in largest quantities in Puerto Rico. But locally produced white beans rose from $0.134 to $0.14 a pound, and locally produced black beans from $0.14 to $0.14 a pound. The greatest increase in starchy vegetables was that of taro which rose from $0.06 to $0.07; sweet potatoes rose from $0.06 to $0.07; and plantains from $0.028 to $0.03 per unit. Milk sold through stores declined from $0.165 to $0.177 a quart, but delivered milk rose from $0.16 to $0.16 a quart. Pork fat has remained at $0.26 to $0.28 a pound; tomatoes of local varieties increased from $0.12 to $0.17 a pound; and eggs sold for $0.07 each compared to $0.06 each cut from October 9 to 13.

During this period in which prices are increasing so rapidly, sometimes from one day to the next, it is desirable to see what prices on which this index is based refer exclusively to October 13 for locally produced foodstuffs and to October 11 for imported foodstuffs sold through groceries. The prices of some foodstuffs have considerably increased since October 13.

Neitzer should it be expected that the prices paid by each family for each foodstuffs be the same as the price used in the construction of this index. Some groceries and locally produced foodstuffs stores sell at higher prices than others. In the construction of this index are used either the model or the average price of a number of groceries in the city of San Juan, and a number of locally produced foodstuffs stores in the Rio Piedras market, visited by the investigators of the insular department of agriculture.

Locally produced foodstuffs are sold at lower prices in the stores of the Rio Piedras market than in San Juan or Santurce. For that reason, persons living in these districts pay much higher prices for vegetables than the prices used in the preparation of this index. This fact does not interfere with the usefulness of the index. The index shows the changes in prices, since when the price in San Juan increases, it is because the price in the Rio Piedras market has already increased. When eggs are sold in Rio Piedras for $0.06 each, in San Juan and Santurce they are usually sold for $0.07 each. When beans rise to $0.07 in San Juan they sell for $0.08. Both the San Juan and the Rio Piedras price may be used to present the trend of prices provided the same one is used consistently. The town or area to which the prices refers should be stated, and this has been done in the case of this index, in the footnotes to the tables.

Prices in other cities of the island may vary somewhat from those in Rio Piedras and in San Juan. However, as Rio Piedras is the most important market for minor crops, and as San Juan and other areas comprise the largest concentration of urban population, they undoubtedly constitute the best locations for the construction of this index. It is acknowledged, however, that sometimes there may be pronounced increases in prices of certain products in some places far away from distributing centers, on account of the internal transportation situation. These increases are not portrayed by this index. Probably the prices of some foodstuffs have increased more in rural areas than in San Juan.

This index is constructed on the basis of the average food consumption in Puerto Rico, including both the rich and the poor. In the United States, these indexes are almost always based on the consumption of the laboring classes. In Puerto Rico it was impossible to get the last November consumption of the index was begun, because there were no facts on the consumption of the laboring classes. The classes that fall in the prices of foodstuffs consumed in larger quantities by the poorer classes have been higher than those of other foodstuffs more commonly used by the middle and upper class well-to-do. Therefore this index does not present fully the magnitude of the rise in food consumption of the diet of the poorer classes.

EXTENSION OF REMARKS

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include therein certain tables.
The SPEAKER. Is there objection to the request of the gentleman from New York? There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Elyot of Massachusetts, for November 12, on account of death in family.

ADJOURNMENT

Mr. DELANEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 23 minutes p. m.), under its previous order, the House adjourned until Monday, November 16, 1942, at 12 o'clock noon.
MR. MCNARY. The Senator from Vermont [Mr. AIKEN], the Senator from New Jersey [Mr. BARBOUR], the Senator from Colorado [Mr. Brookes], the Senator from Nebraska [Mr. BUTLER], the Senator from Oregon [Mr. HOLMAN], the Senator from Massachusetts [Mr. Long], the Senator from Kansas [Mr. Reed], the Senator from Colorado [Mr. SIMPSON], and the Senator from Idaho [Mr. Thomas] are necessarily absent.

The VICE PRESIDENT. Sixty-four Senators have answered to their names.

Mr. DOXEY. The question is on agreeing to the motion of the Senator from Kentucky [Mr. BARLEY] that the Senate proceed to the consideration of House bill 1024.

The VICE PRESIDENT. The Senate will state its decision.

Mr. DOXEY. Is the motion of the Senator from Kentucky debatable?

The VICE PRESIDENT. The motion is not debatable.

Mr. DOXEY. If it shall not be acted on until after the end of the morning hour, at 2 o'clock, will it be debatable then?

The VICE PRESIDENT. It would not be debatable then.

Mr. DOXEY. I desire to make a point of order against the motion made by the Senator from Kentucky [Mr. BARLEY].

I make the point of order because the bill is not properly on the Senate Calendar, for the reason that there was not present and voting a quorum of the committee, and the bill was not reported by a majority of the committee present and voting.

Now, Mr. President, I desire to state the facts briefly.

The VICE PRESIDENT. While points of order are not debatable, the Chair would like to have a statement of the relevant facts, for his own information.

Mr. DOXEY. I appreciate that, and I can readily understand the position of the Chair, because I am sure he is not familiar with the facts. They were discussed briefly on the floor of the Senate on Monday, October 26, but the present occasion is the first time that I have not presided at that time. Therefore, I shall proceed with the indulgence of the Chair, to state the facts, which I think are undisputed, then I should like to discuss the bill, and then we will consider the precedents.

Mr. President, as I have just stated, I think we may proceed upon a statement of facts rather agreed upon. On Monday, October 26, 1942, the Committee on the Judiciary met, and there was presented the minority views of the distinguished chairman, the Senator from Indiana [Mr. VAN NUYST]. Nine members of the Judiciary Committee were present, the committee consisting of 18 members. The chairman announced that the committee would proceed to the consideration of the anti-poll tax bill. Thereupon I, being a member of the Judiciary Committee, made a point of order, and then for making the point, namely, that a quorum was not present and that therefore it was not in order for the committee to consider the various anti-poll-tax bills which were before the committee.

Naturally, there was some discussion regarding my point of order that a quorum was not present. After the discussion, the distinguished chairman of the Judiciary Committee overruled my point of order, and the committee, consisting of nine members present, proceeded to the consideration of the Guyer bill, House bill 1024.

The committee voted to strike out all after the enacting clause of the Guyer bill and insert in lieu thereof Senate bill 1280, known as the Pepper bill. Of course, it was objected that the bill was not properly on the Senate Calendar, to all this proceeding, and several times I did not vote at all on the various amendments and the various motions and propositions which were passed upon by the Judiciary Committee at that time. The Pepper bill was substituted for the Guyer bill, and then the committee proceeded to amend the Pepper bill, all over my strenuous objection.

After the Pepper bill had been amended to the satisfaction of the committee, the motion was put to report the bill as amended. I renewed my point of order on the ground that a quorum of the committee was not present. The distinguished chairman again overruled my point of order, as he had done repeatedly, and the roll of the Committee on the Judiciary was called.

The roll call disclosed that there were nine present and nine absent, yet the record shows that those who were absent, first one and then another, had proxies, and they voted on reporting the bill. I had no proxy, I had only my vote, which, of course, I cast against reporting the bill. The final result was announced as 13 to 5. I renewed my objection, but the distinguished chairman of the committee from Nebraska [Mr. Noss] was authorized to report House bill 1024, as amended.

In the committee, while I objected to all the proceedings, I stated, "I desire to file minority views, and this being so, I should like to have the majority views also.

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The roll was called, from North Carolina [Mr. BAILEY and Mr. RAYNOLES], the Senator from Alabama [Mr. BANKHEAD], the Senator from Alabama [Mr. BROWN], the Senator from Kentucky [Mr. CHAPMAN], the Senator from Michigan [Mr. CLARK], the Senator from Idaho [Mr. CLARK], the Senator from Louisiana [Mr. ELLENBERG], the Senator from New Mexico [Mr. HATCH], the Senator from Arizona [Mr. HAYDEN], the Senator from Delaware [Mr. HUGHES], the Senator from South Dakota [Mr. JOHNSON], the Senator from Nevada [Mr. McCARRAN], the Senator from Montana [Mr. MURRAY], the Senator from New Jersey [Mr. SMITH], the Senator from South Carolina [Mr. SMITH], the Senator from Tennessee [Mr. STEWART], the Senator from Utah [Mr. THOMAS], the Senator from Washington [Mr. WALLACE], and the Senator from Massachusetts [Mr. WALSH] are necessarily absent.
When the Senator from Nebraska came onto the Senate floor Monday morning, October 26, he stated that he was reporting the bill in its entirety. When the distinguished Senator from Nebraska asked leave to make the report, and made the request that if the majority report were not adopted by the Committee on the Judiciary, the nomination be referred to the Committee on the Judiciary, the nomination shall be referred to a subcommittee to be composed of such number of members to be selected by the chairman of the committee within 8 days after such reference to the committee.

That it shall be the duty of the subcommittee to which the nomination is referred to fix a date, which shall not be less than 7 days after the date such nomination is referred to such subcommittee, on which all interested parties shall have an opportunity to be heard with respect to the nomination, and to notify both Senators of the State of which the nominee is a resident.

That no report shall make its report to the full committee with respect to any such nomination until the date so fixed has expired.

Following such rule of committee procedure thereon, the motion on which the resolution was adopted by the committee. I now read rule No. 2:

That hereafter no bill, resolution, or nomination which is referred to the Committee on the Judiciary shall be considered by the Senate until it has been acted upon at a meeting of the committee at which a quorum is present.

Mr. President, that rule is printed in the calendar of the Committee on the Judiciary under the heading "Rules of Committee procedure." There is another rule of committee procedure printed in the calendar. I submit the information of the Chair and of the Senate that there is no rule of the Committee on the Judiciary, evidenced by any written resolution, or any printed rule, to the effect that a quorum shall be constituted as a quorum of that great committee less than, of course, 10, which would be a quorum, there being 18 members on the committee.

Mr. President, I wish to be entirely frank, and if I misstate any fact it certainly will not be done intentionally on my part. I know it will be said that the Committee on the Judiciary has been proceeding when only six Senators were actually present at a committee meeting.

When I made my point of order that there was not a quorum of the committee present at the time, the distinguished chairman of the committee, in overruling my point of order, said, "We have been considering a quorum of the committee to be present when six members were present, and that the majority of the committee fix a quorum of that great committee less than, of course, 10, which would be a quorum, there being 18 members on the committee."

Mr. President, I wish to be entirely frank, and if I misstate any fact it certainly will not be done intentionally on my part. I know it will be said that the Senate has adopted rule XXV, which provides what shall constitute a quorum in meetings of committees. It is as follows:

QUORUM OF COMMITTEES

8. That the several standing committees of the Senate having a membership of more than three Senators are hereby respectively authorized to fix, for each of its members, such number of persons as shall constitute a quorum thereof for the transaction of business, which shall not be less than one-third of the entire membership, nor shall any report be made to the Senate that is not authorized by the concurrence of more than one-half of a majority of such entire membership.

Mr. President, I am sure the facts with respect to the number of members of the Committee on the Judiciary which have any bearing on the consideration of the question of the committee, if the Senate has adopted rule XXV, which authorizes the Senate committees to fix, for each for itself, the number of its members who shall constitute a quorum thereof for the transaction of business, what did that rule mean? The rule was adopted, and it was authorized to be printed in the calendar.

I read rule No. 1:

That hereafter whenever a nomination for an appointment to the office of Judge of any United States District Court (Territory or possession) is referred to the Committee on the Judiciary, the nomination shall be referred to a subcommittee to be composed of members to be selected by the chairman of the committee within 8 days after such reference to the committee.

That it shall be the duty of the subcommittee to which the nomination is referred to fix a date, which shall not be less than 7 days after the date such nomination is referred to such subcommittee, on which all interested parties shall have an opportunity to be heard with respect to the nomination, and to notify both Senators of the State of which the nominee is a resident.

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as it might be called. I submit that nothing of that nature has been done in the Committee of the Judiciary to show that if any number is fixed, other than what is known as a quorum, which is a majority of the entire membership of the committee, it has to be done in a positive, not in a negative, way.

That is the situation, Mr. President, with reference to Senate rule No. XXV, and those are the facts, as I have ascertained on as they relate to the Committee on the Judiciary.

The members of the committee know that I have consistently opposed anti-polling laws, and as such, I have endeavored to consult and to examine the precedents. The first precedent that I have had to make it.

I have made this statement of fact, Mr. President, and, as I said, I do not think there is any dispute as to the facts.

As I say, there was no question in that precedent about rule XXV, but there was a statement by Senator Clarke, one of the authors of the rule, as to what was the intent of rule XXV. It developed that Senator Smoot was the author of the second portion of rule XXV, which provides that, regardless of what number is determined to be a quorum of a committee, no bill may be reported by a committee unless it is voted upon favorably by at least a majority of the majority. It developed—although that was not the turning point of the fact, as related to the committee; no members of the committee voted for the bill. The committee being composed of 12 members, a majority of the committee would be 7, and a quorum of a majority would be 8, and, in accordance with the second portion of rule XXV, it would be necessary for 7 members of the committee to vote for the bill. When the Senate voted upon the resolution, the Senate referred the stock-exchange bill back to the committee.

I have tried in a general way to give the Chair the substance of this precedent, but I believe I can say without successful contradiction that he will not find a precedent involving this question, where objection was made in the committee as it was made in the committee immediately under discussion. In every one of the precedents I have been able to find the bill was reported without the point being made that no quorum was present; but if a bill was reported, and the resolution of the Judiciary Committee who was present on that day knows that I insisted at every stage that the committee could not transact any business because of the absence of the quorum, and the request to be counted as a quorum other than a majority of the committee. To my mind the discussion threw light on the subject, because after considerable and general discussion Senator Clarke, of Arkansas, who was one of the authors of rule XXV, which was adopted by the Senate on April 12, 1912, rose, was recognized by the Chair, and stated in substance that he did not desire to consider the bill, because it had been ordered that a quorum be present; and the only basis on which a quorum could have been considered to be present would be the adoption by the committee of a rule of its own, pursuant to rule XXV.

The facts as related in the precedent, were that five members of the committee were present. Then, as one Senator was leaving to go to a very important meeting at the White House, another Senator in, with the members of the committee present. Senator Weeks, who was about to go to the White House, came back with his colleague and said:

There are now six of us here. Record me, Mr. Chairman, as voting for the bill.

It developed that the bill was reported to the Senate, and all the rules of the Senate, including the rule of the Senate.

The resolution of Senator Hitchcock was that the bill be referred to the Committee on Banking and Currency. There was some effort to amend the resolution so as to put the decision off for 30 days, because the chairman of the committee was not present, but that amendment was rejected. The Senate was passing upon a question involved a right to allow the Senate to pass on such questions. This precedent shows that the bill was immediately referred back to the Banking and Currency Committee of the Senate.

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The facts and the decision of the Vice President, Mr. SMITH, who at that time, I believe, was chairman, reported the bill, and the following colloquy occurred between him and Senator Penrose:

Mr. Penrose. That is the standing rule of the committee.

Mr. SMITH of South Carolina. That a certain number shall constitute a quorum, and that absent Senators may request to be counted as a quorum.

The debate continued:

Mr. Penrose. That is the standing rule of the committee.

Mr. SMITH of South Carolina. It is the standing rule of the committee. Enough were present to make an ordinary working quorum, and the request was made and the quorum was absolute.

So far as I know, there is nothing in writing on the subject of the rules of the Senate, which would not be in accordance with the rules of the Senate or good parliamentary practice in the absence of a definite resolution to that effect. Do we find from the discussion between Senator SMITH and Senator Penrose, which I have read, that the Interstate Commerce Committee, as I have been in the committee immediately under discussion. In every one of the precedents I have been able to find the bill was reported without the point being made that no quorum was present; but if a bill was reported, and the resolution of the Judiciary Committee who was present on that day knows that I insisted at every stage that the committee could not transact any business because of the absence of the quorum, and the request to be counted as a quorum other than a majority of the committee. To my mind the discussion threw light on the subject, because after considerable and general discussion Senator Clarke, of Arkansas, who was one of the authors of rule XXV, which was adopted by the Senate on April 12, 1912, rose, was recognized by the Chair, and stated in substance that he did not desire to consider the bill, because it had been ordered that a quorum be present; and the only basis on which a quorum could have been considered to be present would be the adoption by the committee of a rule of its own, pursuant to rule XXV.

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take such action, and that the Judiciary Committee did not—no number can constitute a quorum, except when a majority of the committee. In the Judiciary Committee I hold that such majority constituted 10 members, whereas when the pending bill was reported only 9 members were present.

Mr. President, the facts I have stated, the rule I have read, and the precedents I have discussed, all support my point of order.

Relative to the precedent I have just cited, let me point out that the following question was asked by the Presiding Officer:

Does the Senator object to the reception of the report because a majority of the majority has not concurred in it?

Mr. Penrose. Yes; and I object on general principles.

During the discussion it developed, there being 17 members of the committee, that 9 constituted a majority. So it was necessary to have 5 members voting in the affirmative in order to have a majority of the majority voting in favor of reporting the measure. This, I think, would be so contrary to the rule other than that a proxy is not counted in the procedure and with a quorum present, it will not be necessary to ascertain the presence of the members of the committee, absent, every one of them was recorded as voting; but those who were absent certainly did not know that the committee had amended the bill as the result of deliberations in the Judiciary Committee.

Mr. President, I do not believe that the Senate wishes to have one of its committees report measures, especially ones so controversial in nature as is the pending measure, and have them placed on the calendar, and certainly it will not be subject to the present point of order.

I maintain that a point of order raises a serious and far-reaching question, because it goes to the very root of the method of doing business in committee, and, if sustained, it should constitute a guide in the future for committee work. I do not believe that the Senate wishes to have one of its committees report measures, especially ones so controversial in nature as is the pending measure, and have them placed on the calendar unless at the committee meeting at least half of the committee members were present. It will not be otherwise recognized by the members of the committee were absent, every one of them was recorded as voting; but those who were absent certainly did not know that the committee had amended the bill as the result of deliberations in the Judiciary Committee.

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Mr. President, when the Chair found that not even a majority of a majority had voted in favor of the Pepper bill, and that the Pepper bill had been adopted the committee committee had adopted its own procedure and had not adopted a resolution stating that 7 would constitute a quorum.

Mr. President, in view of the facts, in view of the rule, and in view of the precedents—and I have not been able to find any later precedents which is adverse to any of the precedents I have cited—I submit in all seriousness and good faith that the point of order I have made is not sustained, not only because the proposition is a far-reaching one but because it will be a rule for the guidance of future Senate committees. I maintain that all the precedents which I have been able to find hold that a quorum in the ordinary sense—the quorum can be counted only by unanimous consent. To my mind there can be no question about that. That is true in our deliberations in the Senate. Perhaps at times we do business when a quorum is not present; but the moment suggestion of the absence of a quorum is made, the roll must be called, and the Chair must ascertain whether a quorum is present. If a quorum is not found to be present, no business can be transacted until a quorum is present. I cannot find any precedent to the contrary.

The pending measure should be referred back to the Judiciary Committee for consideration by the committee with a quorum, and, except a clear major of the committee was reported, it should be reported because of the favorable vote of a majority of the quorum.

Mr. President, I realize that if my point of order is sustained, of course the bill automatically will be referred back to the committee. No great harm will be done. I am not a prophet, but I know that it will not take long for the distinguished chairman of the committee and the other members of the committee to assemble in the committee room, and, in orderly procedure and with a quorum present, it will be acted on. Then the bill will be reported and will be placed on the calendar, and certainly it will not be subject to the present point of order.

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Mr. President, the facts I have stated, the rule I have read, and the precedents I have discussed, all support my point of order.

Relative to the precedent I have just cited, let me point out that the following question was asked by the Presiding Officer:

Does the Senator object to the reception of the report because a majority of the majority has not concurred in it?

Mr. Penrose. Yes; and I object on general principles.

During the discussion it developed, there being 17 members of the committee, that 9 constituted a majority. So it was necessary to have 5 members voting in the affirmative in order to have a majority of the majority voting in favor of reporting the measure, the Chair very promptly referred the measure back to the committee, and sustained Senate Penrose's point of order; because the committee had adopted its own procedure and had not adopted a resolution stating that 7 would constitute a quorum.

Mr. President, in view of the facts, in view of the rule, and in view of the precedents—and I have not been able to find any later precedents which is adverse to any of the precedents I have cited—I submit in all seriousness and good faith that the point of order I have made is not sustained, not only because the proposition is a far-reaching one but because it will be a rule for the guidance of future Senate committees. I maintain that all the precedents which I have been able to find hold that a quorum in the ordinary sense—the quorum can be counted only by unanimous consent. To my mind there can be no question about that. That is true in our deliberations in the Senate. Perhaps at times we do business when a quorum is not present; but the moment suggestion of the absence of a quorum is made, the roll must be called, and the Chair must ascertain whether a quorum is present. If a quorum is not found to be present, no business can be transacted until a quorum is present. I cannot find any precedent to the contrary.

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of every legislature in the land would be nullified. The Chair will assume I take it that anything was regular unless the contrary appears in the record.

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

The PRESIDING OFFICER. Mr. La Follette in the chair. Does the Senator from Nebraska yield to the Senator from Texas?

Mr. NORRIS. I shall yield in a moment. The Chair will not take the statement of a Senator that such and such was the fact. I now yield to the Senator from Texas.

Mr. CONNALLY. If the Senator was present, I will ask him were there ever any of those matters that the Senator from Mississippi may be right. I am stating my recollection of the incident. It may be that the Senator from Kentucky made the statement at a preceding meeting.

Mr. DOXEY. It was so made.

Mr. NORRIS. I do not think so, but, if he did, that would not make any difference in my opinion. The point I am making is that the Senator from Kentucky let the committee know how he wanted to vote; he did it in person, and when the roll was called and the name of the Senator from Mississippi reached, I am not, by unanimous consent—no member of the committee objected to it—put down in favor of reporting the bill. Everybody agreed to that, for they heard the statement which the Senator from Kentucky made, whether it was made on that day or another day, and I think, I will say to the Senator from Mississippi, it was made on that day, of course. If he thinks it was made on some other day, he may be correct and I may be wrong.

Mr. DOXEY. May I ask my distinguished friend if the Senator from Kentucky was present some other day and made a statement similar to the one to which the Senator from Mississippi has referred, would that, in anywise, affect his personal presence there on October 26 to constitute a quorum of the committee? It requires 10 members to constitute a quorum.

Mr. NORRIS. No; that would not constitute a quorum, but that would conform to the universal practice, so far as I recall, of every committee of the Senate ever since I have been a Member of the Senate, and before that. The Senate committee—it has probably happened to most Senators—and said, "I want to be voted for this bill; I have got to go to New York on a train which leaves in 10 minutes and I cannot be here." His vote would be recorded. He would not hear all the debate, that is true, but he had formed his opinion, and the committee heard it, so I do not think it would be proper to ask under those circumstances if there is a committee of the Senate that would not when the roll was called vote the Senator as he had asked to be voted?

Mr. DOXEY. If we did not have to try a lawsuit, but if the Senator insists, I am going to ask to refer to the minutes of the committee. They will show that when a vote was called for the Senator from Kentucky was not present.

Mr. NORRIS. He was not actually there when the vote took place.

Mr. DOXEY. He was not; and I think the Senator is mistaken about his being there on that day.

Mr. NORRIS. I may be, but I do not think I am. He was there, however, while the committee had the bill under consideration.

Mr. DOXEY. Oh, yes.

Mr. NORRIS. And he did make that statement?

Mr. DOXEY. Yes; he was one of the 18 members who were there at some time during the period that the bill had the bill under consideration, but there were not 9 of them when the bill was voted on.

Mr. NORRIS. I do not think all the other members were there at any time. The Senator from Delaware [Mr. Horner], who was sick, was not present. The Senator from Posey [Mr. Hoar], who was sick, was not present.
Mr. NORRIS. He did not get back until after the bill had been reported, but he was permitted to vote.

Mr. DOXEY. Senator from Nebraska has the floor.

Mr. NORRIS. Well, I never went to the Capitol, in another committee meeting, that very morning?

Mr. NORRIS. Yes; I understood that to be a fact.

Mr. DANAHER. It is my recollection that one or two Senators, members of the committee, were also engaged on other committee business that morning. Nevertheless, as a result of this discussion, the chairman’s ruling, and our vote on the question, we felt it was not necessary to send for them.

Mr. NORRIS. I do not care.

Mr. DOXEY. It was an executive meeting, and I want to refer to it with due regard to propriety.

Mr. NORRIS. I am sure the Senator does. I am not accusing the Senator of any sharp practice or any dishonorable act.

Mr. DOXEY. I am sure of that.

Mr. NORRIS. I do not want to insinuate anything of that kind.

Mr. DOXEY. I do not say to the distinguished Senator just who was there, because I was keeping a record. I was as interested as the Senator was. He was there, and I was there, and I was on the floor.

Mr. NORRIS. I think I could state who was present, too; but I do not care. I will yield to the Senator.

Mr. DOXEY. I should be happy if the Senator would state who was present.

Mr. NORRIS. I do not care who was present. I am relying on the record which was made there.

Mr. DOXEY. Will the Senator permit me, or feel that it is not out of the way for me to state who was present?

Mr. NORRIS. If the Senator wants to do it, I will yield to him and let him state it.

Mr. DOXEY. I have here the number present the day we were considering this matter.

Mr. NORRIS. Very well.

Mr. DOXEY. Senator Connally, of Texas; Senator Kellogg, of West Virginia; was present; Senator Murdock, of Utah, was present; Senator McFARLAND, of Arizona, was present; Senator Kemper, of Missouri, was present; Senator NORRIS, of Nebraska, was present; Senator DANAHER, of Connecticut, was present; Senator Burton, of Ohio, was present; and the chairman, Senator Van Nuys, was present and presiding. That makes nine present and nine absent, according to the record I kept. I do not know what value it would be given by the Chair or the Senator from Nebraska, but I think my record was correct, and I did not keep it for the purpose of trying to make a case; I kept it for my own information. The record certainly shows that Senator CHANDLER was not present.

Mr. NORRIS. I did not claim Senator CHANDLER was present when the committee voted.

Mr. DANAHER. Mr. President, will the Senator from Nebraska yield?

Mr. NORRIS. I yield.

Mr. DANAHER. So long as we are mentioning names, is it not a fact that the committee advised that Senator Austin was actually present right here in the Capitol, and if he were present, would not have the committee been bound by his vote?
permit him to vote, although they knew just how he would vote.

Mr. DOXEY. I did not know that point would be seriously contended. It was not held by the Chair, because the question was not there, but there was a discussion to the effect that proxies could not be taken by telephone.

Mr. NORRIS. Oh, no.

Mr. DOXEY. The Senator will agree with me that never during the committee meeting that morning were more than nine members present.

Mr. NORRIS. I would not say that. That may be true, and probably is true; but members at that meeting, as in the case of every other meeting, were coming in and going out. The members came in at different times. Some of them went out. Some of them went out and came back.

Mr. DOXEY. Did any member of the committee come into that meeting who was not there when the final vote was taken?

Mr. NORRIS. I do not know that. If I am right about the Senator from Kentucky [Mr. CHANDLER], there was one, at different times. The parliamentary questions involved are concerned—so far as I am concerned about it. When the chairman ruled on the record, the senator from Mississippi wanted the Presiding Officer of the Senate or the Senate to pass on the ruling of the chairman of the committee in overruling the point of order? In making his ruling the chairman said—and I do not think there is any contradiction of his statement to be found—that the committee had proceeded by unanimous consent on that theory during all the time it had been in session. He asked other members of the committee who were present, who had formerly been chairmen of the committee, if they knew anything about it. No one has ever found anything to the contrary.

Mr. DOXEY. We differ because, if the Senator will permit me, I make the statement that there never were more than nine present.

Mr. NORRIS. So far as I am concerned—and so far as the legal question and the parliamentary questions involved are concerned—I do not care.

Mr. DOXEY. I merely want to keep the record straight. I want to say further that I can refer the Senator to the Record of Monday, when we had a discussion, and the senior Senator from Tennessee [Mr. McKellar] was in the chair. I can refer to it, because it is a public record.

Mr. NORRIS. I heard the discussion. Mr. DOXEY. Our distinguished chairman, the Senator from Indiana [Mr. BARKLEY], said, there was no quorum at all. If what I have stated about him happened some other day, I am not right about it.

Mr. DOXEY. We differ because, if the Senator will permit me, I make the statement that there never were more than nine present.

Mr. NORRIS. I have never disputed that.

Mr. DOXEY. I realize that, but I wanted to have it made definite.

Mr. NORRIS. The Senator wants me to state positively that something was the case when I do not know whether it was or not. That might have occurred one way or the other.

Mr. DOXEY. The Senator knows I would not say anything which I thought would embarrass him.

Mr. NORRIS. No; and nothing happened in this matter that the Senator may ask about that would embarrass me.

Mr. DOXEY. I thank the Senator for yielding to me. I merely wanted to keep the record straight.

Mr. NORRIS. I do not know that I have anything to say to the point of order. It seems to me perfectly clear what the ruling should be. Probably the chairman of the Committee on the Judiciary would be able to say about it. When the chairman ruled on six being a quorum to consider a bill there was not any evidence that the committee had ever adopted that rule. The rule of the Senate permits of the consideration of a bill with a quorum of only five. The chairman of the committee said that so far as he was able to determine the committee, from time immemorial, as a body, has always assumed that six members of the committee was a working quorum, and the chairman overruled the point of order.

Does the Senator from Mississippi want the Presiding Officer of the Senate or the Senate to pass on the ruling of the chairman of the committee in overruling the point of order? In making his ruling the chairman said—and I do not think there is any contradiction of his statement to be found—that the committee had proceeded by unanimous consent on that theory during all the time it had been in session. He asked other members of the committee who were present, who had formerly been chairmen of the committee, if they knew anything about it. No one has ever found anything to the contrary. So for 50, or 60, or 75 years, that has been the rule of the committee, the rule under which it has acted and proceeded all this time, and the chairman assumed that the committee had a right to continue that procedure, and he made his ruling accordingly.

Mr. President, even if the chairman's ruling were wrong, it would not affect the legality of the report of the bill. It is admitted that the bill has behind it 13 out of a membership of 18 of the committee. No one contradicts that assertion. It is admitted. Whether the committee's procedure in ascertaining that total is in line with the individual opinion held by any Senator or of the Senate itself, is, I think, immaterial. The committee has always acted in that way. All Senate committees act in that way.

Legislation depends upon the legality of the procedure. We have proceeded on that theory. I do not think the Senate of the United States has the constitutional right to say to one of its committees, "You shall not do business unless a quorum of your committee is present." I do not think the Senate can say to a committee, "You cannot count a member who is in another room. You cannot permit the continuance of a practice which has been in effect in all Senate committees ever since the foundation of the Government. You cannot do anything of that kind." Mr. President, I would not take such action. No one would advocate that sort of procedure in committee. Frequently a few members of a committee get together and discuss bills of various kinds. Many times all the members of a committee are not present, but those who are present know what the absent members think about certain proposed legislation. We have not been compelled to do anything, and the members present vote to report measures, and in doing so count absent members according to their position with respect to the measures.

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The PRESIDING OFFICER. The motion is not debatable.

Mr. CONNALLY. I move that the Senate adjourn until Monday next.

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

Mr. BARKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

The motion was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Kentucky (Mr. BARKLEY) that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. CONNALLY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONNALLY. Did the motion of the Senator from Kentucky carry with it the arrest of absent Senators?

The PRESIDING OFFICER. No. The motion was that the Sergeant at Arms be directed to request the attendance of absent Senators.

After a little delay, Mr. ANDREWS, Mr. GUFFEE, Mr. LEE, Mr. MCKELLAR, Mr. O'DANIEL, Mr. OVERTON, Mr. RUSSELL, Mr. SPENCER, Mr. TOBEY, Mr. WHEELER, and Mr. WILLIS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-six Senators having answered to their names, a quorum is present. The Senator from Texas is recognized.

Mr. CONNALLY. Mr. President, it is highly important that the Senate of the United States be regarded by the country as responsive in the business it transacts and the clear record of the Constitution of the United States. We are in a great struggle for the maintenance of representative government, constitutional in form. That is more than an apology for the statement that under the Constitution the House of Representatives and the Senate each are required for the transaction of business to have a quorum, and a quorum is stated in the Constitution to be a majority of those elected.

Why was the roll called here? Why was nearly a half hour of time consumed in that way? In order to get an actual quorum, not men cut out on the ranches of Wyoming and other men down in the dining room. Why should they have their lunch interrupted? According to the Senator from Nebraska, they should continue to eat and merely send a little note to the floor saying, "Regard me as present and just put me down; I am present." The Constitution did not contemplate that kind of a Senate; it did not contemplate that kind of a House of Representatives; it did not contemplate that kind of a committee.

What are the facts in this case? I happen to be a member of the Judiciary Committee. I was present at all the transactions of the committee. I call the attention of the Chair to rule XXV of the Rules of the Senate, which reference was made by the Senator from Nebraska. I should like to read paragraph 3, which is the concluding paragraph of rule XXV. It is headed "Quorum of committees." I should like to have the Recording show it. It reads:

3. That the several standing committees of the Senate having a membership of more than six, and each of such committees being empowered to transact business as may be considered by said committee; but in no case shall a committee, acting under authority of this resolution, fix a quorum thereof any number less than one-third of its entire membership, nor shall any report be made to the Senate that is not accompanied by a quorum thereof. The quorum is one-third of a majority of such entire membership.

In other words, if the committee, by some formal action, such as a resolution, wants to make a quorum a majority, it may do so, but in no case shall such quorum be less than six; and, furthermore, even when it is six, no report of a bill can be made unless by a majority vote.

Mr. President, this rule has not been obeyed in this case. Members of the committee who are present in the Chamber and who were present in the committee when the minutes were read stated that at the very threshold of the discussion in committee the Senator from Texas asked the chairman of the committee, the Senator from Indiana (Mr. VAN NUYs), and asked the clerk if the committee had ever by resolution at any time in the past exercised the authority conferred by the rule I have read to fix the number of members as a quorum. The answer was that the committee had never exercised that power, except, later on in the discussion, it was said, "Oh, well, we have been in the custom of counting for a quorum those who could be recorded as voting.

But, Mr. President, that kind of proceeding was not in the face of a challenge. Everyone of these bills on the floor was read. Every other member of the committee will bear witness that the Senator from Mississippi (Mr. DOXey) when this matter first came to the attention of the committee made a point that there was no quorum of the committee present, and that the committee had not exercised its privilege under the rule to fix less than a majority for a quorum.

The committee did not exercise any privilege that obtains in every legislative body of which I am aware, that is, action can be taken except by a majority, which is a quorum. That is fundamental. If there is no quorum present, there is no committee present. The Senator from Connecticut, with a great show, "Was not the Senator from Vermont [Mr. AUSTin] in the Chamber?" That may be true; but, legally, under the rules of the Senate, it does not make any difference whether the Senator from Vermont was in another committee or whether he was on the western front in Europe. The point is that he was not present in the committee; he never was in the committee room; and the Senator from Vermont had been there, would have voted against reporting this bill, for he signed the minority report.

Mr. President, I have before me the record of the committee. Some question was made about these transactions. The record shows that there were never at any time more than 9 members present; counting every member who came and went, only 9 were ever present in the committee room. The committee membership consists of 18. It takes 10 to constitute a quorum.

Mr. President, here is what the record shows, if the Chair wants the record. I do not think there is any necessity for holding a court of inquiry and putting us all under oath, but I am prepared to take the oath, if it is necessary, because I have stated nothing and I shall state nothing that is not here in the record. Here are the minutes of the clerk:

"83 S. 1200; 269 H. R. 1024: The poll-tax bills were ordered.

Mr. CONNALLY objected to the consideration of these bills on the ground that a quorum was not present; that the rule required that a majority of the committee be present to report a bill; that only eight members were present (Mr. Knox later came in, making nine).

Later on he made nine.

Discussion. Senator CONNALLY stated that he did not wish to appear technical or unfair, withdrew his objection. Senator DOXey then made the same objection to a consideration of these bills.

All these things happened, of course, before the bills were voted upon. I temporarily withdrew objection, but the Senator from Mississippi [Mr. DOXey] made the point of no quorum.

The chairman overruled the objection, stating that the committee had for years functioned on a quorum basis of one-third of the membership, etc.

Mr. President, I wish to call attention to that part of rule XXV. The reference to one-third of the membership, or 6, is not affirmative; it is negative. There is no grant of power there; it says the committee must have at least 6 present; at any number less than 6, but that does not mean that automatically 6 is a quorum. The committee can only determine the number that constitutes a quorum, if it is less than a majority, by resolution of the committee. That has never been done, and the record is absolutely blank on that point. So, in that state of affairs, it takes 10 members to constitute a majority.

The chairman overruled the objection, stating that the committee had for years functioned on a quorum basis of one-third of its membership, or six (6). Mr. DOXey stated that he would continue to urge his objection on the floor of the Senate when the bill came up.

Then the minutes proceed to state that Mr. NOAMS moved that all after the enacting clause be stricken out, and so on. The committee then went ahead with their little group and perfected the bill. On the roll call of the engrossing clause, the committee did permit absent members by proxy to indicate how they would
vote, if present; but that was not on the quorum, because the question of a quorum had already been raised; and the chair had already ruled that, so that the presence of members by proxy could not reach the jurisdictional question at all.

Furthermore, Mr. President, whatever the custom of committees may have been they had to be by unanimous consent, but that does not legalize what was done. The point I make is that, in the face of a point of no quorum, the committee could not go ahead without a quorum. The Senator from Nebraska says that frequently we transact business in the Senate without a quorum. That may be true, but we do not transact business if a Senator rises and says "Mr. President, I suggest the absence of a quorum."

One Senator can hold the Senate at bay with a single point of no quorum, and it was held at bay here a short time ago when the minority leader, the Senator from Oregon [Mr. McNary], made the point of no quorum. He did not require support from his views. He did not require a battle, with heavy armament, but he prevailed under the Constitution of the United States, it being my opinion going to the very heart of constitutional government, which requires that the Senate when it acts shall have a majority, and when it acts through its agents, the committees, then shall have a majority, unless they observe the rule which has been authorized by the Senate. Being a jurisdictional question, the Constitution gives the single Senator with a sword in his hand the authority to arrest the action of all the other Senators who may be present, simply because a quorum is not present.

I regret that the Senator from Utah [Mr. Murdock] is not present at the present in the Chamber. I wanted to call upon him, as he was present throughout the proceedings, to confer and ratify everything the Senate has ever said about the number of Senators who were present in the committee, about the number who were not present, and about the invoking of the rule that no quorum was present, upon the plain facts and the law. I am authorized to state that the Senator from Utah agrees with the position which I submit, that the point of order is well taken. He was present during all the transactions.

Mr. President, it seems to me the issue is very clear and very simple. I plead with Senators that in their mad rush to cram this bill down the throats of unwilling but innocent victims, they at least observe the forms of the Constitution. In their haste and anxiety to gorge us, I ask them, please, to use a little constitutional ointment, or something of that nature, not to leave all the rough edges, not to violate the Constitution itself, nor to let the discussion, at the very threshold, of the discussion of this question. We seem to hear them say, "Constitution or no Constitution, we have made up our minds, we have mixed the potion." What is it the witches mix?

Eye of newt and tongue of frog, \[...\] and blind-worm's sting, Lizard's leg and howlet's wing.

That is what has been mixed up.

Mr. President, I note that the Senator from Utah (Mr. Murdock) has returned to the Chamber. Let us go to him whether he heard my remarks about what happened in the committee as to there being only nine Members present physically at any time during the consideration of the anti-poll-tax bill, and that the point of no quorum was made all along, through all the proceedings, and the presence of a quorum challenged.

Mr. MURDOCK. I am very sorry that I did not hear the distinguished Senator's remarks, but there is no question in my mind that the Senator from Mississippi [Mr. Doxey] made his point of order, and made it so emphatically and so frequently that it was constantly before the committee, of course, on every point of order, everything that was done. I do not think there can be any question about that. Nor do I not think that anyone contends that there were more than nine Senators present.

Mr. CONNALLY. Let me ask the Senator if he was present when I asked the chairman and the clerk whether the committee had ever by resolution adopted any rule providing that less than a majority should be a quorum.

Mr. MURDOCK. I recall that.

Mr. O'DANIEL. Does the Senator recall that the answer was in the negative; that the committee had never taken such action?

Mr. MURDOCK. I think that the answer given the Senator was that no such resolution had been adopted.

Mr. O'DANIEL. The PRESIDING OFFICER. Does the senior Senator from Texas yield to his colleague?

Mr. CONNALLY. I yield.

Mr. O'DANIEL. Let me ask my colleague whether, when the Senator from Mississippi [Mr. Doxey] was raising the question that no quorum was present, the committee did not at that time have the right and the privilege to adopt a rule fixing the number of members who would constitute a quorum?

Mr. CONNALLY. No; it could not have done so, because it did not have a quorum. If it did not have a quorum to report this bill, it would not have had a quorum to adopt a rule or resolution.

Mr. O'DANIEL. The Senator from Texas made?

Mr. CONNALLY. No; no offer of that kind was made.

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

Mr. CONNALLY. I yield.

Mr. OVERTON. It is an accepted maxim of law, is it not, that where there is a positive rule of law, any custom to the contrary does not detract from the force of the rule?

Mr. CONNALLY. Certainly.

Mr. OVERTON. Mr. President, as the Senator has very well pointed out?

Mr. CONNALLY. It is not possible to repeat the law by repeating it repeatedly.

Mr. OVERTON. That is correct; that is better stated than I possibly could have stated it.

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

Mr. OVERTON. I was merely about to make the observation that there is no question in that the act of any body is required in order to constitute a quorum.

Mr. CONNALLY. Certainly.

Mr. OVERTON. A majority of the Committee on the Judiciary was required in order to constitute a quorum, and the Judiciary Committee has never adopted any rule fixing a lesser number.

Mr. CONNALLY. That is correct.

Mr. OVERTON. It was authorized to do so, providing it did not fix a number less than one-third of its membership.

Mr. CONNALLY. That is correct.

Mr. OVERTON. If the committee on a number of previous occasions had met and transacted business without objection, and with the consent of the committee, either express or implied, that did not create a new rule of procedure.

Mr. CONNALLY. No.

Mr. OVERTON. The only way to create a new rule of procedure would have been to adopt a formal resolution fixing a number less than a majority.

Mr. CONNALLY. Exactly. It is fundamental, it is absolutely basic, that any body must act by a majority. If we are to let a minority rule, we do not need a quorum, of course, but in committees and congresses fundamentally must act by a majority, then a majority is required in order to do business. On the other hand, constitutional provisions and rules of the Senate are made to protect and shield minorities, in order that a minority may see that a majority does not do something in violation of constitutional guaranties.

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

Mr. CONNALLY. I yield.

Mr. MCKELLAR. In view of what the Senator from Texas other Senators have said in discussing this matter, it seems perfectly clear that there was not a majority of the Judiciary Committee at the time referred to and a protest was filed at the time by the Senator from Mississippi [Mr. Doxey], and therefore the act of the committee was void. I wish to know why it is so necessary to uphold this supposed or void action of the committee. Why can the bill not be sent back to the committee, and the committee pass upon it when there is a majority present? There is a majoriy of Senators, and I have no doubt a majority of the Committee of the Judiciary, present in the city at...
this time. Why can not the bill be sent back to the committee? Why is such a hullabaloo made about it at this late day in the session when it has already come here at all? Why did its sponsors wait so long in the session? While we are in a war trying to protect our Constitution and ways of life, and our Government itself, while we are trying to protect the liberties of our people against a foreign foe, why should this horrible discord be brought into our deliberations when we can so easily add to the spirit of patriotism, and help the Constitution for 150 years. This is the first time, so far as I know, in those 150 years, when it has ever been claimed or asserted by anyone that the Federal Government possesses the constitutional powers asserted to be possessed in this bill which is dragged in here.

The election is over. It will be 2 years before we are down for the final action on it until another election approaches. People will forget all about it between now and then. They will want to know, "What have you done for me lately?" Expectations of reward in the future are much more compelling than rewards which have already been enjoyed and satisfied, and when a hunger has already been aroused for another reward.

Mr. President, we have been living under the Constitution for 150 years. Speaking as a Democrat—and I claim to be a Democrat; I will try to conclude as briefly as I can. I thank the Senator from Tennessee. I beg the Chair's pardon and will try to conclude as briefly as possible.

Mr. President, it seems to me that the Senate have recommit the bill to the committee and let them consider it and report it with a majority present. It should not be thrust upon us at this time. The truth is that we have had enough starch and ceremony in this bill for 2 or 3 years and everyone is entitled to a little censure. Why is it we have to be required to fight over a question such as this, which has been controvertial throughout our history? Why should we be required at the very last moments of the session, when all the general business has been transacted, to thresh out this question again?

I thank the Senator for having yielded to me. It seems to me that the Senate should send the bill back to the committee, and let a majority of the committee pass upon it before the Senate is asked to pass upon it.

Mr. CONNALLY. I thank the Senator from Tennessee. I beg the Chair's pardon and will try to conclude as briefly as possible.

Mr. President, of course, the Senator from Tennessee has put his finger right on the point, that the Senate ought not to consider any bill until it has had the consideration of a committee by a quorum of the committee. Of course, I regret that this measure should be brought in by the bill that is now pending under the Constitution for 150 years. This is the first time, so far as I know, in those 150 years, when it has ever been claimed or asserted by anyone that the Federal Government possesses the constitutional powers asserted to be possessed in this bill which is dragged in here.

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