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. ELIOT 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.

COMMITTEE HEARINGS

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization on Wednesday, November 18, 1942, at 10 a. m., to consider H. J. Res. 345 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 delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS of Arkansas: Committee on Claims. H. R. 6488. A bill for the relief of I. 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. C. Tommey; with amendment (Rept. No. 2628). Referred to the Committee of the Whole House.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. LELAND M. FORD:

H. R. 7778. A bill for the relief of Cecil Ray Murphy; to the Committee on Naval Affairs.

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:

Our 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 alarm, 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 860, to prohibit the sale of alcoholic 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 message of the President as it 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:

Mes amis, mes amis qui souffrent jour et nuit sous le joug accablant des Nazis, je vous parle comme celui qui en 1918 était en France avec votre armée et votre marine. J'ai conservé toute ma vie une amitié profonde pour le peuple français, le peuple français entier. Je retiens et je garde soigneusement l'amitié de centaines d'amis français en France et dehors de la France. Je connais vos fermes, vos villages, vos villes. Je connais vos soldats, vos professeurs, vos ouvriers. Je sais bien combien est précieux au peuple français l'héritage de vos foyers, de votre culture, et des principes de la démocracie en France. Je salue encore et affirme encore et encore ma foi dans la liberté, dans l'egalité et dans la fraternité. Il n'existe pas deux nations plus unies par les liens de l'histoire et de l'amitié mutuelle que le peuple de la France et des Etats-Unis d'Amerique.

Les Américains, avec l'aide des Nations Unies, font tout ce qu'ils peuvent pour établir un avenir sur, aussi bien que pour la restitution des idéals de liberté et de la démocracie pour tous ceux qui ont vécu sous le tricolore. Nous arrivons parmi vous à repousser les envahisseurs cruels qui voudraient vous dépouiller pour toujours du droit de vous gouverner vous-mêmes, vous priver du droit d'adorer Dieu comme vous voulez et de vous arracher le droit de mener vos vies en paix et en sécurité. Nous arrivons parmi vous seulement pour écraser et pour anéantir vos ennemis. Croyez-nous bien, nous ne voulons vous faire aucun mal. Nous vous assurons, une fois que la menace de l'Allemagne et de l'Italie est éloignée de vous, nous quitterons votre territoire immédiatement. J'appelle a votre réalisme, a votre propre intérêt et aux idéals nationaux français. N'encombrez pas, je vous prie, ce grand dessin. Rendez-nous concours ou vous pouvez, mes amis, et nous verrons revenir les jours glorieux ou la liberté et la paix règneront de nouveau dans le monde.

Vive la France éternelle!

GENERAL PERSHING'S LETTER TO THE PRESIDENT

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks a brief article published in the Washington Post of today which contains a letter addressed to the President of the United States by that great and distinguished general, John J. Pershing. The letter extends a dramatic invitation to his 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. That they will make that march no one now questions.

The VICE PRESIDENT. Is there objection?

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

[From the Washington Post of November 13, 1942]

THE AXIS HAS MET ITS MARNE—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."

"The Axis has met its Marne," the aging commander of the American Expeditionary Force assured his French colleagues in the 1918 victory over Germany. The enemies who inflicted 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 arrest the course of German barbarism. I tried to imagine what his response would be to your promise that the enemy which he confronted again will be beaten and the dream of a better world for which he died surely will be realized. As you spoke, 24 years seemed to roll back, with the consequence that, as his Commander in Chief, I dare attempt in all humility to say to you today the words which he cannot say.

"I am certain with you that our enemies who have visited all the horrors of a new war on the civilized world face final, inevitable defeat, that the high-water mark of their conquest has been reached, and that they are in recession. I am positive with you that the peoples whom they brutalized and the territories which they ravaged will, in the days

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 rebuilt, with fearless realism and without sophistry, on a more solid basis which does not contain this time the seeds of a new cataclysm.

"Over the last week end our troops, side by side with the fighting men of Britain and of France, took the first great step toward the total liberation of French soil and the soil of all the unconquered peoples. Patriotic Frenchmen will know that our presence in north Africa is the promise of their freedom, whether they are in German prisons, on the slave gangs of the German factories, or in the vast concentration camp which the German has made of France. My former comrades in arms will believe me when I tell them that the Axis has met its Marne, and that if they listen closely they will hear the tramp of marching men who not so long from now will be swinging along the Champs-Elysees on their way past Chateau Thierry, St. Mihiel, and Verdun to victory at Berlin. They will heed, I am certain, my invitation to form their battalions and join our ranks, so that the hills and the valleys of the patrie which I know and love so well will once more be free.

"Mr. President, in concluding, may I recall that the comrades of the boy whom we honored yesterday lie in rows of many thousands in the American cemeteries of France. I, their former commander, shall not be satisfied until the desecration in which they are now subjected is ended by the joint efforts of the United Nations, and they can sleep in peace.

"With high esteem and sincere regard, believe me,

"Faithfully yours,

"JOHN J. PERSHING."

ELIMINATION OF POLL TAX IN ELECTION OF FEDERAL OFFICERS

The VICE PRESIDENT. The routine morning business is concluded.

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Calendar 1716, House bill 1024, to amend an act to prevent pernicious political activities. Before the motion is put, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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

Andrews	Green	O'Mahoney
Austin	Guffey	Overton
Ball	Gurney	Pepper
Barkley	Herring	Rosier
Bilbo	Hill	Russell
Bone	Johnson, Calif.	Schwartz
Brewster	Kilgore	Spencer
Bridges	La Follette	Taft
Bulow	Langer	Thomas, Okla.
Bunker	Lee	Tobey
Burton	Lucas	Truman
Byrd	McFarland	Tunnell
Capper	McKellar	Tydings
Caraway	McNary	Vandenberg
Chavez	Maloney	Van Nuys
Connally	Maybank	Wagner
Danaher	Mead	Wheeler
Davis	Millikin	White
Doxey	Murdock	Wiley
George	Norris	Willis
Gerry	Nye	
Gillette	O'Daniel	

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

The Senators from North Carolina [Mr. BAILEY and Mr. REYNOLDS], the Senator from Alabama [Mr. BANKHEAD], the Senator from Alabama [Mr. BROWN], the Senator from Kentucky [Mr. CHANDLER], the Senator from Missouri [Mr. CLARK], the Senator from Idaho [Mr. CLARK], the Senator from Louisiana [Mr. ELLENDER], the Senator from New Mexico [Mr. HATCH], the Senator from Arizona [Mr. HAYDEN], the Senator from Delaware [Mr. HUGHES], the Senator from Colorado [Mr. JOHNSON], the Senator from Nevada [Mr. McCARRAN], the Senator from Montana [Mr. MURRAY], the Senator from New Jersey [Mr. SMATHERS], the Senator from South Carolina [Mr. SMITH], the Senator from Tennessee [Mr. STEWART], the Senator from Utah [Mr. THOMAS], the Senator from Washington [Mr. WALLGREN], and the Senator from Massachusetts [Mr. WALSH] are necessarily absent

The Senator from California [Mr. DOWNEY] and the Senator from Maryland [Mr. RADCLIFFE] are absent on official business for the Senate.

Mr. McNARY. The Senator from Vermont [Mr. AIKEN], the Senator from New Jersey [Mr. BARBOUR], the Senator from Illinois [Mr. BROOKS], the Senator from Nebraska [Mr. BUTLER], the Senator from Oregon [Mr. HOLMAN], the Senator from Massachusetts [Mr. LODGE], the Senator from Kansas [Mr. REED], the Senator from Minnesota [Mr. SHIPSTEAD], and the Senator from Idaho [Mr. THOMAS] are necessarily absent.

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

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

Mr. DOXEY. A parliamentary inquiry.

The VICE PRESIDENT. The Senator 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 after 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.

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 occupant of the chair was not presiding 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 rule, 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 presiding the distinguished chairman, the Senator from Indiana [Mr. VAN NUYS]. 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 gave my reason 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. Some efforts were made to amend the Guyer bill, and I was continuously, I hope without being pestiferous, making points of order against each and every step being taken by the committee. 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, I was objecting, making my points of order, 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 senior Senator from Nebraska [Mr. NORRIS] 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 Monday, I should like to have until Thursday to file them." That was perfectly agreeable to the committee, and the distinguished Senator from Nebraska very kindly said that when he asked consent to file the majority report he would also ask consent that the minority might have until Thursday to file minority views.

When the Senator from Nebraska came onto the Senate floor Monday morning, October 26, he stated that he was reporting the bill orally. When the distinguished Senator from Nebraska asked leave to make the report, and made the request that if the majority report were not made on Monday 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 minority views, as I had requested.

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 RECORD 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 and before the Chair for a ruling.

Of course, the bill went to the calendar, and now the motion is made by the distinguished Senator from Kentucky [Mr. BARKLEY] that House bill 1024, known as the anti-poll-tax bill, be made the order of business of the Senate.

In making my point of order, I realize that I could not make a motion to recommit 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 to my mind 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 NUYS]. We all have a peculiar affection 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 prescribes what 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, each for itself, the number of its members who 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.

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 executive calendar. Printed in the calendar of the committee are the rules of committee procedure. For the information of the Chair and of the Senate, I will read the following rules of committee procedure which have been adopted by the committee 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 (not including the court of any Territory or possession) is referred to the Committee on the Judiciary, the nomination shall be referred to a subcommittee to be 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 such subcommittee 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 which is referred to the Committee 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 any number shall 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 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 meeting, the 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 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 agreeable, but I am sure 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.

I address an inquiry to the Presiding Officer. When the Senate adopted rule XXV authorizing various Senate committees to fix, 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 says the committees are authorized to fix. What does "to fix" mean? I submit that it means that the only way to fix the number is by the adoption of a rule of a committee, as rules 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 able to ascertain, which provides that six members of the committee shall 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 any number 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 about its present 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 its 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, solemn 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 its members would have a perfect right to object if a motion or resolution had been presented to the committee by its distinguished chairman to fix the number of members who 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 power 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 real working numerical quorum being present, which is 10 members." It is the privilege of each committee member to present his own view of the matter. How could that question be settled? The only way it could be settled and be made a rule of the committee would be by a proper motion or a proper resolution voted upon by a quorum of the committee, as a quorum is considered. The matter of a quorum would thus be fixed, 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 that nature 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 those are the facts, as I have ascertained them 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 I was acting within my legal right in making the point of order, which was overruled. I think I am still acting within my legal right in making the point of order in the Senate at the first opportunity. This is the first opportunity 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. I have endeavored to consult and to examine the precedents. The first precedent I was able to find dealing with this matter occurred on June 26, 1914, in the Sixty-third Congress, second session.

Briefly, the facts were these:

The VICE PRESIDENT. The Chair lays before the Senate a resolution of the Senator from Nebraska [Mr. Hitchcock] to take from the calendar and rerefer to the Committee on Banking and Currency a bill the title of which will be stated.

I believe it was admitted that a point of order at that time against the resolution to rerefer the bill would have been sustained, because the bill was not before the Senate, Senator Hitchcock presented the matter by a resolution.

A bill relating to the regulation of stock exchanges had been reported from the Committee on Banking and Currency. The Committee on Banking and Currency had a membership of 12.

The facts and the decision of the Vice President were developed on June 26, 1914. The present occupant of the chair knows that rule XXV, which I have just cited, was adopted by the Senate on April 12, 1912, but the rule had not yet been printed in the Manual, and there was no attempt by the Banking and Currency Committee to say that it had, by a constructive quorum, by consent, or by any other means, agreed to anything by a quorum other than a majority of the committee. To my mind the discussion throws light on the subject, because after considerable 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 enter into a discussion of the merits of the bill, because it had been discussed pro and con, but he called the attention of the Senate to rule XXV, and said that whether or not a rule had been adopted by the committee pursuant to rule XXV—and such a rule had not been adopted, because Senator Owen had charge of the printing, and rule XXV had not yet been printed in the Manual—there was not a quorum 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 came in, which made six 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 placed on the calendar. The resolution of Senator Hitchcock was that the bill be rereferred 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 on the question. The Chair has 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.

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—although 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 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 I am sure that every member 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 a quorum.

The precedent which I have cited occurred on June 26, 1914, beginning on page 11166 of the CONGRESSIONAL RECORD for that date. There was a great deal of discussion about the merits of the bill, but I have given the substance of the discussion between Mr. Warren, Mr. Clarke, Mr. Hitchcock, and Mr. Reed regarding the question at issue. It is certainly shown by the debate in connection with this precedent that the action of committees in reporting bills should be jealously guarded. I wrote many such reports while I was a member of the other House. The report usually states that a majority of the committee, "a quorum being present," reports favorably, and so forth. The report of a committee, "a quorum being present," is the very essence of good legislation.

As I have said, the precedent does not show the vote of the Senate. It merely shows that the bill was rereferred by a vote of the Senate.

There is one other precedent to which I should like to call attention, because it involves rule XXV. It is of a more recent date, having occurred on July 8, 1918. It is reported in the debates of the Sixty-fifth Congress, second session, beginning at page 8860 of the RECORD for that date, and continuing for a number of pages. The discussion involved a bill providing 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 of South Carolina. A quorum of the committee, according to the rule of the committee, was present.

Mr. PENROSE. What are the rules of the committee as to a quorum?

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 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 permit 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 Interstate 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 definitely and specifically 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 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 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 it. That would be so, according to a strict construction of the third paragraph of rule XXV, if the committee in prescribing 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 very 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 to the motion should be 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 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 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 present; 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 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, 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.

I maintain that the point of order raises a serious and far-reaching question, because it goes to the very roots 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 denied that, although 9 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 it had. They did not know that the Guyer bill—all after the enacting clause—had been stricken out, and that the Pepper bill had been substituted in its stead, and that the Pepper bill had been amended to the extent of deleting the whereases and various sections, so that the bill which we have before us now is very greatly different—not, of course, in principle, but in language and in wording—not only from the Guyer bill but from the original Pepper bill.

Yet we have a report from the majority of the committee—it is headed "Majority report." I do not think it will be contended that it is proper to count the votes of members of a committee who are absent, even though they may have told some member of the committee how they would want to vote. I do not think that would be very seriously argued by any Member of the Senate, because certainly I cannot find any precedent for such procedure. When Senator SMITH made the statement that his committee had adopted the resolution and that the committee could count proxies for purposes of voting—not for purposes of ascertaining the presence of a quorum—certainly the Chair did not rule other than that a proxy is not permitted to be counted in ascertaining the presence of a quorum, because the actual presence of a member is necessary in order that he be counted in ascertaining the presence of a quorum.

We have here a measure reported by only 9 members of a committee composed of 18 members. The other 9 members were recorded as voting; but, as I say, they were not present and did not participate in the action on the amendments or in the committee deliberations.

Of course, in committees a number of things may be done and are done in the interest, possibly, of emergency or efficiency or some other good and sound reason. Even on the floor of the Senate action may be taken by unanimous consent; but even though that is so, action cannot be taken if objection is interposed. I do not think there will be any question that objection was interposed to the entire proceeding in the Judiciary Committee from the time when it began consideration of the bill until the time when the measure was reported. Then, after it was reported, when I made my parliamentary inquiry, when the distinguished senior Senator from Tennessee [Mr. MCKELLAR] was in the chair, other statements were made by various Senators, including myself, the distinguished chairman of the committee the Senator from Indiana [Mr. VAN NUYS], the Senator from Nebraska [Mr. NORRIS], and the Senator from Connecticut [Mr. DANAHER]. All of them made statements about what happened in the committee that morning, and certainly we find all of them in entire agreement and accord. I have tried to relate the facts in accordance with what happened.

So I maintain that we do not have a case of committee action by a quorum, as is recognized by parliamentary procedure. The rule the Senate adopted does not apply to a committee unless it takes advantage of it and acts in accordance with the provisions of the rule—in other words, unless it fixes the number of a quorum.

Mr. President, I do not have before me any precedents later than the precedents I have cited. I have not been able to find any precedents contrary to those I have cited. All the precedents I have found hold that if a quorum is attempted to be fixed by a committee—less than a quorum in the ordinary sense—the word "fixing" implies some positive, concrete, definite action by the committee, taken my means of a vote had in the usual way by the committee, as evidenced by some minute or other document of the committee. In view of that fact and the other facts I have presented, I most respectfully submit that my point of order should be sustained.

Mr. NORRIS. In the first place, Mr. President, there is nothing in the record to show that there was anything irregular or wrong with the action of the committee. I desire to discuss that point briefly, and then I want to discuss 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 of Congress nullified 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 up in the Supreme Court and say "Your 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 could be nullified in that way, 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 in the record.

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 record. 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 was actually a quorum of the committee at the meeting which reported the bill.

Mr. NORRIS. That is not the way to try a lawsuit; that is not the way to settle a record in a court—by taking the attorney's statement if there is any question about it.

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 wish to say to the Senator from Mississippi and the other Members of the Senate that 1 member of the committee, the junior Senator from Kentucky [Mr. CHANDLER], 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 strike 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? Was not that about what occurred?

Mr. DOXEY. I want to beg to differ from my distinguished friend. He may be right; but the action was taken on Monday, October 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 reporting the bill was taken, but on this 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 if he was not there at the time.

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.

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. 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, but, 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 Nebraska 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. If a Member came before the 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 told the committee how he wanted to vote. I should like 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?

I do not care whether this matter is considered from a purely technical standpoint, for if it is, the Senator from Mississippi has nothing on the record to bear him out. I do not care whether it be considered in that way. Take the statement of every committee member and there probably would not be much disagreement as to what actually occurred. It would be clear that we followed a procedure which, as the chairman of the committee stated, has been in vogue from a time whereof the memory of man runneth not to the contrary, that six constituted a quorum to do business, though not to report a bill, for when it comes to reporting a bill it is necessary to have a majority of the committee. The committee proceeded on the theory on which they have always acted. I do not know of a single exception. When a member of the committee wanted to be voted in a particular way, he was voted in that way. That included every member of the Judiciary Committee, so that it would appear that there were 13 votes for and 5 against.

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

Mr. NORRIS. I yield.

Mr. DOXEY. I understand the Senator to admit that six can do business, but, in order to report a bill, there has to be a majority present and voting?

Mr. NORRIS. No; I would not say that they have to be present and voting; they have to vote in favor of it; but the committee can let a member vote; the committee has that under its control. If the committee permits a Senator to say to the committee, "I want to be voted so and so; I have got to leave the room," and then he is voted so and so, that does not make the action of the committee illegal. In other words, that complies with the rule that the majority of the committee has got to be in favor of a bill in order to report it.

Mr. DOXEY. May I ask the Senator if the statement is made by a member of the committee at a meeting a week or 2 weeks prior to the time the actual vote was taken, does the Senator contend that the Senator making the statement can be counted as helping to constitute a quorum to vote for the bill even if he is not personally present?

Mr. NORRIS. I should think so. The Senator, however, has been too extravagant. Certainly it was not a couple of weeks before the committee took action that the Senator from Kentucky was present and made the statement.

Mr. DOXEY. I did not know we had 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 when the committee 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. HUGHES], who was sick, was not present.

Mr. DOXEY. Possibly that is so.

Mr. NORRIS. He did not get back until after the bill had been reported, but he was permitted to vote.

Mr. DOXEY. The Senator from Delaware was there when we had some discussion about the bill, when it was sent to the committee, but that was away back yonder.

Mr. NORRIS. Yes; but he was not there when the committee voted; he was not there on that day.

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 can 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 on one side, and I was on the other.

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, was present; Senator KILGORE, of West Virginia, was present; Senator MURDOCK, of Utah, was present; Senator MCFARLAND, of Arizona, was present; Senator DOXEY, of Mississippi, 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 was advised that Senator AUSTIN was actually present right here in 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 other Senators, members of the committee, were also engaged on other committee business that morning. But irrespective of that, as a result of our discussion, the chairman's ruling, and our vote on the question, we felt it was not necessary to send for them.

Mr. NORRIS. That is correct.

Mr. DOXEY. Will the Senator from Connecticut yield?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. NORRIS. Let me refer to what the Senator from Connecticut said first, and then I shall be glad to yield to the Senator from Mississippi.

Mr. President, committees of the Senate are of necessity obliged to do just what we did. That practice has always been followed. Never heretofore, so far as I know, has objection ever been made to it. The committee itself determines that a member who is not physically present, who has to leave, a member like the Senator from Vermont [Mr. AUSTIN], who was in another committee meeting at the time, may have his vote recorded. We have always followed that practice. All the committees do that. The committees have control of it. That is not a matter for the Senate to control, in my opinion. If a committee desires, it can say to a member of the committee, "You are over here in the other room, in a meeting of the Committee on Appropriations, and if you want to vote on this bill, we will permit you to do it." The member comes in and goes out. That is happening all the time.

It must be remembered, too, that the committees have no way of controlling the attendance of absent members. As the Senator from Connecticut has suggested, if we had sent to the other committee where the Senator from Vermont [Mr. AUSTIN] was in attendance, we had no way of compelling him to come to our committee. No one tried to do that. It was recognized he was doing something which other Senators do continually. We all do it. Senators are members of many committees, though that does not apply to me so much, because long ago I gave up the idea of trying to see how many committees I could serve on. I found it was useless and futile. But some Members of the Senate are members of five or six or seven committees, perhaps, and it may happen that several of the committees meet on the same day, at the same hour. It is a common occurrence for a Senator to come into one committee and stay there awhile and then go to another committee in order that both committees may be kept going and not block the progress of legislation. We have done that. We did it in this case.

If it is to be said, Mr. President, that no committee of the Senate has the right to accept a member's vote under any circumstances unless he is physically present legislation in the Senate will be tied up, practically, and no one wants that to occur. It is proper to consider what a decision sustaining the point of order would mean. It would mean that two-thirds of the time we would have to be waiting, we could not proceed, when we would otherwise be doing business.

There is not a quorum present in the Senate at this time, but if we should pass a bill, would our action be nullified on that account, although I have made the statement of the lack of a quorum? The records of the Senate would not show that there was not a quorum present. The report of the officials of the Senate, when they sent the bill to the House, would state that the Senate had passed such and such a bill, and it would be assumed that a quorum was present.

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

Mr. NORRIS. I yield. I had intended to yield to the Senator before, but I had forgotten that he had asked me to yield.

Mr. DOXEY. The Senator would not deny for a moment, however, that in our present situation in the Senate, if a point of order were made that a quorum was not present, the Chair would have to ascertain whether there was a quorum present?

Mr. NORRIS. Yes.

Mr. DOXEY. In the committee the point of order was made by me all along that there was not a quorum present, was it not?

Mr. NORRIS. Not all along. 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 one. But 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. If a committee cannot do it, a rule would not help.

Mr. DOXEY. Certainly a rule would 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. DOXEY. I did not know that point would 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. 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 least. 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. So far as I am concerned—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. VAN NUYS], said, as did the Senator from Texas [Mr. CONNALLY], that never were more than nine present at the committee meeting.

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 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. 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 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 adoption by the committee of such a rule. The chairman of the committee said that so far as he was able to determine the committee, from time immemorial, without a single exception, 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 he had been chairman. He asked other members of the committee who were present, who had formerly been chairmen of the committee, if they know anything different? They said no. 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 such action. We have always 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 physical 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 Senate 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 absentee members think about certain proposed legislation, and what they want to do, and the members present vote to 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 pursue such a course. Perhaps the Senate itself would not pursue such a course, but that is not the question. The question is, Had the committee the right to do what it did? If it had the right to do it, then, 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.

Now and then it is a good idea for Senators and Representatives to forget all the blacksmith-shop political talk and urgings from certain quarters and little groups of voters hid out in the brush and get 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
Barkley	Doxey	Norris
Bilbo	George	Pepper
Brewster	Gillette	Rosier
Bridges	Green	Taft
Bulow	Hill	Thomas, Okla.
Bunker	La Follette	Tunnell
Burton	Langer	Vandenberg
Capper	Lucas	Van Nuys
Caraway	McNary	Wagner
Chavez	Maloney	White
Connally	Maybank	
Danaher	Mead	

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 Senator 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 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. GUFFEY, 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 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 merely a prelude, 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 a quorum of men 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 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." I should like to have the RECORD show it. It reads:

3. That the several standing committees of the Senate having a membership of more than three Senators are hereby respectively authorized to fix, 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 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 for the bill.

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 me out when I state 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 for 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. 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 common parliamentary law 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. AUSTIN] in the Capitol here and off in another committee?" 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 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 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 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:

82 S. 1280; 269 H. R. 1024: The poll-tax bills—

Mr. CONNALLY objected to the consideration of these bills on the ground that a quorum was not present; that the Senate rules 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 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, or six.

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 that a committee must not fix 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 upon a quorum basis of one-third of the 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. NORRIS 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 on 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 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 simple 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 any army to support his views; he did not require a battleship, with heavy armament, but he prevailed under the Constitution of the United States, it being a jurisdictional question 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, 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. MURDOCK] is not at present in the Chamber. I wanted to call upon him, as he was present throughout the proceedings, to confer and ratify everything the Senator from Texas has 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 at the very inception, 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 toe of frog,
> Wool of 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. MURDOCK] has returned to the Chamber, and I should like to ask 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 item of the procedure, 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 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 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. 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. 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. No offer 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.

Mr. OVERTON. As the Senator has very well pointed out——

Mr. CONNALLY. It is not possible to repeal a law by violating 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 that in the absence of any rule to the contrary a majority 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. It never exercised that authority.

Mr. CONNALLY. No.

Mr. OVERTON. Therefore, a majority, or 10 members, was required to constitute a quorum.

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 so long as 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 and other Senators have said in discussing this matter, it seems perfectly clear that there was not a majority of the Judiciary Committee at the meeting 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 majority 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? How does it happen to 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 are about ready to adjourn and go home? Why is it necessary to pass upon this matter of peculiarly local interest, if I may so call a national situation? Why at this late day is it brought here? How is it brought here? Who is it that brought it here?

Mr. President, the motion was made by the distinguished leader. I happen to be a member of the Steering Committee of the Senate, but I have never heard of any instructions being given to our leader to bring this violently controversial question before the Senate. Why has it been done? I should like to know from our leader why it is that there is brought forward this controversial question, applying to our own internal situation here, in this time of war, in this time of danger when all our energies should be devoted to winning the war; the greatest war that has ever been waged against our people? Why is it that at the last moment this burning brand is flung into our midst to stir up the Senate as it seems to be stirred up about a matter which could well go over? Why is it that we are asked to vote on it when a majority of the committee was not present, and, of course, the committee could not report a bill unless a majority was present, or unless they had a rule that less than a majority could do it? And they seem to have had no such rule. Those are the questions which arise in my mind.

Mr. President, it seems to me the Senate should 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 been in session almost constantly for 2 or 3 years, and everyone is entitled to a little cessation. Why is it we have to be required to fight over a question such as this, which has been controversial 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; I 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 at this time. We have been living 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.

The election is over. It will be 2 years before another election comes around. Let me say to Senators that if they want this for an election bill they should postpone 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—let me say that the southern democracy, the southern Democrats, during the period when the old party has been weak and wobbly and could not get its breath, have gotten out the oxygen tent, and have kept the party alive, nurtured it, and looked after it, and, finally, when there seems to be a chance for success we raise campaign funds and send them to New York or Washington or somewhere else—I do not know where—I never see them after they come here. In 1936 the Democrats of my State, 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 to elect Democrats in the North and the national ticket.

After we in the South record our suffrage, the edict then goes out, "To hell with them. Bring them out. Where are those white so-and-so's from the South, those Democrats? Bring them out. We are going to ram these pineapples down their throats." [Laughter.] "We are going to humiliate them. We are going to punish them. We are going to tear the Democratic Party in two, if we can."

Mr. President, let me say, in conclusion, that Thaddeus Stevens, in the days of reconstruction—in the deepest wells of his hatred—or Charles Sumner, in the most intense moments of his bitterness and rancor, never proposed an outrage such as this which is now tendered to us by our own party and by our own leaders, who prefer a few little votes somewhere to the support of respectable southern Democrats, who have fought the party's battles in season and out of season, for which we are now receiving as our reward contempt and humiliation, because we happen to come from a section of the country in which we were born—in which our fathers were born—a section of the country which reaches back to the very foundations of the Revolution. Our ancestors shed their blood upon the battlefields of the Republic. They shed their blood side by side with the men from the North in the Revolutionary War. Southern men shed their blood side by side with northern men in the Spanish-American War, and in the World War, and are now shedding their blood on foreign battlefields.

Mr. President, we are Americans. We are Democrats. We have some rights. The Constitution is as much our possession as it is yours. We are entitled to be shielded by it, protected by it, as well as men from other sections of the land. There are no geographical questions in the Constitution. The Constitution does not say that below a certain line such and such is the law, and above that line something else is the law. We have as much rights as have any others to cling to the Constitution, and we have as much right to say that when the Senate of the United States acts it has got to act by a majority or a quorum; that when one of its committees acts it has got to act by a quorum, such as is either established by the rules of the committee, or the common law, or the rules of the Senate.

Mr. President, I hope the Chair will bear in mind the importance of this matter. The importance of the ruling will extend far beyond this particular question. If committees in this body can simply conduct a sort of a running debate on the sidewalk, or in their offices, or in the restaurant, and then have their messengers sent over to a committee and have the committee act, we are doing away with orderly, legal, constitutional, free government in this Republic.

I insist, Mr. President, that since the committee did not have a quorum at any time to consider the measure, and since the committee has not adopted a rule fixing less than a majority as a quorum, and the point of no quorum having been made in order and in time throughout all the proceedings, the bill is improperly before the Senate, and ought to be sent 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 add to the remarks 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 person 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.

Mr. DOXEY. May I ask 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 NUYS. The junior Senator from Kentucky was not present at any time on October 26. He was present the preceding Monday, and I remember 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 NUYS. That is correct.

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

Mr. VAN NUYS. Yes.

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

Mr. VAN NUYS. 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 to the recollection 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 "yea" or "nay" at their request. That 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 appeared 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 attacked, it is a personal attack on me and every other member of the committee. I do not want the news to be 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 of the committee.

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

Mr. VAN NUYS. 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 think it is any reflection 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 by a majority of the committee? I do not think it would be any reflection on the committee. It would demonstrate the desire of the committee to be absolutely correct 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 mouth of everybody 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 NUYS. 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 question for many months. The subcommittee gave very careful consideration to the constitutional aspects of the bill. It held public hearings at which leading lawyers 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 NUYS. 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 right.

Mr. VAN NUYS. In answer to the Senator from Mississippi, as I said on the floor of the Senate last Monday, he handled himself 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 how proud and happy 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 I have a constitutional right 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 NUYS. 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 overwhelms me.

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

Mr. VAN NUYS. I yield.

Mr. PEPPER. I 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 opportunity was 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 accorded it. I am sure that several attorneys general and several Governors actually appeared before the subcommittee.

Mr. VAN NUYS. That is true.

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

Mr. VAN NUYS. I yield.

Mr. LANGER. That was done after the hearings had been closed. They were reopened especially for that purpose.

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

Mr. VAN NUYS. I yield.

Mr. OVERTON. Did their presence constitute a quorum of the committee?

Mr. LANGER. The hearings had been closed 2 weeks previously.

Mr. OVERTON. Were 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 NUYS. 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 a majority 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—as the Senator from Nebraska [Mr. NORRIS] has said, since time immemorial—we fixed six as 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 academic, elementary principle of parliamentary law, that a rule established by long practice is as binding as a written resolution properly adopted.

So the whole question, Mr. President, is whether the Judiciary Committee acted in perfect accordance with its rules, practices, and precedents. I say, without fear of contradiction from any Member of the Senate or any member of the committee, that it did. I hope the point of order will be overruled.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H. R. 7528) to amend the Selective Training and Service Act of 1940 by providing for the extension of liability, and it was signed by the Vice President.

ELIMINATION OF THE POLL TAX IN ELECTIONS OF FEDERAL OFFICERS

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). The Chair is ready to rule on the point of order raised by the Senator from Mississippi [Mr. DOXEY].

Mr. BARKLEY. Mr. President, did the Chair say he was ready to rule?

The PRESIDING OFFICER. Yes. However, he will be glad to hear from the Senator from Kentucky.

Mr. BARKLEY. I hesitate to take the time of the Senate and the Chair if the Chair is ready to rule.

The PRESIDING OFFICER. The Chair will be glad to hear from the Senator from Kentucky.

Mr. BARKLEY. I would not take further time were it not that I feel I ought to respond to the reproach which has been leveled at me by the Senator from Tennessee and the Senator from Texas.

It has been said that I have flung a firebrand into the Senate in the shape of the pending motion which I have made, at a time when the Senate is about to adjourn because it has no further business to transact. If the Senate is about to adjourn this session it is news to me. I have no information to that effect, nor have I heard any rumors which would justify me in holding out any hope that the Congress will adjourn before it expires by operation of law, either on the beginning of the new session or shortly previous thereto.

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

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

Mr. BARKLEY. I yield.

Mr. McKELLAR. Only about 6 weeks remain before that date shall have arrived, and we shall certainly adjourn then.

Mr. BARKLEY. Yes.

Mr. McKELLAR. Unless, of course, we throw away the remnants of the Constitution which are still held to be in existence.

Mr. BARKLEY. Mr. President, we have been a nation for more than 150 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 appeasing and satisfying all elements in the Senate, or in the country. I have been in favor 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. VANDENBERG] would not amend his resolution providing for an amendment to the Constitution so as to require 18- and 19-year-old boys to pay a poll tax before voting.

I do not want 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 our 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 then 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.

Be that as it may, when the question 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 the Senate might act upon it, 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 it is 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 I 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 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 any legislation by calling the steering committee to pass upon whether the legislation should come before the Senate. I have not in any instance called 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 chairmen of committees who have charge of legislation here, although I recall that during the early days of the present administration, when my distinguished 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 to pursue. 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 him and the other members of the committee to get

the bill on the floor, the Senator from Nebraska [Mr. NORRIS], and the author of the bill, the Senator from Florida [Mr. PEPPER], who introduced the bill originally, all felt that I should make the motion, in view of my position here and because I had manifested some interest in the measure, and because I had publicly and privately manifested my support of it. I made the motion.

I made it because, as majority leader of the Senate, I felt it my duty to make it, and I still insist that in such a situation as this I do not 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 anyone else. I was willing to make it, and I made it. It is now before the Senate.

Mr. President, it may be that if the House of Representatives had not acted upon the measure under the circumstances which I have indicated there might not have been as much urgency upon the Senate Committee on the Judiciary to report the bill; because if 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 still will be on our doorstep, and in all likelihood if the Senate does not act promptly upon it the House of Representatives will do so, even if it has to resort to the discharge of a committee, as it did in this case. So we do not dispose of the question simply by saying that we should not act upon it now in the midst of war. I regret these controversial matters; I regret that I cannot agree with my friends, for whom I entertain an affectionate regard. I do not see why there should be any reason for anger in regard to the question simply because I happened to make a motion to proceed to the consideration of a bill which is on the calendar and which has been reported to the Senate.

Be that as it may, we all do our duty here as we see our duty to be; and in these hectic times we cannot hope that in the performance of our duty we can receive the approbation of all our colleagues.

Now, I desire to refer for just a moment to the point of order. I realize, Mr. President, that if the Chair believes that under no method whatever can a Senator vote in a committee unless he is physically and personally present, the Chair will have to sustain the point of order made by the Senator from Mississippi; but when the Chair so holds, if he does, it would mean that no chairman of a committee could, outside of a formal session, take a bill to the members of the committee and get their endorsement of it in their own handwriting, and legally report it to the Senate. We all know that frequently we hold committee meetings. The Constitution does not require that a committee shall meet in a room. The rules of the Senate do not so provide. A committee might meet on a park bench, as was done by Bernard Baruch. The members of a committee may meet at any place, although there is a rule, which I should like to have the Chair recall that—

> 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.

On the same theory that in the House of Representatives, although they have 435 Members, 100 Members constitute a quorum in the Committee of the Whole for the transaction of business; and I presume it is on the same theory that Senate committees are authorized by the rules of the Senate to name less than a majority as a quorum for the transaction of business, although no report can be made of a bill or resolution without a majority. In other words, in this case it would take 6 votes—6 being a majority of 10 which would be a numerical majority of the committee—to make a favorable report of a bill to the Senate.

Then the rule continues:

> 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.

I am not certain whether the word "authorized" means that members must be sitting around a table in a room when a majority of a majority authorizes the report of a bill, or whether a member of the committee who may be a member of another committee, in session at the same time, may leave his vote with the chairman of the committee. That frequently happens with most of us; it does with me. I have frequently been in the Committee on Finance when the Committee on Banking and Currency was in session at the same time; I have gone by the Committee on Banking and Currency and have left my vote there and have explained how I wanted to vote, and then have gone to the Committee on Finance. Other Senators have done the same thing. Vice versa, I have done the same in respect to the Committee on Finance when there was a meeting of the committee to consider a matter upon which I wanted to vote. If I had to be at some other place, I have gone by the committee and have authorized the chairman to cast my vote in a certain way.

The committees are servants of the Senate. They are created in order to facilitate the business of the Senate, and all of them act with more or less informality, as we all know. I believe that a Senator, a member of a committee, who is necessarily and unavoidably detained elsewhere at the time when a meeting is in progress in a committee has the right to have his sentiments recorded on the roll call in the committee; and that is done day after day, year after year, in all the committees of the Senate.

If the Chair holds that that cannot be done, of course that means that the chairman of a committee cannot secure the authorization by his own signature, outside of a formal session, to the reporting of a bill. It means that all our practice and our custom, which I grant may be informal and may not be strictly parliamentary, cannot be followed. However, I do not believe that the strict rules of parliamentary construction, as we have proceeded in the Senate, make it necessary in all instances that a Senator be within the four walls of a room in order that he may give his consent to the reporting of a bill or express his dissent from the reporting of a bill. If that is to be the rule, 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 things, Members 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. No; I said I was not. I said I could be at only one place at one time.

Mr. CONNALLY. Exactly.

Mr. BARKLEY. But in the Senator's committee I have authorized my vote; and 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. No one was making a point of no quorum, however.

Mr. BARKLEY. I grant that.

Mr. CONNALLY. If any member of the committee had made the point of no quorum, the situation would have been different. It is analagous to pairs in the Senate. When a Senator pairs he simply indicates that if he were present he would vote "yea" 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 if he so instructs the chairman and there is no objection. That is a different set of facts from what we have in this case. There is no question here about anybody 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

rules on the Senator's point of order, which is based upon the fact that at no single time in the committee that day was there more than a membership of nine, I could not have done in that case, if I had been a member of the Judiciary Committee, what I have just described as the custom of many of us in regard to committees of which we are members, because we would have to be physically present within the four walls of the committee; otherwise any member could make a point of no quorum, and if there was no quorum present, notwithstanding half a dozen members were in the same situation as I described a moment ago, no business could be transacted.

Mr. DOXEY. But the Senator has admitted that it has to be somewhere near the same day or the same time.

Mr. BARKLEY. I am not talking about my colleague the junior Senator from Kentucky.

Mr. DOXEY. I was not, either.

Mr. BARKLEY. I do not know when he was in the committee. It may have been a week before or a day before. I have no information about that, and I do not base my contention upon the fact that he stated at any time prior to the vote that he wanted to be recorded for the Pepper bill. I think he had a right to do that, and any other Senator would have a right to do it. I take it for granted that when the nine Senators who were absent on the day in question authorized the chairman or the leading opponent of the bill to cast their votes one way or the other their votes would be recorded. It seems that six absentee voters voted for the report and three voted against it; so there was no question made as to the right of those who were against the bill to have their votes recorded.

My point is that if the Senator's contention is correct that there must be always a majority in the committee room when a bill is voted on, it would preclude any member having his vote recorded unless he was there in person, because, if he can do it from the next room he might do it from the White House or some other place in Washington or outside Washington.

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

Mr. BARKLEY. I think the Senator from Mississippi has the floor.

Mr. DOXEY. I am glad to yield.

Mr. GEORGE. I should like to make a suggestion. The pertinent point of this inquiry is the committee action, not the action of individual members of the committee. Whatever may be the practice—and we have all accommodated ourselves to the informal manner of transacting business in the Senate—the point of the inquiry here is, Did the committee take legal action? Unless a majority of the committee was present, it was never legally organized, it could not be legally organized, and, whatever individual Senators may have done thereafter or in the meantime, it seems to me is entirely aside from the real point of controversy. If a majority of the committee should meet and organize the committee, it would be perfectly proper for any committee member to register his vote through the chairman on request or by proxy unless there was a rule of the committee to the contrary.

After the organization of the committee, it would not necessarily be broken up because some individual members of the committee desired to absent themselves from the committee room after having registered their vote. But it seems to me—and I suggest this thought for the consideration of the majority leader—that before there can be any legal action upon a piece of legislation it must be committee action, notwithstanding the fact that a majority of the whole committee if they were polled informally would vote for it and had indicated their intention and their purpose to vote for it. That is peculiarly true, Mr. President, when any member makes a timely objection that the committee is not organized, that there has not been a quorum present in the room at the committee meeting at the time and place to which the committee was called.

It seems to me that, although there is an inconvenience about it, the only possible safe course for legislation is to determine this issue just as if it were any ordinary question in which nobody had any feeling at all, and to say very frankly if there were no legal organization of the committee there could be no committee action.

I do not know what are the rules of the committee; I grant that less than a full majority may be declared by the committee to constitute a quorum for the transaction of certain kinds of business; but when a member of the committee who is present insists that he has a right to have the committee present to pass upon an issue raised, it is a very dangerous precedent to say that the committee is organized with power to transact business when there is not, in fact, a quorum present in the committee room.

Mr. BARKLEY. So far as the organization of the committee is concerned, I presume the Senator from Georgia contemplates organization each time it meets. Of course, committees are not organized in the ordinary sense that parliamentary bodies are organized. The Senate organizes the committees; the Senate names the chairmen of the committees, and when they meet they are organized so far as the committees themselves are concerned. I do not adhere to the belief that when a committee meets members who are unavoidably detained from the committee may not themselves authorize the chairman of the committee or some member of the committee to count them as present for a quorum so that they may express their views upon legislation.

I realize that, as a rule no one objects to such procedure. It may be said that it is always done by unanimous consent. Yet I think if we adhere strictly to the doctrine that an absent member of a committee cannot by any method except his own personal attendance have a record of his vote on legislation, that we unnecessarily tie the hands of committees and their members.

Mr. GEORGE. Mr. President, I do not want the Senator to misunderstand me on that point. If the committee is legally organized, if it is there, then the committee may decide that an absent member may be counted as present or may have his vote cast or may have his vote recorded, but the whole point of this inquiry is, has there been action by the committee, not by individual members of the committee.

I beg the Senator's pardon for referring to his statement that the Senate organizes the committees. The Senate constitutes the committees, and the committees meet at the times and places of call. That is obliged to be true. Until a quorum of the committee has met, it is not legally organized.

Mr. BARKLEY. Of course, I do not want to delay the proceedings on a technical controversy and I shall desist in a moment. I return to my original statement that the committees are agents of the Senate through which the Senate transacts its business in regard to legislation. Of necessity the committees are agents of the Senate and servants of the Senate, and a member of a committee so assigned by the Senate is still a member of the committee, though he may not be in the room at the time the committee takes action. He does not cease to be a member of the committee because he does not happen to be present at a particular meeting. In order that the Senate may function, and in order that the committees may function, we have, from time immemorial, recognized the right of members of committees to be recorded on legislation whether for or against it. If that is all "haywire," if it should never have been done, and the Chair sustains the point of order, in all likelihood it will not be done any more, because committees would not take the chance even of reporting a bill here by a poll. I have taken a poll of members of committees and obtained the unanimous signatures on the back of a bill and reported it on the floor of the Senate, and other chairmen have done the same thing.

If the Senator from Mississippi is right about the rule, that was wholly illegal. The committee ought to have been called out into a room and voted formally although they had authorized the report of a majority as a majority when they gave their authority by signature on the bill and O. K.'d its report. I believe that action taken in that way is authorized by the committee as much as if they went into a room, sat down, and discussed for a week the bill involved and then voted to report it. If the contention of the Senator from Mississippi is correct, that could not be done, because they would have to meet in a room somewhere and have a majority of all the members present.

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

Mr. BARKLEY. I yield.

Mr. DOXEY. What the Senator says about meeting in a room is not my contention at all. My contention is that if an attempt were made to poll the committee and a quorum did not sign the bill, and someone was there objecting to the polling of the committee, or objecting to the action of those who did sign, and made a point of order, the point of order

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, or agree to report it, by 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 poll a committee 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 if 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 strenuous objection to it, and 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 consideration for the members of his committee would insist upon it. I certainly would not.

I yield to the Senator from Georgia.

Mr. GEORGE. I was merely about to suggest that 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 the 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 withhold that point until I can make a report?

Mr. OVERTON. I am willing to withhold 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 wish 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.

Mr. NORRIS. I make the point of order that the call for a quorum is dilatory. No business has been transacted since the last quorum call.

Mr. LEE. Does the Senator from Nebraska understand that I merely wanted to report a bill?

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	Doxey	Millikin
Austin	George	Norris
Ball	Guffey	Overton
Barkley	Hill	Pepper
Bilbo	Kilgore	Taft
Brewster	La Follette	Tobey
Bulow	Langer	Truman
Bunker	Lee	Vandenberg
Burton	Lucas	Van Nuys
Caraway	McKellar	Wagner
Connally	McNary	Wheeler
Danaher	Maloney	Wiley
Davis	Mead	Willis

The PRESIDING OFFICER. Thirty-nine Senators having 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. CAPPER, Mr. JOHNSON of California, Mr. MURDOCK, Mr. NYE, Mr. O'DANIEL, Mr. O'MAHONEY, and Mr. ROSIER answered to their names when called.

The PRESIDING OFFICER. Forty-six Senators having 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.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky [Mr. BARKLEY].

The motion was agreed to.

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

After 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 at the time the rule was adopted very clearly indicates that the author of the resolution and a majority of the Senate desired to provide for a larger attendance in person of Senators, and to prevent what some Senators at the time felt was an abuse—namely, two or three Senators getting together, constituting themselves a quorum of the committee, and utilizing proxies.

Two precedents have been cited. They are the only ones which 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 was made between 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 least one-third of 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. There seems to be no record extant 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, Shall the decision of the

Chair stand as the judgment of the Senate?

Mr. BARKLEY. 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. BILBO. 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. They certainly would not be bound by any rules under which the previous personnel of the House had operated. For that reason 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 wishes to 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 stagger 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 several new faces will appear in the Senate on the 3d of next January, and that that will also be true in the other 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 monstrosity—the bill we are pretending to discuss—it strikes me that the signs of the times might suggest to our distinguished leader that it is about time to have a steering committee; otherwise there may be too many new faces in the Senate. If we had had more steering committees in the past few months and had done a little more regulating, it is possible that fewer new faces would appear among us next January. However, Mr. President, that is a matter within the jurisdiction of the leader.

I do not consider the Senate to be a continuing body from the standpoint of its right and duty to adopt its rules every 2 years, at the beginning of a new term, if the rules under which we operate mean anything. With all due deference to our colleague who is in the chair, subsection 3 of rule XXV reads as follows:

That the several standing committees of the Senate having a membership of more than three Senators are hereby respectively authorized—

Authorized to do what?

authorized to fix, each for itself—

That is, each committee—

the number of its members who shall constitute a quorum thereof for the transaction of such business as may be considered by said committee.

The chairman of the Judiciary Committee very frankly and positively announced to the Senate that there was no record in his committee of any affirmative action taken by the committee to avail itself of the privilege granted by the rules of the Senate. The Judiciary Committee is under the jurisdiction of the Senate, and it has no more right to say that six, seven, or eight members shall constitute a quorum to transact business than it has to say that one member shall constitute a quorum. If the Judiciary Committee wanted to avail itself of the consideration granted by the rule which I have just read, which is the law of the Senate, and under which the Judiciary Committee was operating, it was necessary for the committee to express a willingness to accept the authority granted to the committee by the Senate under rule XXV. To do so it would have to act openly and make a record of it. It would have to adopt an order, or take some affirmative action in order to avail itself of the privileges granted by the rule.

The rule goes on to say:

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 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.

It is conceded by all that a majority of the entire membership of the committee was not present. The way in which they undertook to operate—and I am sure that that was in the mind of the present occupant of the chair in making his ruling—was on the basis that by mere custom, mere habit, their rule would be binding. However, I am stating that the committee has no authority to take advantage of the grace that is granted by rule XXV in making less than a majority of the committee a quorum, unless it has taken affirmative action in that respect. It cannot do so on the basis of custom.

This body is reputed to be the greatest 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 constitute a quorum by taking 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 in order to make up a quorum of his committee. Like Amos and Andy, the members of the committee would have to be present in 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 nine, there was not a majority—under all parliamentary rules—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.

I grant 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 report unless a majority was present to take affirmative action.

Although I have great deference and respect for the intellectuality of the Senator who occupied the chair and who made the ruling, I think the ruling is wrong; in this case I think the Chair has gone wrong, as all good men will sometimes go wrong. I think he has gone "haywire" in a very conspicuous way; because the facts as enunciated today by my colleague, the Senator from Mississippi [Mr. DOXEY], prove conclusively that not a quorum was present. A number less than an actual majority of the committee will not suffice in this case; because the records of the Committee on the Judiciary prove that at no time, under no circumstances, either orally or in writing, did the Committee on the Judiciary ever avail itself and fix by affirmative action of the committee a number less than a majority of the committee as a quorum to take action in the committee. Not having done that, can they come to us and say, "Oh, it is just a good old senatorial custom," and propose to palm that off on us? If we are the greatest law-making body in the world, certainly we should live up to the rules and regulations under which we operate.

Mr. President, I am very sorry to take issue with the Senator who occupied the

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 their offices, 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; I am speaking for the RECORD 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, Seventy-seventh Congress, second session, held on July 19, 1941, and March 12, 13, and 14, July 30, and September 22 and 23, 1942, on Senate bill 1280, a brief or memorandum filed by the Honorable Arthur G. Edwards, of Montclair, N. J. To my mind, Mr. Edwards covered the matter thoroughly; and he covered it in such an intellectual 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 those who are urging the passage of 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. OVERTON. I thank the Senator.

Mr. BILBO. The distinguished leader, the Senator from Kentucky [Mr. BARKLEY], says that he has been for this bill because he believes that everyone should have the right to vote, and that it is wrong—criminally wrong, grievously wrong—to call a man to fight for his country unless he is given the right to vote. The other day he was very anxious to call out the 18- and 19-year-old boys to sacrifice their lives for their country, and yet he is making no effort to make provision for them to vote.

Unless some other Member of the Senate does so, before we conclude the discussion I shall offer an amendment to extend to the 18-, 19-, and 20-year-old boys of the Nation the right to vote in all elections, in every election; because if they are wise enough and sufficiently developed in mind, spirit, and body to go forth and fight for their country, and are willing to give their lives for their country, and if we are willing to trust them at the front to defend the country and all that is precious and priceless in the American way of life, let us be gracious enough to follow the spirit that prompted the expression from our distinguished leader, and give them the right to vote. Unless some other Senator offers such an amendment, before we conclude the discussion I shall do so myself.

In his memorandum Mr. Edwards states:

I. The bearing of the United States Supreme Court's decisions on the problems presented by the bill, S. 1280, have been most ably discussed by many speakers, including notably Hon. HERRON PEARSON in the House on September 11, 1940. For that reason I will confine my discussion largely to a detailed consideration of the meaning to be ascribed to the word "qualifications" as used in the Constitution of the United States. It appears to me that the bill seeks to alter or restrict the accepted standard meaning of the word, and if this is so, it seeks to withdraw elements of this meaning which the word possessed when it was introduced into the Constitution in 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 when in 1913 the seventeenth 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. Just why this bill, S. 1280, comes up for consideration at this time following a long succession of cases thoroughly exploring and judicially defining its subject matter, extending from *Ex parte Yarbrough* (110 U. S. 663 (1883)); *Williams* v. *Mississippi* (170 U. S. 213 (1898)), and culminating in *Breedlove* v. *Suttles* (302 U. S. 283 (1937)), and *Pirtle* v. *Brown* (118 Fed. (2d) 218 (1941)) in the United States Court of Appeals and 62 Sup. Ct. Rep. 64), is difficult to discern except as 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 jurists and lawyers, practically all of whom agree 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 electors 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 discovered that there rests squarely 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 was then 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 from what it has been during 150 years, 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 will hold such a damnable and unconstitutional 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 first Court in 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 provision.

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 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 talent on the Judiciary Committee 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 with 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. AUSTIN], who has the reputation of being one of the most intellectual Members 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.

This 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 because we find men, such as the Senator from Vermont [Mr. AUSTIN] 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 politics.

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 political 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, although we have 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. *Classic et al.* (313 U. S. 299 (1941)) and *Pirtle* v. *Brown* (62 Sup. Ct. Rep. 64 (1941)).

The Classic case is important in this connection for two reasons:

First. Because only three changes, the retirement of Mr. Chief Justice Hughes and the accession of Justices Byrnes and Jackson, have occurred since the case was decided. The then eight members of the Court were unanimous in holding that Congress had the power to regulate the manner of holding primary elections for Federal officers by preventing and punishing corruption, though three of the Justices held the terms of the particular law under consideration did not refer to primaries.

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 affecting Federal officers.

Second. Because it furnishes numerous clues as to how 7 of the present Justices regard the principles declared in Ex parte Yarbrough, supra, the leading case on "qualifications." It is highly significant that in this classic decision Mr. Justice Stone, now Chief Justice, cited or mentioned the Ex parte Yarbrough decision some 7 times, and that Mr. Justice Douglas in his dissenting opinion, concurred in by Justices Black and Murphy, cites or mentions the Yarbrough decision 4 times, and in none of these 11 references in all to Yarbrough, quoted approvingly, does there appear a scintilla of doubt that the principles of the Yarbrough decision still, in the minds of at least 7 of the present court, correctly portray the constitutional provisions 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 any ground for believing that the court would hold that Congress had any power to make it a crime for a local election official to obey the constitution and laws of his own State 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, was, 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 recent cases, as well as new angles to the problem, with the expressed hope that it would disclose grounds for court of appeals finding powers in the Constitution which 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 did indeed deprive any citizen of suffrage rights guaranteed by the United States Constitution and again decided that not any of the provisions of the State constitution mentioned in the arguments did so deprive a citizen.

James G. Morrison, professor of constitutional law, Tulane University, in a pamphlet, The Poll Tax, published by the Southern Conference for Human Welfare, says at p. 14:

"The basic theory underlying the Pirtle case is that a right and privilege arising out of the Constitution of the United States is not subject to State taxation in any form. This doctrine of immunity from taxation is founded upon the essential nature of sovereignty."

This was obviously written before the three judges of the Circuit Court of Appeals for the Sixth Circuit unanimously rejected this new theory in the decision above, saying:

"The Tennessee statutes and constitutional provisions requiring the payment of an annual poll tax for school purposes as a condition precedent to the right to vote do not as respects right of electors to vote at an election to fill a vacancy in the House of Representatives deprive elector of any privilege or immunity protected by the Federal Constitution."

Note the use of "condition precedent" as a synonym for "qualifications," one of the meanings emphasized hereafter.

On October 13, 1941, the United States Supreme Court denied the petition for writ of certiorari in this case at 62 Supreme Court Reports 64. The only notation therewith says Justice Jackson took no part (presumably on account of his late qualification). The legal effect of this disposition of the case, I understand, is equivalent to saying that eight members of the Supreme Court were satisfied that the case was properly disposed of by the circuit court of appeals.

V. S. 1280 seeks an objective beyond the powers of Congress to enact. Congress has no power to subtract elements from the meaning of commonly used words in the American vocabulary—and in particular from "qualifications." For Congress to attempt to enact "that a poll tax be paid as a prerequisite to voting—is not and shall not be deemed a qualification of voters or electors—within 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 1913.

The alarming thing about the contention of the sponsors of the proposed legislation is, as a matter of fact, that the only peg they have on which to hang their hats, for which anyone on earth who knows anything about law would have any respect, is the guaranty of the Constitution that the United States, as a central controlling superpower over the States, shall see to it that the States are guaranteed a republican form of government.

When the Constitution was adopted, in 1787, and the founding fathers provided that the qualifications of electors in the various States to vote for Members of Congress should be those of the electors voting for the personnel of the most numerous branch of the State legislature, every member of the Constitutional Convention knew that practically all the Thirteen Original Colonies at that time, as States, had property qualifications for voters, not the poll tax alone, but in many of the Thirteen Original States it was provided that before a man could exercise the right of franchise he had to possess so much money, or had to own so many acres of land, or had to own property of a certain value. All these qualifications were in force at the time the Constitution makers said that the qualifications of a man to vote for a Member of the United States Congress—what he should have and must have—would be the same qualifications as those of a man who was voting for a member of the legislatures in the respective States. I repeat, the only peg on which the sponsors of this legislation can hang their argument that is worthy of consideration is that the people in the States where the poll tax is imposed are being denied a republican form of government. That is the only ground that is worthy of consideration.

Is it not passing strange that for 150 years, beginning with the first year of the constitutional Government in 1787, or in 1789, when the machinery really became organized, various and sundry States have had property qualifications? Some have had the poll tax, some have had this, and some have had the other. No one has ever raised a question, or announced to the world that the people in these States, or the States themselves, were being denied a republican form of government. It took 150 years to discover that. It was not until after the lapse of 150 years that the Senator from Florida and the distinguished majority leader discovered that the people in 8 States were being denied a republican form of government, while during the 150 years the other 40 States had qualifications for their electors similar to those now obtaining in the 8 States. The people in these States, it is said, have been denied for 150 years a republican form of government, and now we find distinguished gentlemen weeping on the shoulders of a few colored brothers—Socialists, anarchists, some of them, as will be seen by reference to some of the folks who testified before the House committee. It was a motley crowd, to say the least. It is thought that the Supreme Court will go along with the legislation in violation of the Constitution. Mr. President, I do not hesitate to say that any man who knows anything about law and about the Constitution has to stretch his conscience a mile or so to support a measure of this kind, because he should know that it is in violation of the Constitution.

I now resume the reading:

(B) When used by various States in their State constitutions during the past century prior to its usage again in the XVII amendment added in 1913.

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;

(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 redefinition of the word, and thereby deprive States of their reserved power to say what conditions precedent they consider essential as qualifications for electors for their own "most numerous branch of the State legislature," or to appoint Presidential electors "in such manner as the legislature may direct," discussed later at No. XX herein, or handicap the States' power to raise revenue for educational and other State purposes by forbidding the levy of a type of tax of long standing.

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. BILBO. 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 any election in which a national officer is to be elected, the prepayment of a poll tax, and that therefore the Congress of the United States has ample authority 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 about that. 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 desired to add a qualification or to withdraw a qualification, and especially to add a qualification, proceeded in the constitutional way. They proceeded to amend the Constitution of the United States; that is, both Houses, 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 it never occurred to the Congress to undertake legislatively to decree that the women of the land should be permitted to vote, appealing as that would be—much more appealing than the subject matter of the proposal now before the Senate. Therefore the Congress of the United States by a two-thirds vote finally adopted a joint resolution proposing a constitutional amendment, which was duly ratified. It is not because of any enactment by the Congress of the United States, but because the Constitution of the United States was amended, that today women are permitted to vote.

Mr. President, to recur to the subject matter in which I was interested, to which the passage from which the Senator just quoted referred, it is the contention of the proponents of the bill that Congress 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. Why does Congress have to pass an act declaring that any action taken by the States is unconstitutional, when we have courts established in the land, from inferior courts on up to the Supreme Court of the United States, to determine whether or not any act of the Congress, any act of the legislature of any State, is repugnant to the organic law of the Federal 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 court 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 of that privilege 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 as to 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 case, and one 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 he agrees with me in the statement, 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 statement?

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 are saying to the world, and, I repeat, it is the only ground upon which they can argue for their bill, that the people of these 8 States—formerly 48—now are being denied something which belongs to them under the Constitution; that they are denied the right of a republican form of government in violation of the Constitution. As my distinguished colleague said, if that be true, then those who are aggrieved have a case which they can carry to the courts, rather than to come to the Congress and ask the personnel of the Congress to violate their oaths by voting for such a monstrosity as this Pepper bill.

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 undertake to ascertain what the purpose of the Congress was in passing such 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—is a constitutional qualification? Would not the courts take the Constitution 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? 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. If any proponent of the bill should rise to his feet during the course of the debate and undertake to speak in favor of the bill, I shall certainly propound to him the question I have raised, because I think it is a serious question; 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 bill is being offered.

I thank the Senator from Mississippi for yielding to me.

Mr. BILBO. I want to thank the Senator from Louisiana for his pertinent and timely inquiry and observation in connection with what I was saying about the bill.

Mr. NORRIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BUNKER in the chair). The Senator will state it.

Mr. NORRIS. Who has the floor, the Senator from Louisiana [Mr. OVERTON] or the Senator from Mississippi [Mr. BILBO]?

Mr. BILBO. Mr. President, I have the floor.

Mr. NORRIS. If the Senator from Mississippi has the floor I should like to call his attention to the fact that in my judgment he has lost the floor, and he is now engaged in making his second speech in one day on the same question.

Mr. BILBO. To whom is the Senator from Nebraska talking? I am still making my first speech today.

Mr. NORRIS. No, the Senator from Mississippi lost the floor when he permitted the Senator from Louisiana in his time to make a half-hour speech.

Mr. BILBO. I yielded to the Senator from Louisiana.

Mr. NORRIS. I understand, but the Senator from Mississippi cannot yield to another Senator to make a speech in his time.

Mr. BILBO. The Senator from Mississippi can yield to the Senator from Louisiana to ask a question, the same as the Senator from Mississippi is now yielding to let the Senator from Nebraska explode at this time.

Mr. NORRIS. If the Senator were to undertake to read the whole Bible he could not yield to other Senators to let them read from the Bible, and thus have the reading go on from one Senator to another. I submit that the Senator from Mississippi lost the floor to the Senator from Louisiana, and that the Senator from Mississippi is now making his second speech today on the subject.

Mr. BILBO. If the Senator from Nebraska is going to be supertechnical about the matter I shall have to decline to yield to the Senator in order to keep the floor. I try to be courteous and to yield when a Senator asks me to yield, and will do so, unless I should lose the floor by yielding.

Mr. President, I thank the Senator from Louisiana [Mr. OVERTON] for his statement. He said that perhaps a mistake was made when we submitted to the States the constitutional amendment to permit the women of the Nation to vote; that perhaps that objective should have been reached by legislation; that perhaps it was not necessary to amend the Constitution in order to accomplish that purpose. I am sure that if the Congress has the power to reach over into the sovereign States and tell the States that they cannot impose certain qualifications, and among them even property qualifications, or a poll-tax qualification, as a prerequisite for voting, then the Congress would certainly have had the right to reach over and tell the States of the Union that they were denying the right of human beings to participate in

the Government of this country simply because they were females. The tedious and long-drawn-out process of amending the Constitution in order to give suffrage 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 at the present time. That was not in the days of the PEPPERS and the BARKLEYS who know how to reach the result in a more direct way, through an act of Congress, in the hope that the 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 sounder source can be cited than Sir William Blackstone whose classic Commentaries were published in 1765–69 and already authority in America, from which I quote:

"The true reason of requiring any qualification with regard to property in voters is to exclude such persons as are in so mean a situation that they are esteemed to have no will of their own" (Commentaries I, ii).

Ownership of property and use of part of that property toward the sustaining of the Government by payment of taxes are both in the same category.

The poll tax is of ancient origin. In this country the tax, says Mr. Barry Bingham, "was clapped on the American colonists by their English masters in the days before our own Revolution."

A poll tax, in the origin of the name, is a tax on the poll or head and not upon the privilege of voting at the polls, and has 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 identical tax which Congress by article I, section 9, clause 4, is permitted to levy; a "capitation tax" when properly apportioned among the States. Aliens, in Georgia, who are not permitted to vote, are nevertheless assessed the poll tax.

Mr. President, I wish to take occasion to announce my position about the poll tax. I have no more patience with the imposition of a poll tax than possibly the sponsors of this bill have. For 4 or 5 years I have been fighting and urging the people of my State to repeal the poll tax as a prerequisite to participation in the party primaries of the State, which could be done by an act of the legislature. The poll tax is a prerequisite to voting under section 241 of the constitution of my State; but from time to time I have urged the legislature to do away with the payment of a poll tax as a prerequisite to voting in the party primaries. However, I am sorry to say that the people of my State have not seen fit to do so.

Many persons think that by repealing the poll tax we are paving the way for the Negro to vote. If one reads the hearings, he will find that the whole "racket" is about the poor Negro. The proponents of this measure wish to provide a way for him to vote. The bill would be worth as much to the poor white people of my State as to the 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 right 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 know that in the State of Louisiana the poll tax was imposed 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 State of Louisiana did 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 memorialize Congress to enact any law on the subject, but proceeded to set in motion the machinery for a constitutional amendment modifying our own law?

Mr. BILBO. Absolutely. In connection with what the Senator has said about the poll tax, the abolition of the poll tax in Louisiana had no effect whatsoever upon the question of the Negro voting in Louisiana. It made no change.

Mr. OVERTON. Negroes do not vote in Louisiana, except to a very limited extent.

Mr. BILBO. The sponsors of the proposed legislation need not deny the fact—because the printed hearings which have been placed upon the desks of Senators prove it conclusively—that the whole fight is an effort to qualify Negroes of the eight poll-tax States to vote in elections. That is the crowd which is sponsoring the proposed legislation, as is attested by many witnesses who appeared before the Senate committee.

Perry Howard, a distinguished Negro from my State, who practices law in the city of Washington, appeared before the committee. He is the Republican national committeeman from my State. Howard was frank enough to tell the committee that, so far as helping the Negro to vote in Mississippi is concerned, the proposed legislation, which seems to be gnawing at the heartstrings of some of the politicians, would have no effect, and would do the Negro no good. It would not give him the right to vote.

As a matter of fact, there is nothing in the Constitution of the State of Mississippi which prohibits a Negro from voting. The proposed legislation would have no effect upon the race question in Mississippi so far as the Negro voting is concerned. If the sponsors of the proposed legislation should succeed in having it passed—and they may succeed next year—no more Negroes would vote than now vote.

The Constitution and laws of Mississippi provide that if anyone pays his poll tax on time for 2 years, and is registered, he may vote. There is nothing in the Constitution or the laws of Mississippi which prevents the Negro from voting. In fact, several thousand Negroes vote in that State. Yet, we hear all this crying and weeping about the poor Negro whom it is proposed to turn loose to vote, who is being denied his rights, and who should not go to war and fight because he is denied the right to vote. He is not denied the right to vote any more than are 200,000 white people in my State. A similar situation prevails in the other States which have a poll-tax law.

Personally and officially, I resent the implications of the pending bill. Forty-eight States make up the Union, and in the past practically every one of them has had as a prerequisite qualification the ownership of property, citizenship, and so forth.

By their efforts and their counsel during the past 150 years, the voters of those States repealed or changed this qualification and that qualification of the voter. The qualifications of voters in the various States differ. But when 8 States see fit, in the management of their sovereign business, to retain the poll tax as a prerequisite, the remaining 40 States get together and propose by force to make us do what they have been doing and what required some of them 150 years to do. In other words, the other States want us to do as they have done. They seem to have the attitude that they are somewhat better informed than States which require this prerequisite to voting. I say frankly to those States that we have not disturbed them during the past 150 years in the way in which they have conducted their business and qualified their electors, and that they have no business to interfere with us. It is none of their business, and I propose to fight this proposal to the finish.

I dislike to take up the time of the Senate. Some Members who have sponsored the bill have talked about unity and cooperation. They tell us that we must not disturb anything—that we must all pull for the winning of the war—yet we have had thrust upon us a proposal which would do more to disorganize the country—especially a part of the country—than anything which has been brought before the Congress in a quarter of a century.

I say very frankly to the sponsors of the proposed legislation that by trying to force this damnable piece of legislation

upon the eight States of the South which still have the qualification under discussion as a prerequisite they are administering the coup de grâce to the Democratic Party. I think it is very fitting that the leader, who made the motion to take up the bill, should administer the coup de grâce to the party which he leads.

I read further from the statement in the hearings before the subcommittee.

The Constitutional Convention of 1787 was aware of the abridgment of the right to vote in certain States because of failure to pay taxes as well as of other numerous abridgments mentioned hereafter.

That is what I have been contending all along. When the founding fathers provided that the qualifications of electors to vote for a Member of the House of Representatives should be the same as those of electors for the most numerous branch of the State legislature, they knew that practically every one of the 13 States had certain prerequisite qualifications before their citizens could exercise the right of franchise. Some had one qualification and some had another. Some of the States went so far as to require that the voter be the owner of a certain number of acres of land; other States required the voter to live in the State and precinct for a certain length of time. We have similar qualifications in the State of Mississippi. However, the sponsors of the proposed legislation are so grievously affected by the conditions which they find among their brethren in some of their sister States that they propose to cram this legislation down the throats of certain States when the same conditions prevailed for 150 years in other States before they were changed. If these 8 States are left alone, they will work out their own salvation. They all have a republican form of government; and they do not require an age of PEPPERS and others to find out what a republican form of government is.

I quote further from the statement in the hearings:

Nevertheless the Constitution they agreed upon provided, without exception, that the definition of the qualifications of electors was a matter for the States themselves, with their wide divergence in practice, to fix and determine. Their determinations were to be final so far as qualifications for electors for representatives were concerned.

"Words and terms are to be taken in the sense in which they were used and understood at common law and at the time the Constitution and amendments were adopted," with citations. (The Constitution of the United States of America (annotated), 68th Cong., S. Doc. No. 154; ch. on Rules of Construction, p. 45.)

Time does not detract or subtract legally from the original meaning content of the words of the Constitution—though the progress of time may expand meaning, as witness "commerce among the States." Qualifications as they existed and were understood in 1787 and 1913 are still qualifications in 1942, if the constitutions and laws of the States affected still so ordain. No pertinent change has been made in the Federal Constitution since either of these dates.

VII. (B) Prior to 1913, the Tennessee Constitution, quoted in *Pirtle* v. *Brown*, supra, provided:

"There shall be no qualification attached to the right of suffrage, except shall give satisfactory evidence if he has paid the poll tax assessed."

The Tennessee poll tax is a tax for school purposes, as is the Georgia tax involved in the Breedlove case. Other States used the word "qualification" in the same sense.

"Nine States require (as a right to vote) the assessment or payment of State or poll taxes, seven of them being in the South (Alabama, Arkansas, Florida, Mississippi, Tennessee, Texas, Virginia). Massachusetts simply requires assessment of poll taxes; Pennsylvania specifies actual payment" (Pennsylvania Constitution, art. VIII, sec. 4, but repealed 1933) (State Government and Administration in the United States, Arthur W. Bromage (1936), p. 113).

Among the 36 State legislatures whose ratification in 1913 incorporated the seventeenth amendment providing "the electors (for Senators) in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures" were the Legislatures of Texas, Tennessee, Arkansas, and Pennsylvania. It must be presumed that these 4 legislatures knew that payment of poll taxes was by the constitutions and statutes of their respective States one of the qualifications or conditions precedent to the right to vote for members of their legislature. The ratifying legislatures of the other States must also be charged with like knowledge of existing qualifications in other jurisdictions. The word "qualifications" "should have a reasonable construction according to its terms as defined in the vocabulary of the people which adopted it" (Rules of Construction, supra, p. 37).

VIII. (C) Webster's Dictionary defines "qualification" as "a condition precedent that must be complied with for attainment of a status"—here the status of elector or voter. Also as "that which qualifies a person for or renders him admissible or acceptable for a place, an office, or employment, any natural or acquired quality, property, or possession which secures a right to exercise any function, privilege, etc., specifically legal power or ability, as the qualification of an elector."

And Century Dictionary:

"Property qualification—the holding of a certain amount of property as a condition to the right of suffrage, or the exercise of some other public function."

These definitions are equally applicable to the payment of public taxes as a condition of the right of suffrage, should the people of a State in adopting their State constitution so ordain.

Let me remark here that in my State in 1890, when we adopted the present constitution, we provided, under section 241, that in order to be a qualified elector the voter had to pay all taxes legally required of him on or before the first day of February of the year in which he offered to vote; but we commenced to liberalize the right of franchise; so in 1935 we inserted into the constitution, amending section 241, by a vote of 13,000 against to 39,000 for—which discloses the attitude of the people of my State—a provision by which we removed the payment of personal and realty taxes as a prerequisite to voting, and confined the requirement to the payment of the poll tax only. That is the requirement of the present constitution.

The memorandum continues:

"Qualify" is derived from the Latin qualis: "how constituted" (Webster); "of what kind" (Century). It connotes merely an inquiry as to what qualities are included or possessed, without any implications of particularly appropriate qualities or particular fitness. Qualification is a technical matter and not a personally analytical term or test. For an illustration, turn to Addison's Spectator, early in the same century as the Constitutional Convention, and note his usage:

"The first of them, says he, that has a spaniel by his side, is a yeoman of about 100 pounds a year, an honest man. He is just within the game law, and qualified to kill a hare or a pheasant."

Whether he could hunt hare and pheasant, but not deer, was very evidently not a matter of fitness, skill, or courage but of inclusion within a technical set of rules based on income governing qualifications.

Qualification as an elector has, indeed, embodied many concepts which are "tests of fitness," such as literacy, intelligence, good behavior, and wealth, which latter presumes an interest in community affairs. Though the history of many wealthy bosses—Tweed, Prendergast, et al.—disputes fitness because of wealth. But qualification has also included inhabitance of voting district, registration, a citizen or fighting ancestor, age, and sex. To say that sex as a qualification of electors was a "test of fitness to vote," as claimed by proponents is to say that during the century and a third preceding 1920 the women of certain of the States were fit to vote and did vote for Representatives and Presidential electors, whereas well into the twentieth century the women of over half of the States were still not "fit to vote." By this test the women of my own State, New Jersey, were "fit to vote" from 1790 to 1807, but "unfitted" thereafter until 1920. However, after 1915 they could regain "fitness" by removing to New York State. Nor did Congress in pre-1920 days have the right to say women were "fit to vote" or rather that they could vote. This was then an arbitrary qualification test which the States alone, with their varying standards, could make.

IX. (D) The Supreme Court's decision in *Ex parte Yarbrough* (110 U. S. 651 (1883)) deserves close analysis as it has been followed in so many later cases. It decides, first, "The State cannot prescribe the qualifications of voters for Members of Congress." The United States has done that through the Constitution; second, "the Constitution merely adopts the qualification furnished by the States as the qualification of its own electors for the popular branch of their legislature."

This exact formula must remain fixed until the Federal Constitution is amended. The United States accepts the determination of the States that one of its citizens is or is not qualified to vote for the popular branch of its legislature—it takes this decision "all or none." Congress is without power to pick and choose, accept or reject, items in the States' tests of qualifications.

The State's election officials cannot be required by Congress to prepare two poll lists for registered voters—one for State officials and another for national officials. The State prepares a list of those who "have the qualifications requisite for electors of the most numerous branch of the State legislature," guided 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 by the Federal Constitution, without further authorization, makes it, in its entirety, the list of those qualified to vote for Congressmen and Senators. While the seal of approval of qualifications flows from these two different sources—the Federal Constitution and the State constitution—the details of the two streams are not separable, since the former adopts the latter in toto. The body of eligible 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

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 nominated 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 at the polls. The voters in one class would be qualified to vote for candidates for Federal offices and State offices; they would be qualified to vote the whole ticket, all the way down. Another class of voters would come to the polls in November, a class composed of those who could vote only for candidates for Federal 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 complication 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 cannot yield for any other purpose.

Mr. PEPPER. Let me 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 have already most of the 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 legislation, that the States will attempt to follow the lead and suggestion of his bill to abrogate the payment 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 abrogated by the Legislature of Florida, by the citizens of Florida, and immediately after the repeal the Senator from Florida [Mr. PEPPER] appeared on the scene and was promptly elected to office. Am I correct?

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 primary next succeeding 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.

Mr. BILBO. Both?

Mr. PEPPER. I was elected in November 1936.

Mr. BILBO. Before the repeal.

Mr. PEPPER. Before the repeal. The Legislature of Florida repealed the poll tax in the session of 1937. I was renominated and reelected in the year 1938, and in my State there was an increase of over 100,000 in the number of voters participating in the 1938 primary over the number participating in the primary of 1936, wherein State officials were nominated.

Mr. BILBO. No doubt, great crowds of Floridians made their way to the polls to vote for such fine senatorial timber as the Senator from Florida.

I read further from the brief:

If a voter who has not paid his poll tax is denied the right to cast his ballot for Congressman and Senator, the ground for such rejection is not that he has not paid his poll tax, but rather that he is one whom the State—for its own reasons—has decided is not qualified to vote for State legislators.

X (D continued). The Supreme Court in 1937 in *Breedlove* v. *Suttles* (302 U. S. 283) decided:

"To make payment of poll taxes a prerequisite of voting is not to deny any privilege or immunity protected by the fourteenth amendment. Privilege of voting is not derived from the United States, but is conferred by the State, and, save as restrained by the fifteenth and nineteenth amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate."

In other words, the right to vote is an inherent right which comes from the power of the State. In the Convention of 1787 the States, for the sake of having a centralized government, surrendered certain powers, and in order that there might not be any misunderstanding about those powers they were put in writing and they were signed. They were definite, they were specific, and any power that was not found in that written document was reserved unto the States. The right to fix qualifications of voters was reserved likewise unto the States, and the States have enjoyed that right for 150 years, until the days of BARKLEY and PEPPER, and now it is proposed to force the eight States which see fit to continue requiring these qualifications, mild in form, not prohibitive at all, to abolish them. The money is used for a good purpose—for public education. Yet it is sought to intrude and help us run our affairs when those who seek to force this measure upon us have been running theirs for these 150 years. I think they are beside themselves. I think they are not even courteous. I think they are wrong, that they are radically wrong.

They may say, "We are looking after the downtrodden and the folks who are discriminated against. We are trying to enforce the true ideals, the great American ideals, in time of war." I know the speech they make. That is what they say. They want to make it thoroughly democratic, and to give all the Negroes in Mississippi who have to fight the right to vote. I say very frankly the bill is not worth the paper it is written on. It is not going to result in one single, solitary Negro vote. Put that in your pipe and smoke it.

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 together shoulder to shoulder as brothers, to contribute everything to the winning of the war. Yet they inject a question here which has been undisturbed for 150 years, in connection with which it is desired to force 8 States to conform to the ideas of 40 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 Democratic Party, of which I am a member; and I do not deny being a party man. I say that because the National Democratic Party will not have a ghost of a chance in any election to elect a President or to control the affairs of the Government unless it is backed up always by the solid South, and this piece of legislation will do more to lose the South to the Democratic Party than any legislation that has been brought forward in 150 years. Mark my prediction. We have had enough monkey business 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 of this bill are administering to the party of which they claim to be members.

For Congress now to attempt to declare "that a poll tax to be paid as a prerequisite to 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 1937. In the Breedlove decision, the Court said: "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 is an alien, 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 phraseology 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 eligible to vote for members of its own State legislature which requires that a poll tax be paid before voting "shall be deemed an interference with the manner of holding elections for national officers" and "it shall be unlawful" and be considered a tax upon the privilege of voting, appears the height of futility and a most aggravated invasion of State affairs.

We seem to have forgotten the doctrine of State rights and the sovereignty of States.

XI. The right to vote in America has never been universal. American lawmaking bodies 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 constitutions of many States permitted only members of the dominant church or those holding certain religious beliefs to vote. Property ownership was a common qualification in 1787. In Rhode Island it continued until 1842 and was the reason for the attempt—largely by those disqualified—to overthrow the existing constitutional Government, resulting in Dorr's Rebellion.

The existence of this legislative practice of "qualifying" was clearly recognized by the Constitution makers, and in the 1787 Convention no effort was made to define the suffrage, this being left wholly to the States, as in article I, section 2.

It is urged in one of proponents' published documents which can presently only be identified by its heading: "A Statement s to the Constitutionality of Senate Bill 1280" that "there was no suggestion in the debate (Constitutional Convention 1787) that it would be improper for the Federal Government to determine the qualification."

And that the clause in article I, section 2, "and the electors in each State shall have the qualifications required for electors of the most numerous branch of the State legislature," was a compromise and justified as such. This argument for a present change in the meaning of words is wholly without merit as respects the validity or permanence of the "compromise." What the Constitution says on the subject is final, until amendment, and this compromise is no more to be upset or disregarded because of assumed changes of conditions than are the other great compromises—equal representation in the Senate, inclusion of "three-fifths of all other persons" in the basis for representation in the House (until amended by the XIV amendment), and no limit upon "importation of persons" until 1818. The admission that it was a compromise almost proves alone that the compromise must stand until changed by amendment as was the three-fifths representation clause. Not even citizenship of the United States as a prerequisite for voting for Congressmen was considered a matter of national concern. For a century and a quarter after the adoption of the Constitution aliens might vote in some States for members of the most numerous branch of the State legislature and hence for Members of Congress. Discrimination against aliens was not forbidden by amendments XIV (1868), XV (1870), and XIX (1920). The rights of citizens to vote were freed from certain types of discrimination by these amendments when it was federally declared that qualifications based on race, color, previous condition of servitude, and sex must no longer deny or abridge the right of citizens to vote.

There is a way, I will say to the Senator from Florida [Mr. PEPPER], who seems to be the principal sponsor of this devilment, by which property or poll-tax qualification can be removed. The founding fathers dreamed that there would be just such people as the Senator from Florida and the Senator from Kentucky in 1942, and they provided in the Constitution the way by which the Constitution could be changed. That way is open to the Senator. The Senator can obtain what he is after, and I am sure such a constitutional amendment can be passed by a two-thirds vote of the House and of the Senate, and I suspect that the three-fourths of the States necessary to ratify the amendment can be obtained, and that the Senator from Florida can reach his goal and his objective in that constitutional way, rather than to rape the Constitution and try to get his colleagues to violate the solemn obligations they took upon themselves when they took their oaths of office and swore to sustain the whole Constitution. The way is prepared for the Senator. I merely wish to point that way out to him. I trust he will pursue the course I have suggested, because I doubt whether he will get anywhere along the route he has begun.

If Senators who are sponsoring this proposed legislation had been here in 1920, they would have stopped the Congress from submitting to the States the constitutional amendment 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 republican form of government 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 proponents of the measure have the court they think they have now—but I think the sponsors of the proposed legislation are going to be fooled in their court.

Legal types oi qualificr tion or abridgement 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, insanity, lack of probity of character as indicated by a record 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, but they 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 real property, ownership of any 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 district, registration as a voter with taking of statutory oaths, possession of a grandfather who had voted prior to 1867 or thereabouts, teaching of polygamy.

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—he has or he has not—and the State does not inquire into his reasons 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 nevertheless remain qualifications. And status as a contributor to the good of the State through tax payments has frequently been required 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 assert:

"Congress has the right to decide whether a given condition is in fact a qualification, that is a test of fitness."

which is the main theme of the unsigned 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 their 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 infer that it was used in that sense by the 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 "qualifications" in the Federal Constitution, the constitutions of the States of Tennessee, Mississippi, Arkansas, South Carolina, Louisiana, North Carolina, Alabama, Virginia, Texas, and Georgia then in effect, were all making poll-tax payment a qualification, a prerequisite, or a condition precedent for voting (The Poll Tax by Emory Forbush—Editorial Research Report, July 3, 1941). The legislatures of Tennessee, Arkansas, North Carolina, Texas, and Pennsylvania, who each knew what their own qualifications were, voted for the seventeenth amendment. In 1889 Florida adopted a statute with similar effect. And to this list must be added Pennsylvania's constitution, article VIII, which until amendment, in 1933 required payment of a State or county tax assessed against the prospective voter individually (in which category were only poll and occupational taxes), as a qualification for a qualified voter. The Pennsylvania situation is particularly valuable as a study because removed from the particular conditions which darken consideration of the subject in the South.

In one of the briefs recently filed with the committee, bearing several well-known names, it is declared—

"The payment of a poll tax has no rational relationship to the citizen's capacity to participate in the choice of public officials. The most shiftless of men may pay the tax because he found $5 on the street. The worthiest citizen may prefer to feed his family."

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

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 allowed 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 also a mass of private understandings, conversations, and agreements, which establishes a custom.

The PRESIDING OFFICER. In the absence of a technical construction of the rule, it would be the usual procedure to permit a Senator to be recognized if he had not concluded his speech. Of course, such an arrangement can be made by unanimous consent.

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—American citizens.

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 rPesident 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.

FORGIVEN 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 and they will not tolerate any charges of lack of patriotism on the part of those who were pro-American, who wanted to prepare for national defense, who wanted to avoid war. They have no patience with, and they are resentful toward, those rabid interventionists with financial connections abroad; those who are more interested in preserving and increasing our opportunities for world trade than they are in maintaining our constitutional rights, in preserving the "four freedoms" here at home.

THE PEOPLE BELIEVE IN AMERICA

The people have no patience with those, however high-minded they may be, who would join the whole world in a common brotherhood—by the sword force the people of India—all other peoples—to accept our or England's political theories of government. They are angry—deeply angry—at those who tell us that after this war is over—that after the victory has been won—the American farmer must furnish a quart of milk to every inhabitant of the world; that the American farmer must furnish the raw materials to feed and to clothe every individual member of a world-wide population, even though they choose to sit in idleness.

They have become resentful toward those who tell us that we must not only finance this war; that millions or more of our young men, the pride of our land, must die on foreign soil, playing the game of the world, but that we must feed and finance the world after the war.

REMEMBER—WE ARE PRO-AMERICAN

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. The Middle West has fought. The Middle West can fight. The Middle West will fight for the preservation of a national independent constitutional government, and if the small group of internationalists who think they see in this war an opportunity to destroy our national existence—make us a part of a super united states of the world—have such an idea in the back of their heads, they better get rid of it or prepare to do some fighting themselves.

Women and men who have lost their loved ones in this struggle are going to fight with a fury and a determination that has never been surpassed to preserve here in America the liberty declared in Independence Hall, won by the barefoot, half-famished 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 we are in it 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. HOFFMAN, nothing that can be said will lessen our determination to win this war, but we know" and by "we" he meant the boys on his ship—"that we are not fighting for the 'four freedoms' here at home." He further said that unless we watch 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 force, made a similar statement.

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 devoting its undivided efforts to the winning of the war, nor to war production.

Our people are aware that the President is now calling for an armed force of 9,500,000 by the end of 1943. They have been told by the Brookings Institution that it will be necessary to increase the number of workers by 6,400,000 persons. That even if the administration plan to import 150,000 Mexican workers goes through, the increase in the armed force 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 establish 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 know that failure 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 the land, 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 back to his comrades in Detroit that they should "fight for a Soviet America." Walter Reuther is the man who was one of the leaders in the bloody violence during the sit-down strikes in Flint, Mich., in 1937. Walter Reuther is the man who has been in the forefront in so many of the strikes, the beatings, and the sluggings 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 combat service through the action of a Federal agency while the farmers' sons march off to war. Reuther remains here at home to create dissension in the ranks of the workers—carry on political campaigns in behalf of the New Deal, smear Republican candidates while other men are dying in defense of our country.

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, 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 BROOKS, 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 sense of decency 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; that is why they voted, by 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 conceit 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 criticism, 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, a defiance of the law, the denial of constitutional rights to American workers.

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

Mr. HOFFMAN. I yield briefly.

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

Mr. HOFFMAN. If we could have an election every 6 weeks, Congress would get straightened out; but when we get elected we come down here and on the first day we are here what do we hear? Over on our side we congratulate each other on the big vote we got and we tell each other how smart we were to get it. Those on the other side possibly may shed a few tears that this one or that one will not be back again, but contend it will not be long before they will return. But we do not get down to business and do what is necessary to straighten out the trouble. 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.

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

Mr. HOFFMAN. I yield briefly.

Mr. COX. 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 do violence to their sense of obligation to principle and to the Constitution.

Mr. HOFFMAN. I understand that. I know what the gentleman is going to say. You will find it in an editorial appearing in the Chicago Tribune of yesterday, which pays tribute to some of the southern Members of this House. I hope the gentleman will put it in the RECORD.

Mr. ROBSION of Kentucky. Will the gentleman yield?

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

Mr. ROBSION 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 what success the gentleman from Michigan had in his district; what his majority was, and so forth. I would like to know that.

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

Mr. Speaker, do not misunderstand me. We are back of this war, to the very last word, to the very last thought, to the very last deed. But I have no patience and our people have no patience with this policy of the administration, which hinders war production. That vote was not a Republican partisan vote—Democrats voted that way. It was a protest—an anti-New Deal vote.

When the reporters called the President's attention to the strikes which were interfering with war production, and he asked, "What strikes?" well might they have answered, "Mr. President, we refer to the strikes instigated and carried on by your protégé, Walter Reuther."

The people are bewildered by a policy which takes their 19- and 20-year-old boys and forces them into combat forces while at the same time it refuses to write into the law calling them to service a provision guaranteeing that they have adequate training before fighting. Their bewilderment is not lessened when they learn from a news dispatch from Ottawa, Ontario, Canada, that at the ill-fated Hong Kong expedition where nearly 2,000 Canadians were lost to the invading Japanese, an investigating commission of the Canadian Government admitted that some of the troops were inadequately trained and lacked mechanical transport.

With the teen-age boys being drafted for combat service, with no guaranty of adequate training written into the law, they wonder why it is that thousands upon thousands of apparently physically fit men of draft age are in soft jobs in the Federal Government. They just cannot understand why other thousands of union men are permitted to remain in positions of security, working a normal workweek of 40 hours, while their boys from the farms, who work 12, 14, and sometimes longer hours, are taken from essential food production.

Their bewilderment is increased when, turning their hands to war production on the farm, they find themselves powerless because the young men have gone to the war, because they themselves can no longer get adequate farm equipment and then read, as you and I read, accounts of strikes, slowdowns, and work stoppages in our factories. Amazed and shocked are they by these news reports similar to the one which this morning confronted me when I picked up the Washington Times-Herald and under black lines, "Building unions take holiday," learned that "thousands on United States jobs here quit work." And why did these thousands on November 11, Armistice Day, quit work here in the city of Washington? They quit work because working on Armistice Day they were not to receive pay and a half instead of regular pay—for example, a dollar and a half instead of the regular dollar an hour.

The boys fighting in Africa, in the Solomon Islands, all over the world, on every continent, on every sea, did not lay down their guns yesterday, on Armistice Day. Yet here in Washington, on the President's doorstep as it were, thousands of workers on Government jobs, one of which was the $70,000,000 war building, quit, refused to work yesterday just because they were not given pay and a half. Their action is due, similar action in the past has been due to the coddling, the political conniving of this administration with labor politicians and racketeers.

AN END TO SPECIAL PRIVILEGES

Not a farmer, not a laboring man, not a man behind the counter or in business in the Fourth Congressional District of Michigan is unaware of the hard, cruel fact that this administration is behind the policy which makes the American taxpayer pay a wage and a half for every gun, tank, ship, and plane which is produced in the 8 hours which follows the 40 hours of work in 1 week.

None is there who does not realize that every implement of war produced in this country is, because of the policy of the President and his administration, if it be produced on a holiday or Sunday, made to cost twice what it would otherwise cost. There is neither man nor woman nor school child 14 years of age who thinks on the subject who does not realize that after those in munitions factories have worked on war production 40 hours a week, if they work 8 hours more, produce one-third less for the same money than they would if we had a longer workweek. No one is so dumb that he does not understand and resent the administration's policy which for a given number of dollars gives us half as much war production on holidays and Sundays as we would get for the same amount of money were that policy not enforced. Double pay for war work, here at home—a dollar or $2 an hour just does not make sense to the parents of the boy who is fighting in Africa for $60 a month. The war cannot be won on a 40-hour week nor on pay and a half or double pay for those in safe jobs here at home.

While all know that there is this hampering of the war effort not all have understood why it has been permitted in wartime to continue. However, many do know and many at the polls expressed their disapproval by their ballots—many do know that this situation exists because in return for these special favors granted to labor leaders and labor racketeers the administration expects to get and has had the political support of those labor leaders. A more corrupt war hampering procedure it would be difficult to imagine.

Mr. COX. Will the gentleman yield?

Mr. HOFFMAN. I yield to the gentleman from Georgia.

Mr. COX. I take it that the gentleman is of a disposition to join hands with others who feel they are really serv-

ants of the people to prevent this continuation of effort to reform the country completely into a state of socialist dictatorship?

Mr. HOFFMAN. Listen, time and time again in the primary, time and time again in the campaign, I told the people to whom I was talking, that for 6 years down here the battle has not been between Republicans and Democrats, but that the fight has been between Republicans and Democrats on the one side and Communists and new dealers on the other. And there is where I stand. I am ready to join hands with the Democrats who stand for constitutional government any and at all times.

CONGRESS HAS FAILED TO LISTEN

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. True, the House twice has passed legislation which would have tended to remedy the situation. But the other body across the Capitol, under the influence of the President, has refused to even vote upon that legislation.

There is now pending before the House the Hobbs bill, so-called, which would aid in preventing racketeering which hinders the war effort but it has been buried by the leadership of this House and that has caused resentment.

WHAT THE PEOPLE WANT

Yes, the people are back of this war and they mean to win it. There is, throughout the country wherever I have been, a grim determination to do three things—to win the war—to preserve our American form of government—and to hold to strict account the administration and the Congress of the United States.

The people know that an army cannot be fed if the farms are stripped of those who must cultivate the land. Yet that is being done by this administration. The people know that taxes cannot be paid if 300,000 small businessmen are put out of existence. The people know that the cost of the war will be prohibitive and that it cannot be won if special favors are to continue to be shown to the racketeering, political leaders of organized labor. Some people believe that this administration to date has been more interested in preserving its political alliance with labor than it has been in devoting its efforts to winning the war. The people will accept, if that be necessary, all sorts of restrictions, all kinds of rationing, the making of every sacrifice demanded, if the administration and the Congress will get about its business of winning the war; of preserving the American Government and give assurance that our men will be returned to their homes when the war has been won, here to find still in existence the Constitution of the United States—still flying the Stars and Stripes—Old Glory.

If this administration and I include the President, and this Congress and that means all of us, do not get about the peoples' business wholeheartedly, there will be an accounting in the not too distant future and some of us may answer as did the thoughtless, and the heedless in the days of the French Revolution.

PAY DAY IS COMING

The people of America are patient; they are long-suffering; 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.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES — INDEPENDENCE OF THE PHILIPPINE ISLANDS (H. DOC. NO. 885)

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Insular Affairs and ordered printed:

To the Congress of the United States:

As required by section 7 (4) of the act of Congress approved March 24, 1934, entitled "An act to provide for the complete independence of the Philippine 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.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *November 12, 1942.*

PERMISSION TO ADDRESS THE HOUSE

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes on next Monday after disposition of business on the Speaker's desk and at the conclusion of any special orders heretofore entered.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota [Mr. KNUTSON]?

There was no objection.

EXTENSION OF REMARKS

Mr. KEOGH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the life and character of a distinguished American who died recently on his eighty-ninth birthday and to include therein certain editorials.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. KEOGH]?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes today at the conclusion of other special orders.

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

There was no objection.

Mr. WHITE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Idaho [Mr. WHITE]?

There was no objection.

SILVER LEGISLATION

Mr. WHITE. Mr. Speaker, this Congress will soon be called upon to reconsider and repeal all silver legislation now on the statute books as the result of a well-financed and an insidious campaign that has been carried on through various publications in this country. To my mind, this is such an important issue to the American people and involves such far-reaching benefits to business and to the people of this country that a thorough investigation of the whole subject of the use of silver as money should be conducted by this House. I have been unable to get the Committee on Coinage, Weights, and Measures to conduct such an investigation.

You will find in the RECORD of November 11, as a sample of the kind of campaign that is being carried on against the best interests of the American people and the only profitable fiscal operation of the Treasury, a statement which is a condensation of the newspaper articles appearing here in Washington, as a part of the campaign to influence the Congress and stampede its Members into repealing the only money-creating program of the Treasury on which our Government is making a profit.

[Here the gavel fell.]

EXTENSION OF REMARKS

(Mr. BOGGS asked and was given permission to extend his own remarks in the RECORD.)

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein two editorials.

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

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. MURRAY. Mr. Speaker, I ask unanimous consent that on Monday next, at the conclusion of the legislative program of the day and following any special orders heretofore entered, I may be permitted to address the House for 10 minutes.

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

There was no objection.

RESIGNATION FROM COMMITTEE

The SPEAKER laid before the House the following resignation from committee:

WASHINGTON, D. C., *November 12, 1942.*

Hon. SAM RAYBURN,
The Speaker, House of Representatives, Washington, D. C.

DEAR MR. SPEAKER: I hereby tender my resignation as a member of the Committee on Interstate and Foreign Commerce.

Sincerely yours,

GEORGE A. PADDOCK.

ELECTION TO COMMITTEE

Mr. MARTIN of Massachusetts. Mr. Speaker, I offer a resolution.

The Clerk read House Resolution 571 as follows:

Resolved, That EVAN HOWELL, of Illinois, is hereby elected to membership on 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 20 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 yesterday, 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 attacks on Great 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 report setting out the status of the various members. I inserted that report in the CONGRESSIONAL RECORD, and you will find it at page 2552 of the RECORD of January 29, 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 and the man presuming to hold himself out as the titular leader of the Republican Party directly and indirectly attacking the British Empire, which means the British association of nations, because of the conditions that prevail in India and her relationship to the British Empire.

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

Mr. RANKIN of Mississippi. I yield to the gentleman from Georgia.

Mr. COX. Has the gentleman an explanation of the fact that all extreme left-wingers, crackpots, and Communists advocate the dismemberment of the British Empire?

Mr. RANKIN of Mississippi. I have only one explanation, and that is that they must be Marxist revolutionists.

In arguing a case before the Supreme Court of the United States on last Monday, in which he attempted to show that a Communist who belonged to an organization dedicated to the overthrow of this Government and who had been preaching revolution throughout the country should not be denied citizenship in the United States for that reason, Mr. Wendell L. Willkie went back and quoted the words of Thomas Jefferson and also the words of Abraham Lincoln. I submit that it was a desecration of the names and of the memories, if you please, of those two illustrious statesmen to try to twist their words or their meanings to justify an argument in favor of a Marxist and Communist revolutionist, who is in favor of destroying everything for which you and I stand.

Thomas Jefferson was not a Marxist revolutionist. He was using the words of Jefferson wherein Jefferson was not advocating Marxism or communism but merely a separation of the American Colonies from the British Empire, sustained by George Washington, Alexander Hamilton, Benjamin Franklin, Patrick Henry, and all the other great conservatives of that day.

The words of Mr. Lincoln he quoted you will find were uttered on January 12, 1848. Mr. Lincoln was not advocating Marxism and revolution but he was justifying the secession of Texas from Mexico. The reason I am so familiar with that text is that we use it often to show that while the Southern States did not have the power to maintain their secession, they had the right to make the attempt. We do not deny that if India should separate herself from the British Empire that she would have the right to do so, but that is a matter between India and the British Empire and is none of our affair.

If we are going to win this war, and we must win it, I submit there must be the closest possible relationship between the United States and her English-speaking Allies. Under this conference report adopted in 1926, these British Dominions virtually declared their independence.

Something I seldom do in this House is to read my own remarks, but I will read this statement that I made then:

Mr. Speaker, during the months of October and November of last year a convention of the premiers, or representatives, of the various dominions of the British Empire, was held in London for the purpose of settling and defining their relations to the British Empire and to each other. The report of the committee on interimperial relations which was finally adopted constitutes one of the most far-reaching documents of modern times. With the possible exception of the Magna Carta and the Declaration of Independence, it is perhaps the most important document of its kind ever promulgated by the English-speaking race.

I stand by that statement. Those Dominions are subject to no compulsion whatsoever, but they have maintained their relationship with the British Empire, and their loyalty to the British Commonwealth of Nations, because it is their only hope of existence. Suppose someone here should rise up and suggest that Australia should be turned loose, as they say about India, and suppose Australia had been cast adrift without a navy, where would Australia be today—a small country from the standpoint of population? A country of the bravest people under the sun, but small in numbers, would have been cast to the mercy of the Japanese war lords. What would have become of the Commonwealth of South Africa, that great English-speaking country that we all love and admire so much? What would have become of New Zealand under the same circumstances? Of course, Canada is close enough to the United States that she could not be imposed upon. Yet these men come now, when Great Britain is fighting for her very existence, and take Prime Minister Churchill to task for saying that it is not his job nor his intention to liquidate the British Empire!

Mr. THOMAS F. FORD. Mr. Speaker, will the gentleman yield?

Mr. RANKIN of Mississippi. Yes.

Mr. THOMAS F. FORD. Does the gentleman remember that Mr. Willkie prefaced his remarks on India by saying that he did not know anything about it, and then went on and discussed the matter for a longer time than any other part of his talk?

Mr. RANKIN of Mississippi. Oh, Mr. Willkie knows so little about so many things that he ought to have no prejudice about them, and India is not an exception.

Mr. Speaker, suppose Great Britain or some one representing her should say 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. They have just as much right to make that statement, in response to some outcry, as we have to say that Great Britain should dismember her Empire in the midst of this the greatest war the world has ever seen.

Suppose she were to say that the United States must get rid of Florida, and turn it back to the Spaniards or to the Indians. Suppose she were to say that the United States must get rid of Texas, and turn it back to Mexico, or get rid of California and turn it back to Mexico. She has exactly the same right to interfere with our internal affairs as we have to interfere with hers. I, for one, do not agree with those men who go out under these circumstances and aline themselves with the communistic element in this country as well as the communistic element in India, that would give the British Empire trouble, which would mean trouble for us and all of our Allies during these trying times.

Great Britain has her form of government and she is not going to give it up. We have our form of government and our institutions, and our way of life, 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 high places who go out and talk 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 dictatorships 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 say the world's 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 as we know it 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

Constitution of the United States with its Bill of Rights, we have perfected a system of government surpassing anything else the world has ever seen. And we are not going to give it up. The English-speaking race that built this civilization, that built our form of government, is fighting for its very life, its very existence, which means the future civilization of mankind.

I question the wisdom of any man in high place who stands up and argues that these revolutionists ought to be put on a par with American citizens, or that we ought to interfere with the internal affairs of the greatest ally we have, the British Commonwealth of Nations. We are not seeking other people's territory, but we are not asking foreigners who come to our shores to revamp or revise our Government before they learn to speak our language.

I feel as Washington did at Valley Forge when he passed the word down to put only Americans on guard. I believe that this is the time when those of us who believe in the Constitution of the United States, those of us who believe in the fundamental principles of the common law, those of us who believe in the perpetuation of our free institutions should stand up in this House and elsewhere and answer those who peddle the dangerous doctrine that the men who established this Government or preserved it were Marxist revolutionists, and that we ought to repudiate our own system of government or destroy the system of government of one of our allies.

Mr. WHITE. Mr. Speaker, will the gentleman yield for a question?

Mr. RANKIN of Mississippi. For a question only.

Mr. WHITE. In view of the recent trends, does the gentleman feel we are progressing toward a more liberal form of government?

Mr. RANKIN of Mississippi. I will say to the gentleman from Idaho that we are in a war now, and if we maintain our form of government I think we will be lucky. That is what I am for. I am tired of somebody away off yonder trying to tell us how to run our own internal affairs.

Those millions of our boys in the service understand that we are fighting, not to destroy our institutions, not to turn them over to some flannel-mouth crackpots who want to destroy everything that we hold sacred and dear, but to maintain that which our forefathers built and that which we have always enjoyed, so that when they come back, as I said the other day, they will find the same flag flying at the same place and over the same institutions our forefathers established and maintained with their own blood and their own sacrifices.

Mr. Speaker, I ask unanimous consent to insert the address of Prime Minister Churchill, to which these critics refer.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

I notice, my Lord Mayor, by your speech you had reached the conclusion that news from the various fronts has been somewhat better lately.

In our wars, episodes are largely adverse but the final result has hitherto been satisfactory. Eddies swirl around us, but the tide bears us forward on its broad, restless flood.

In the last war we were uphill almost to the end. We met with continual disappointments and with disasters far more bloody than anything we have experienced so far in this. But in the end all oppositions fell together and our foes submitted themselves to our will.

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 in droves at the end, just as they did last time.

I have never promised anything but blood, tears, toil, and sweat. Now, however, we have a new experience. We have victory—a remarkable and definite victory. The bright gleam has caught the helmets of our soldiers and warmed and cheered all our hearts.

The late M. Venizelos observed that in all her wars England—he should have said Britain, of course—always won one battle, the last. It would seem to have begun rather earlier this time.

THE BATTLE OF EGYPT

General Alexander, with his brilliant comrade and lieutenant, General Montgomery, has made a glorious and decisive victory in what I think should be called the Battle of Egypt. Rommel's army has been defeated. It has been routed. It has been very largely destroyed as a fighting force.

This battle was not fought for the sake of gaining positions or so many square miles of desert territory. General Alexander and General Montgomery fought it with one single idea—to destroy the armed forces of the enemy and to destroy them at a place where the disaster would be most punishable and irrevocable.

All the various elements in our lines of battle played their part. Indian troops, Fighting French, Greeks, representatives of Czechoslovakia, and others. Americans rendered powerful and invaluable service in the air. But as it happened, as the course of battle turned, it has been fought throughout almost entirely by men of British blood and from the dominions on the one side and by Germans on the other. The Italians were 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 deadly battle. The Germans have been outmatched and outfought with every kind of weapons with which they had beaten down so many small peoples, and, also, larger, unprepared peoples. They have been beaten by many of the technical apparatus on which they counted to gain domination of the world. Especially is this true in the air, as of tanks and of artillery, which has come back into its own. The Germans have received that measure of fire and steel which they have so often meted out to others.

END OF THE BEGINNING

Now, this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning.

Hitler's Nazis will be equally well armed, and, perhaps, better armed. But henceforward they will have to face in many theaters that superiority in the air which they have so often used without mercy against others and of which they boasted all around the world that they were to be masters and which they intended to use as an instrument for convincing all other peoples that all resistance to them was hopeless.

When I read of the coastal road crammed with fleeing German vehicles under the blasting attacks of the Royal Air Force, I could not but remember those roads of France and Flanders crowded with fighting men, but with helpless refugees, women and children, fleeing with their pitiful barrows and household goods upon whom such merciless havoc was wreaked. I have, I trust, a humane disposition, but I must say I could not help feeling that whatever was happening, however grievous, was only justice grimly repaid.

It will be my duty in the near future to give a particular and full account of these operations. All I say about them at present is that the victory which has already been gained gives good prospects of becoming decisive and final, so far as the defense of Egypt is concerned.

ACTION BY UNITED STATES

But this Battle of Egypt, in itself so important, was designed and timed as a prelude and a counterpart of the momentous enterprise undertaken by the United States at the western end of the Mediterranean, an enterprise under United States command and in which our Army, Air Force, and, above all, our Navy are bearing an honorable and important share. A very full account has been published of all that has been happening in Morocco, Algeria, and Tunisia.

The President of the United States, who is Commander in Chief of the armed forces of America, is the author of this mighty undertaking and in all of it I have been his active and ardent lieutenant.

You have, no doubt, read the declaration of President Roosevelt, solemnly endorsed by His Majesty's Government, of the strict respect which will be paid to the rights and interests of Spain and Portugal, both by America and Great Britain.

To those countries, our only policy is that they shall be independent and free, prosperous and at peace. Britain and the United States will do all that we can to enrich the economic life of the Iberian Peninsula. The Spaniards, especially, with all their troubles require and deserve peace and recuperation.

FRANCE UNDER THE NAZI HEEL

Our thoughts turn toward France, groaning in bondage under the German heel. Many ask themselves the question: Is France finished? Is that long and famous history, marked by so many manifestations of genius, bearing with it so much that is precious to culture, to civilization and, above all, to the liberties of mankind—is all that now to sink forever into the ocean of the past, or will France rise again and resume her rightful place in the structure of what may one day be again the family of Europe?

I gladly say here, on this considerable occasion, even now when misguided or suborned Frenchmen are firing upon their rescuers, that I am prepared to stake my faith that France will rise again.

While there are men like General de Gaulle and all those who follow him—and they are legion throughout France—and men like General Giraud, that gallant warrior whom no prison can hold, while there are men like that to stand forward in the name and in the cause of France my confidence in the future of France is sure.

For ourselves we have no wish but to see France free and strong, with her Empire gathered round her and with Alsace-Lorraine restored. We covet no French possession. We have no acquisitive designs or ambitions in North Africa or any other part of the world. We have not entered this war for profit or expansion but only for honor and to do our duty in defending the right.

BRITAIN TO HOLD HER OWN

Let me, however, make this clear, in case there should be any mistake about it in any quarter: we mean to hold our own. I have not become the King's First Minister in order to preside over the liquidation of the British Empire. For that task, if ever it were prescribed, someone else would have to be found, and under a democracy I suppose the nation would have to be consulted.

I am proud to be a member of that vast commonwealth and society of nations and

communities gathered in and around the ancient British monarchy, without which the good cause might well have perished from the face of the earth.

Here we are and here we stand, a veritable rock of salvation in this drifting world. There was a time not long ago when for a whole year we stood all alone. Those days, thank God, have gone.

We now move forward in a great and gallant company. For our record we have nothing to fear. We have no need to make excuses or apologies. Our record pleads for us and we shall get gratitude in the breasts of every man and woman in every part of the world.

As I have said, in this war we have no territorial aims. We desire no commercial favors, we wish to alter no sovereignty or frontier for our own benefit.

We have come into North Africa shoulder to shoulder with our American friends and allies for one purpose and one purpose only. Namely, to gain a vantage ground from which to open a new front against Hitler and Hitlerism, to cleanse the shores of Africa from the stain of Nazi and Fascist tyranny, to open the Mediterranean to Allied sea power and air power, and thus effect the liberation of the peoples of Europe from the pit of misery into which they have been passed by their own improvidence and by the brutal violence of the enemy.

SINGLE POLITICAL CONCEPTION

These two African undertakings, in the east and in the west, were part of a single strategic and political conception which we had labored long to bring to fruition and about which we are now justified in entertaining good and reasonable confidence. Taken together they were a grand design, vast in its scope, honorable in its motive and noble in its aim.

British and American forces continue to prosper in the Mediterranean. The whole event will be a new bond between the English-speaking people and a new hope for the whole world.

I recall to you some lines of Byron which seem to me to fit event and theme:

"Millions of tongues record thee, and anew
Their children's lips shall echo them and say,
Here where sword the united nations drew
Our countrymen were warring on that day.
And this is much and all which will not pass away."

EXTENSION OF REMARKS

Mr. HOBBS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to insert an article by a columnist in the Washington Post.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. Under previous order of the House, the gentleman from New York [Mr. MARCANTONIO] is recognized for 15 minutes.

PUERTO RICO

Mr. MARCANTONIO. Mr. Speaker, I rise at this time to call the attention of the House to the plight in which Puerto Rico finds itself. Puerto Rico is an island of 3,500 square miles, with a population of about 1,884,000 people. Puerto Rico today is doing everything possible to assist in the war against the Axis. It is giving everything it has. Its greatest contribution has been in manpower. So great has been that contribution that Puerto Rico is the only place in the United States where no draft is necessary. Puerto Rico's draft quota has been filled exclusively by volunteers, and there is always a large number of volunteers waiting to be accepted in the Army.

Puerto Rico finds itself today in a plight which in some respects is worse than the plight of some of the conquered nations. The war has brought about an economic situation in Puerto Rico which is the most pitiable that we have witnessed in its entire history. Prior to the war Puerto Rico was receiving monthly over 100,000 tons of shipments. Today, after frantic appeals to our Shipping Board, less than 30,000 tons of foodstuffs are reaching Puerto Rico each month.

Now, let us pause a moment 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 prior to Pearl Harbor by the Portuguese Government. It has been openly charged and never denied that this codfish is being distributed by the Portuguese to Nazi Germany. In Puerto Rico there is therefore no supply whatever of codfish. On the docks in New Orleans there are tons and tons of rice. I have before me a report of October 24, by Mr. Paul Edwards, administrator of W. P. A. in Puerto Rico, in which it is stated that in Puerto Rico there is practically no rice. The normal consumption of rice in Puerto Rico is about 18,000,000 pounds per month.

Prices have gone sky high. For instance, let me read from an index recently prepared by the Office of Statistics, by Mr. S. L. Descartes, of the Governor's 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 12 cents to 10 cents in price per pound of the imported pink beans which are the ones consumed in largest quantity in Puerto Rico, but the locally produced white 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 3.5 cents a pound and plantains .25—that is one-quarter of a cent—to 3 cents per unit.

The index of the retail cost of foodstuffs in Puerto Rico increased to .196 on October 14 compared to .189 on September 15.

So you have today in Puerto Rico a most serious food shortage and, literally speaking, thousands and thousands of families in Puerto Rico are facing starvation. Even such articles as soap and matches are practically nonexistent in Puerto Rico today. Besides the food shortage you have such prices as place whatever food supply there is on or may reach the island of Puerto Rico beyond the reach of the purchasing power of the people of Puerto Rico. Let us see what that purchasing power is. When a Puerto Rican is employed his average annual wage is a little over two hundred dollars. Puerto Rico is the only territory over which our flag flies where there has been no war boom at all, and by that I mean there are no war industries. Further, the gasoline shortage has almost paralyzed the life of the country as Puerto Rico depends primarily on motor vehicles for its transportation. There was some work some time ago when we were building our landing fields and various other military construction was going on; there was some employment then, but all this military construction has been completed and the result is that as of 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 176,000 unemployed. Since this report of September 1942 was submitted it has been 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 bear in mind that Puerto Rico is a very important link in the chain of Western Hemispheric solidarity. It has been so since the early days of Spanish colonialism, when Puerto Rico was the vanguard of the West Indies. The people of Puerto Rico are Latin Americans; they are an integral part of the great 100,000,000 Latin Americans. A most important factor in this war are the 100,000,000 Latin Americans and their 20 Latin-American nations. To permit this condition to exist in Puerto Rico, to let this situation continue in Puerto Rico, is going to do more damage to Western Hemispheric solidarity, it is going to plunge a deeper wedge in our Latin-American front than a thousand Nazi submarines in the Caribbean or in the waters around North and South America.

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

Mr. MARCANTONIO. I yield.

Mr. FULMER. The gentleman spoke of high prices which are working a tremendous hardship on the great masses of Puerto Ricans. I am wondering if anything is being done to hold down these prices or put a ceiling on prices in 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. 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 in an emergency where people face starvation exceptions should be made. For instance, if the people on the Rock of Gibraltar were faced with a similar situation I am certain that Parliament or the British Prime Minister would not hesitate a moment to take over ships and rush foodstuffs to Gibral-

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 resort to subsidies. The Department of the Interior has a fund of $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 for the purpose 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 subsidy and O. P. A. regulation; and 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 from Puerto Rico. So that what is necessary for the period of thie emergency at least is this: The coastwise shipping laws must be suspended so as to permit the carrying of foodstuffs down to Puerto Rico. The present system of permits, providing for the picking up in Puerto Rico of suitable cargoes, is cumbersome and does not meet the time element of the crisis. Only a blanket lifting of the coastwise shipping laws, so that ships of other nations may drop and pick up any cargo in Puerto Rico to 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.

The SPEAKER. 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 the statements made 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 there to other countries 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 of foodstuffs per 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. In fact, Puerto Rico's 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 speak of down in Puerto Rico.

Mr. ROBSION of Kentucky. How about fruits?

Mr. MARCANTONIO. Yes. They have pineapples and other fruits rotting in the fields because they cannot be shipped. Incidentally, the development of a pineapple cannery 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 some money 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 these prices to bring them down. 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 purchasing power 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 their unemployed, 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 is to be collected from taxation on rum is to go toward assisting the unemployed in Puerto Rico. But we know, the President knows, and every person who is familiar with the problem of Puerto Rico knows, and even if you are not familiar with it, if you will take the figures given to us by W. P. A. down in Puerto Rico, which show that as of September they had 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, or until Congress acts, then I think, as a necessary war measure because of the vital military position of Puerto Rico to us, the President should exercise his power under the lend-lease war powers to use lend-lease funds to alleviate the suffering which now exists on the Gibraltar of the Caribbean. 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 could be sent into this country if they had the ships to move those products?

Mr. MARCANTONIO. Yes.

Mr. FULMER. In the meantime, instead of doing something about that, I 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 we are 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 relieve 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.

Mr. FULMER. A 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. Yes; only one contributing cause. 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 dismal failure of the policy of colonialism in Puerto Rico.

Mr. FULMER. The shipping in and out of that country under some program and putting the people 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 valuable 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, may I say to the gentleman, is that they are hell-bent on doing some of those things that will cost more money. For instance, when they took the Japs away from California they had been used to buying products 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 me and Government departments 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 down there has resulted in breaking up the normal channels of trade and has in 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 that 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 be a great 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 alleviate that unemployment 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 permit 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 that in the interest of winning the 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 in Puerto Rico. In examining these prices I ask you to bear in mind that 325,000 out of a total population of about 1,884,000 people in Puerto Rico are unemployed and have no income. The average annual wage of Puerto Rican workers when employed is a little over $200:

OFFICE OF THE GOVERNOR,
OFFICE OF STATISTICS,
La Fortaleza, October 22, 1942.

RETAIL FOOD PRICES IN PUERTO RICO CONTINUE TO INCREASE RAPIDLY

(By S. L. Descartes)

The index of the retail cost of foodstuffs in Puerto Rico increased to 196 on October 14, compared to 189 on September 15, 1942, or 3.7 percent. The rate of increase rose again after having declined to 2.2 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 156 to 171, or 9.6 percent during the same period.

Of all food groups, there were declines in prices only in beans, of 8.5 percent; and in fats and oils, of 2.9 percent. Tomatoes increased 41.5 percent; starchy vegetables, 22.2 percent; eggs, 16.5 percent; and dairy products, 1.3 percent.

The decline in beans was due to a drop from $0.12 to $0.10 in the price per pound of imported pink beans, which are the ones that 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 red beans from $0.12 to $0.14 a pound. The greatest increase in starchy vegetables was that of taniers which rose from $0.05 to $0.07; sweetpotatoes rose from $0.03 to $0.35 a pound; and plantains from $0.025 to $0.03 per unit. Milk sold through stores declined from $0.185 to $0.177 a quart, but delivered milk rose from $0.16 to $0.18 a quart. Pork fat backs declined from $0.20 to $0.18 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 on September 15.

During this period in which prices are increasing so rapidly, sometimes from one day to another, it is desirable to emphasize that prices on which this index is based refer exclusively to October 13 for locally produced foodstuffs, and to October 14 for foodstuffs sold through groceries. The prices of some foodstuffs have considerably increased since October 14.

Neither 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 located in the Rio Piedras market than in San Juan or Santurce. For that reason, persons living in these localities pay more for eggs and starchy vegetables than the prices used in the preparation of this index. This fact does not affect the usefulness of the index, because 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; when in Rio Piedras they rise to $0.07, in San Juan they sell for $0.08. Both the San Juan and the Rio Piedras price series may be used to present the trend of prices provided the same one is used continuously. The town or area to which the series 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 neighboring areas comprise the largest concentration of urban population, they undoubtedly constitute the best localities for the construction of this index. It is acknowledged, however, that sometimes there may be pronounced increases in the prices of certain foodstuffs in some places far away from distributing centers, on account of the internal transportation situation, and these increases may not be 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 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 do this last November, when the computation of the index was begun, because there were no facts on the consumption of the laboring classes. Thus far the increases in the prices of foodstuffs consumed in larger quantities by the poorer classes have been higher than those of foodstuffs more commonly used by the middle classes and the well-to-do. Therefore this index does not present fully the magnitude of the rise in the cost 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. ELIOT 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.

COMMITTEE HEARINGS

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization on Wednesday, November 18, 1942, at 10 a. m., to consider H. J. Res. 345 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 delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS of Arkansas: Committee on Claims. H. R. 6489. A bill for the relief of I. 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. C. Tommey; with amendment (Rept. No. 2628). Referred to the Committee of the Whole House.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. LELAND M. FORD:

H. R. 7778. A bill for the relief of Cecil Ray Murphy; to the Committee on Naval Affairs.

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:

Our 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 alarm, 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 860, to prohibit the sale of alcoholic 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 message of the President as it 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:

Mes amis, mes amis qui souffrent jour et nuit sous le joug accablant des Nazis, je vous parle comme celui qui en 1918 était en France avec votre armée et votre marine. J'ai conservé toute ma vie une amitié profonde pour le peuple français, le peuple français entier. Je retiens et je garde soigneusement l'amitié de centaines d'amis français en France et dehors de la France. Je connais vos fermes, vos villages, vos villes. Je connais vos soldats, vos professeurs, vos ouvriers. Je sais bien combien est précieux au peuple français l'héritage de vos foyers, de votre culture, et des principes de la démocracie en France. Je salue encore et affirme encore et encore ma foi dans la liberté, dans l'egalité et dans la fraternité. Il n'existe pas deux nations plus unies par les liens de l'histoire et de l'amitié mutuelle que le peuple de la France et des Etats-Unis d'Amerique.

Les Américains, avec l'aide des Nations Unies, font tout ce qu'ils peuvent pour établir un avenir sur, aussi bien que pour la restitution des idéals de liberté et de la démocracie pour tous ceux qui ont vécu sous le tricolore. Nous arrivons parmi vous à repousser les envahisseurs cruels qui voudraient vous dépouiller pour toujours du droit de vous gouverner vous-mêmes, vous priver du droit d'adorer Dieu comme vous voulez et de vous arracher le droit de mener vos vies en paix et en sécurité. Nous arrivons parmi vous seulement pour écraser et pour anéantir vos ennemis. Croyez-nous bien, nous ne voulons vous faire aucun mal. Nous vous assurons, une fois que la menace de l'Allemagne et de l'Italie est éloignée de vous, nous quitterons votre territoire immédiatement. J'appelle a votre réalisme, a votre propre intérêt et aux idéals nationaux français. N'encombrez pas, je vous prie, ce grand dessin. Rendez-nous concours ou vous pouvez, mes amis, et nous verrons revenir les jours glorieux ou la liberté et la paix règneront de nouveau dans le monde.

Vive la France éternelle!

GENERAL PERSHING'S LETTER TO THE PRESIDENT

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks a brief article published in the Washington Post of today which contains a letter addressed to the President of the United States by that great and distinguished general, John J. Pershing. The letter extends a dramatic invitation to his 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. That they will make that march no one now questions.

The VICE PRESIDENT. Is there objection?

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

[From the Washington Post of November 13, 1942]

THE AXIS HAS MET ITS MARNE—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."

"The Axis has met its Marne," the aging commander of the American Expeditionary Force assured his French colleagues in the 1918 victory over Germany. The enemies who inflicted 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 arrest the course of German barbarism. I tried to imagine what his response would be to your promise that the enemy which he confronted again will be beaten and the dream of a better world for which he died surely will be realized. As you spoke, 24 years seemed to roll back, with the consequence that, as his Commander in Chief, I dare attempt in all humility to say to you today the words which he cannot say.

"I am certain with you that our enemies who have visited all the horrors of a new war on the civilized world face final, inevitable defeat, that the high-water mark of their conquest has been reached, and that they are in recession. I am positive with you that the peoples whom they brutalized and the territories which they ravaged will, in the days

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 rebuilt, with fearless realism and without sophistry, on a more solid basis which does not contain this time the seeds of a new cataclysm.

"Over the last week end our troops, side by side with the fighting men of Britain and of France, took the first great step toward the total liberation of French soil and the soil of all the unconquered peoples. Patriotic Frenchmen will know that our presence in north Africa is the promise of their freedom, whether they are in German prisons, on the slave gangs of the German factories, or in the vast concentration camp which the German has made of France. My former comrades in arms will believe me when I tell them that the Axis has met its Marne, and that if they listen closely they will hear the tramp of marching men who not so long from now will be swinging along the Champs-Elysees on their way past Chateau Thierry, St. Mihiel, and Verdun to victory at Berlin. They will heed, I am certain, my invitation to form their battalions and join our ranks, so that the hills and the valleys of the patrie which I know and love so well will once more be free.

"Mr. President, in concluding, may I recall that the comrades of the boy whom we honored yesterday lie in rows of many thousands in the American cemeteries of France. I, their former commander, shall not be satisfied until the desecration in which they are now subjected is ended by the joint efforts of the United Nations, and they can sleep in peace.

"With high esteem and sincere regard, believe me,

"Faithfully yours,

"JOHN J. PERSHING."

ELIMINATION OF POLL TAX IN ELECTION OF FEDERAL OFFICERS

The VICE PRESIDENT. The routine morning business is concluded.

Mr. BARKLEY. Mr. President, I move that the Senate proceed to the consideration of Calendar 1716, House bill 1024, to amend an act to prevent pernicious political activities. Before the motion is put, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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

Andrews	Green	O'Mahoney
Austin	Guffey	Overton
Ball	Gurney	Pepper
Barkley	Herring	Rosier
Bilbo	Hill	Russell
Bone	Johnson, Calif.	Schwartz
Brewster	Kilgore	Spencer
Bridges	La Follette	Taft
Bulow	Langer	Thomas, Okla.
Bunker	Lee	Tobey
Burton	Lucas	Truman
Byrd	McFarland	Tunnell
Capper	McKellar	Tydings
Caraway	McNary	Vandenberg
Chavez	Maloney	Van Nuys
Connally	Maybank	Wagner
Danaher	Mead	Wheeler
Davis	Millikin	White
Doxey	Murdock	Wiley
George	Norris	Willis
Gerry	Nye	
Gillette	O'Daniel	

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

The Senators from North Carolina [Mr. BAILEY and Mr. REYNOLDS], the Senator from Alabama [Mr. BANKHEAD], the Senator from Alabama [Mr. BROWN], the Senator from Kentucky [Mr. CHANDLER], the Senator from Missouri [Mr. CLARK], the Senator from Idaho [Mr. CLARK], the Senator from Louisiana [Mr. ELLENDER], the Senator from New Mexico [Mr. HATCH], the Senator from Arizona [Mr. HAYDEN], the Senator from Delaware [Mr. HUGHES], the Senator from Colorado [Mr. JOHNSON], the Senator from Nevada [Mr. MCCARRAN], the Senator from Montana [Mr. MURRAY], the Senator from New Jersey [Mr. SMATHERS], the Senator from South Carolina [Mr. SMITH], the Senator from Tennessee [Mr. STEWART], the Senator from Utah [Mr. THOMAS], the Senator from Washington [Mr. WALLGREN], and the Senator from Massachusetts [Mr. WALSH] are necessarily absent

The Senator from California [Mr. DOWNEY] and the Senator from Maryland [Mr. RADCLIFFE] are absent on official business for the Senate.

Mr. MCNARY. The Senator from Vermont [Mr. AIKEN], the Senator from New Jersey [Mr. BARBOUR], the Senator from Illinois [Mr. BROOKS], the Senator from Nebraska [Mr. BUTLER], the Senator from Oregon [Mr. HOLMAN], the Senator from Massachusetts [Mr. LODGE], the Senator from Kansas [Mr. REED], the Senator from Minnesota [Mr. SHIPSTEAD], and the Senator from Idaho [Mr. THOMAS] are necessarily absent.

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

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

Mr. DOXEY. A parliamentary inquiry.

The VICE PRESIDENT. The Senator 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 after 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.

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 occupant of the chair was not presiding 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 rule, 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 presiding the distinguished chairman, the Senator from Indiana [Mr. VAN NUYS]. 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 gave my reason 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. Some efforts were made to amend the Guyer bill, and I was continuously, I hope without being pestiferous, making points of order against each and every step being taken by the committee. 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, I was objecting, making my points of order, 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 senior Senator from Nebraska [Mr. NORRIS] 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 Monday, I should like to have until Thursday to file them." That was perfectly agreeable to the committee, and the distinguished Senator from Nebraska very kindly said that when he asked consent to file the majority report he would also ask consent that the minority might have until Thursday to file minority views.

When the Senator from Nebraska came onto the Senate floor Monday morning, October 26, he stated that he was reporting the bill orally. When the distinguished Senator from Nebraska asked leave to make the report, and made the request that if the majority report were not made on Monday 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 minority views, as I had requested.

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 RECORD 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 and before the Chair for a ruling.

Of course, the bill went to the calendar, and now the motion is made by the distinguished Senator from Kentucky [Mr. BARKLEY] that House bill 1024, known as the anti-poll-tax bill, be made the order of business of the Senate.

In making my point of order, I realize that I could not make a motion to recommit 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 to my mind 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 NUYS]. We all have a peculiar affection 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 prescribes what 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, each for itself, the number of its members who 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.

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 executive calendar. Printed in the calendar of the committee are the rules of committee procedure. For the information of the Chair and of the Senate, I will read the following rules of committee procedure which have been adopted by the committee 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 (not including the court of any Territory or possession) is referred to the Committee on the Judiciary, the nomination shall be referred to a subcommittee to be 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 such subcommittee 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 which is referred to the Committee 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 any number shall 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 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 meeting, the 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 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 agreeable, but I am sure 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.

I address an inquiry to the Presiding Officer. When the Senate adopted rule XXV authorizing various Senate committees to fix, 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 says the committees are authorized to fix. What does "to fix" mean? I submit that it means that the only way to fix the number is by the adoption of a rule of a committee, as rules 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 able to ascertain, which provides that six members of the committee shall 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 any number 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 about its present 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 its 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, solemn 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 its members would have a perfect right to object if a motion or resolution had been presented to the committee by its distinguished chairman to fix the number of members who 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 power 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 real working numerical quorum being present, which is 10 members." It is the privilege of each committee member to present his own view of the matter. How could that question be settled? The only way it could be settled and be made a rule of the committee would be by a proper motion or a proper resolution voted upon by a quorum of the committee, as a quorum is considered. The matter of a quorum would thus be fixed, 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 that nature 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 those are the facts, as I have ascertained them 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 I was acting within my legal right in making the point of order, which was overruled. I think I am still acting within my legal right in making the point of order in the Senate at the first opportunity. This is the first opportunity 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. I have endeavored to consult and to examine the precedents. The first precedent I was able to find dealing with this matter occurred on June 26, 1914, in the Sixty-third Congress, second session.

Briefly, the facts were these:

The VICE PRESIDENT. The Chair lays before the Senate a resolution of the Senator from Nebraska [Mr. Hitchcock] to take from the calendar and rerefer to the Committee on Banking and Currency a bill the title of which will be stated.

I believe it was admitted that a point of order at that time against the resolution to rerefer the bill would have been sustained, because the bill was not before the Senate, Senator Hitchcock presented the matter by a resolution.

A bill relating to the regulation of stock exchanges had been reported from the Committee on Banking and Currency. The Committee on Banking and Currency had a membership of 12.

The facts and the decision of the Vice President were developed on June 26, 1914. The present occupant of the chair knows that rule XXV, which I have just cited, was adopted by the Senate on April 12, 1912, but the rule had not yet been printed in the Manual, and there was no attempt by the Banking and Currency Committee to say that it had, by a constructive quorum, by consent, or by any other means, agreed to anything by a quorum other than a majority of the committee. To my mind the discussion throws light on the subject, because after considerable 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 enter into a discussion of the merits of the bill, because it had been discussed pro and con, but he called the attention of the Senate to rule XXV, and said that whether or not a rule had been adopted by the committee pursuant to rule XXV—and such a rule had not been adopted, because Senator Owen had charge of the printing, and rule XXV had not yet been printed in the Manual—there was not a quorum 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 came in, which made six 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 placed on the calendar. The resolution of Senator Hitchcock was that the bill be rereferred 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 on the question. The Chair has 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.

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—although 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 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 I am sure that every member 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 a quorum.

The precedent which I have cited occurred on June 26, 1914, beginning on page 11166 of the CONGRESSIONAL RECORD for that date. There was a great deal of discussion about the merits of the bill, but I have given the substance of the discussion between Mr. Warren, Mr. Clarke, Mr. Hitchcock, and Mr. Reed regarding the question at issue. It is certainly shown by the debate in connection with this precedent that the action of committees in reporting bills should be jealously guarded. I wrote many such reports while I was a member of the other House. The report usually states that a majority of the committee, "a quorum being present," reports favorably, and so forth. The report of a committee, "a quorum being present," is the very essence of good legislation.

As I have said, the precedent does not show the vote of the Senate. It merely shows that the bill was rereferred by a vote of the Senate.

There is one other precedent to which I should like to call attention, because it involves rule XXV. It is of a more recent date, having occurred on July 8, 1918. It is reported in the debates of the Sixty-fifth Congress, second session, beginning at page 8860 of the RECORD for that date, and continuing for a number of pages. The discussion involved a bill providing 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 of South Carolina. A quorum of the committee, according to the rule of the committee, was present.

Mr. PENROSE. What are the rules of the committee as to a quorum?

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 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 permit 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 Interstate 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 definitely and specifically 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 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 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 it. That would be so, according to a strict construction of the third paragraph of rule XXV, if the committee in prescribing 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 very 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 to the motion should be 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 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 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 present; 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 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, 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.

I maintain that the point of order raises a serious and far-reaching question, because it goes to the very roots 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 denied that, although 9 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 it had. They did not know that the Guyer bill—all after the enacting clause—had been stricken out, and that the Pepper bill had been substituted in its stead, and that the Pepper bill had been amended to the extent of deleting the whereases and various sections, so that the bill which we have before us now is very greatly different—not, of course, in principle, but in language and in wording—not only from the Guyer bill but from the original Pepper bill.

Yet we have a report from the majority of the committee—it is headed "Majority report." I do not think it will be contended that it is proper to count the votes of members of a committee who are absent, even though they may have told some member of the committee how they would want to vote. I do not think that would be very seriously argued by any Member of the Senate, because certainly I cannot find any precedent for such procedure. When Senator SMITH made the statement that his committee had adopted the resolution and that the committee could count proxies for purposes of voting—not for purposes of ascertaining the presence of a quorum—certainly the Chair did not rule other than that a proxy is not permitted to be counted in ascertaining the presence of a quorum, because the actual presence of a member is necessary in order that he be counted in ascertaining the presence of a quorum.

We have here a measure reported by only 9 members of a committee composed of 18 members. The other 9 members were recorded as voting; but, as I say, they were not present and did not participate in the action on the amendments or in the committee deliberations.

Of course, in committees a number of things may be done and are done in the interest, possibly, of emergency or efficiency or some other good and sound reason. Even on the floor of the Senate action may be taken by unanimous consent; but even though that is so, action cannot be taken if objection is interposed. I do not think there will be any question that objection was interposed to the entire proceeding in the Judiciary Committee from the time when it began consideration of the bill until the time when the measure was reported. Then, after it was reported, when I made my parliamentary inquiry, when the distinguished senior Senator from Tennessee [Mr. MCKELLAR] was in the chair, other statements were made by various Senators, including myself, the distinguished chairman of the committee the Senator from Indiana [Mr. VAN NUYS], the Senator from Nebraska [Mr. NORRIS], and the Senator from Connecticut [Mr. DANAHER]. All of them made statements about what happened in the committee that morning, and certainly we find all of them in entire agreement and accord. I have tried to relate the facts in accordance with what happened.

So I maintain that we do not have a case of committee action by a quorum, as is recognized by parliamentary procedure. The rule the Senate adopted does not apply to a committee unless it takes advantage of it and acts in accordance with the provisions of the rule—in other words, unless it fixes the number of a quorum.

Mr. President, I do not have before me any precedents later than the precedents I have cited. I have not been able to find any precedents contrary to those I have cited. All the precedents I have found hold that if a quorum is attempted to be fixed by a committee—less than a quorum in the ordinary sense—the word "fixing" implies some positive, concrete, definite action by the committee, taken my means of a vote had in the usual way by the committee, as evidenced by some minute or other document of the committee. In view of that fact and the other facts I have presented, I most respectfully submit that my point of order should be sustained.

Mr. NORRIS. In the first place, Mr. President, there is nothing in the record to show that there was anything irregular or wrong with the action of the committee. I desire to discuss that point briefly, and then I want to discuss 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 of Congress nullified 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 up in the Supreme Court and say "Your 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 could be nullified in that way, 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 in the record.

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 record. 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 was actually a quorum of the committee at the meeting which reported the bill.

Mr. NORRIS. That is not the way to try a lawsuit; that is not the way to settle a record in a court—by taking the attorney's statement if there is any question about it.

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 wish to say to the Senator from Mississippi and the other Members of the Senate that 1 member of the committee, the junior Senator from Kentucky [Mr. CHANDLER], 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 strike 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? Was not that about what occurred?

Mr. DOXEY. I want to beg to differ from my distinguished friend. He may be right; but the action was taken on Monday, October 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 reporting the bill was taken, but on this 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 if he was not there at the time.

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.

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. 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, but, 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 Nebraska 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. If a Member came before the 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 told the committee how he wanted to vote. I should like 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?

I do not care whether this matter is considered from a purely technical standpoint, for if it is, the Senator from Mississippi has nothing on the record to bear him out. I do not care whether it be considered in that way. Take the statement of every committee member and there probably would not be much disagreement as to what actually occurred. It would be clear that we followed a procedure which, as the chairman of the committee stated, has been in vogue from a time whereof the memory of man runneth not to the contrary, that six constituted a quorum to do business, though not to report a bill, for when it comes to reporting a bill it is necessary to have a majority of the committee. The committee proceeded on the theory on which they have always acted. I do not know of a single exception. When a member of the committee wanted to be voted in a particular way, he was voted in that way. That included every member of the Judiciary Committee, so that it would appear that there were 13 votes for and 5 against.

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

Mr. NORRIS. I yield.

Mr. DOXEY. I understand the Senator to admit that six can do business, but, in order to report a bill, there has to be a majority present and voting?

Mr. NORRIS. No; I would not say that they have to be present and voting; they have to vote in favor of it; but the committee can let a member vote; the committee has that under its control. If the committee permits a Senator to say to the committee, "I want to be voted so and so; I have got to leave the room," and then he is voted so and so, that does not make the action of the committee illegal. In other words, that complies with the rule that the majority of the committee has got to be in favor of a bill in order to report it.

Mr. DOXEY. May I ask the Senator if the statement is made by a member of the committee at a meeting a week or 2 weeks prior to the time the actual vote was taken, does the Senator contend that the Senator making the statement can be counted as helping to constitute a quorum to vote for the bill even if he is not personally present?

Mr. NORRIS. I should think so. The Senator, however, has been too extravagant. Certainly it was not a couple of weeks before the committee took action that the Senator from Kentucky was present and made the statement.

Mr. DOXEY. I did not know we had 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 when the committee 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. HUGHES], who was sick, was not present.

Mr. DOXEY. Possibly that is so.

Mr. NORRIS. He did not get back until after the bill had been reported, but he was permitted to vote.

Mr. DOXEY. The Senator from Delaware was there when we had some discussion about the bill, when it was sent to the committee, but that was away back yonder.

Mr. NORRIS. Yes; but he was not there when the committee voted; he was not there on that day.

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 can 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 on one side, and I was on the other.

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, was present; Senator KILGORE, of West Virginia, was present; Senator MURDOCK, of Utah, was present; Senator MCFARLAND, of Arizona, was present; Senator DOXEY, of Mississippi, 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 was advised that Senator AUSTIN was actually present right here in 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 other Senators, members of the committee, were also engaged on other committee business that morning. But irrespective of that, as a result of our discussion, the chairman's ruling, and our vote on the question, we felt it was not necessary to send for them.

Mr. NORRIS. That is correct.

Mr. DOXEY. Will the Senator from Connecticut yield?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. NORRIS. Let me refer to what the Senator from Connecticut said first, and then I shall be glad to yield to the Senator from Mississippi.

Mr. President, committees of the Senate are of necessity obliged to do just what we did. That practice has always been followed. Never heretofore, so far as I know, has objection ever been made to it. The committee itself determines that a member who is not physically present, who has to leave, a member like the Senator from Vermont [Mr. AUSTIN], who was in another committee meeting at the time, may have his vote recorded. We have always followed that practice. All the committees do that. The committees have control of it. That is not a matter for the Senate to control, in my opinion. If a committee desires, it can say to a member of the committee, "You are over here in the other room, in a meeting of the Committee on Appropriations, and if you want to vote on this bill, we will permit you to do it." The member comes in and goes out. That is happening all the time.

It must be remembered, too, that the committees have no way of controlling the attendance of absent members. As the Senator from Connecticut has suggested, if we had sent to the other committee where the Senator from Vermont [Mr. AUSTIN] was in attendance, we had no way of compelling him to come to our committee. No one tried to do that. It was recognized he was doing something which other Senators do continually. We all do it. Senators are members of many committees, though that does not apply to me so much, because long ago I gave up the idea of trying to see how many committees I could serve on. I found it was useless and futile. But some Members of the Senate are members of five or six or seven committees, perhaps, and it may happen that several of the committees meet on the same day, at the same hour. It is a common occurrence for a Senator to come into one committee and stay there awhile and then go to another committee in order that both committees may be kept going and not block the progress of legislation. We have done that. We did it in this case.

If it is to be said, Mr. President, that no committee of the Senate has the right to accept a member's vote under any circumstances unless he is physically present legislation in the Senate will be tied up, practically, and no one wants that to occur. It is proper to consider what a decision sustaining the point of order would mean. It would mean that two-thirds of the time we would have to be waiting, we could not proceed, when we would otherwise be doing business.

There is not a quorum present in the Senate at this time, but if we should pass a bill, would our action be nullified on that account, although I have made the statement of the lack of a quorum? The records of the Senate would not show that there was not a quorum present. The report of the officials of the Senate, when they sent the bill to the House, would state that the Senate had passed such and such a bill, and it would be assumed that a quorum was present.

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

Mr. NORRIS. I yield. I had intended to yield to the Senator before, but I had forgotten that he had asked me to yield.

Mr. DOXEY. The Senator would not deny for a moment, however, that in our present situation in the Senate, if a point of order were made that a quorum was not present, the Chair would have to ascertain whether there was a quorum present?

Mr. NORRIS. Yes.

Mr. DOXEY. In the committee the point of order was made by me all along that there was not a quorum present, was it not?

Mr. NORRIS. Not all along. 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 one. But 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. If a committee cannot do it, a rule would not help.

Mr. DOXEY. Certainly a rule would 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. DOXEY. I did not know that point would 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. 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 least. 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. So far as I am concerned—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. VAN NUYS], said, as did the Senator from Texas [Mr. CONNALLY], that never were more than nine present at the committee meeting.

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 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. 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 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 adoption by the committee of such a rule. The chairman of the committee said that so far as he was able to determine the committee, from time immemorial, without a single exception, 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 he had been chairman. He asked other members of the committee who were present, who had formerly been chairmen of the committee, if they know anything different? They said no. 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 such action. We have always 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 physical 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 Senate 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 absentee members think about certain proposed legislation, and what they want to do, and the members present vote to 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 pursue such a course. Perhaps the Senate itself would not pursue such a course, but that is not the question. The question is, Had the committee the right to do what it did? If it had the right to do it, then, 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.

Now and then it is a good idea for Senators and Representatives to forget all the blacksmith-shop political talk and urgings from certain quarters and little groups of voters hid out in the brush and get 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
Barkley	Doxey	Norris
Bilbo	George	Pepper
Brewster	Gillette	Rosier
Bridges	Green	Taft
Bulow	Hill	Thomas, Okla.
Bunker	La Follette	Tunnell
Burton	Langer	Vandenberg
Capper	Lucas	Van Nuys
Caraway	McNary	Wagner
Chavez	Maloney	White
Connally	Maybank	
Danaher	Mead	

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 Senator 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 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. GUFFEY, 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 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 merely a prelude, 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 a quorum of men 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 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." I should like to have the RECORD show it. It reads:

3. That the several standing committees of the Senate having a membership of more than three Senators are hereby respectively authorized to fix, 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 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 for the bill.

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 me out when I state 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 for 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. 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 common parliamentary law 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. AUSTIN] in the Capitol here and off in another committee?" 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 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 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 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:

82 S. 1280; 269 H. R. 1024: The poll-tax bills—

Mr. CONNALLY objected to the consideration of these bills on the ground that a quorum was not present; that the Senate rules 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 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, or six.

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 that a committee must not fix 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 upon a quorum basis of one-third of the 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. NORRIS 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 on 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 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 simple 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 any army to support his views; he did not require a battleship, with heavy armament, but he prevailed under the Constitution of the United States, it being a jurisdictional question 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, 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. MURDOCK] is not at present in the Chamber. I wanted to call upon him, as he was present throughout the proceedings, to confer and ratify everything the Senator from Texas has 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 at the very inception, 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 toe of frog,
> Wool of 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. MURDOCK] has returned to the Chamber, and I should like to ask 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 item of the procedure, 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 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 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. 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. 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. No offer 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.

Mr. OVERTON. As the Senator has very well pointed out——

Mr. CONNALLY. It is not possible to repeal a law by violating 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 that in the absence of any rule to the contrary a majority 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. It never exercised that authority.

Mr. CONNALLY. No.

Mr. OVERTON. Therefore, a majority, or 10 members, was required to constitute a quorum.

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 so long as 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 and other Senators have said in discussing this matter, it seems perfectly clear that there was not a majority of the Judiciary Committee at the meeting 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 majority 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? How does it happen to 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 are about ready to adjourn and go home? Why is it necessary to pass upon this matter of peculiarly local interest, if I may so call a national situation? Why at this late day is it brought here? How is it brought here? Who is it that brought it here?

Mr. President, the motion was made by the distinguished leader. I happen to be a member of the Steering Committee of the Senate, but I have never heard of any instructions being given to our leader to bring this violently controversial question before the Senate. Why has it been done? I should like to know from our leader why it is that there is brought forward this controversial question, applying to our own internal situation here, in this time of war, in this time of danger when all our energies should be devoted to winning the war; the greatest war that has ever been waged against our people? Why is it that at the last moment this burning brand is flung into our midst to stir up the Senate as it seems to be stirred up about a matter which could well go over? Why is it that we are asked to vote on it when a majority of the committee was not present, and, of course, the committee could not report a bill unless a majority was present, or unless they had a rule that less than a majority could do it? And they seem to have had no such rule. Those are the questions which arise in my mind.

Mr. President, it seems to me the Senate should 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 been in session almost constantly for 2 or 3 years, and everyone is entitled to a little cessation. Why is it we have to be required to fight over a question such as this, which has been controversial 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; I 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 at this time. We have been living 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.

The election is over. It will be 2 years before another election comes around. Let me say to Senators that if they want this for an election bill they should postpone 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—let me say that the southern democracy, the southern Democrats, during the period when the old party has been weak and wobbly and could not get its breath, have gotten out the oxygen tent, and have kept the party alive, nurtured it, and looked after it, and, finally, when there seems to be a chance for success we raise campaign funds and send them to New York or Washington or somewhere else—I do not know where—I never see them after they come here. In 1936 the Democrats of my State, 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 to elect Democrats in the North and the national ticket.

After we in the South record our suffrage, the edict then goes out, "To hell with them. Bring them out. Where are those white so-and-so's from the South, those Democrats? Bring them out. We are going to ram these pineapples down their throats." [Laughter.] "We are going to humiliate them. We are going to punish them. We are going to tear the Democratic Party in two, if we can."

Mr. President, let me say, in conclusion, that Thaddeus Stevens, in the days of reconstruction—in the deepest wells of his hatred—or Charles Sumner, in the most intense moments of his bitterness and rancor, never proposed an outrage such as this which is now tendered to us by our own party and by our own leaders, who prefer a few little votes somewhere to the support of respectable southern Democrats, who have fought the party's battles in season and out of season, for which we are now receiving as our reward contempt and humiliation, because we happen to come from a section of the country in which we were born—in which our fathers were born—a section of the country which reaches back to the very foundations of the Revolution. Our ancestors shed their blood upon the battlefields of the Republic. They shed their blood side by side with the men from the North in the Revolutionary War. Southern men shed their blood side by side with northern men in the Spanish-American War, and in the World War, and are now shedding their blood on foreign battlefields.

Mr. President, we are Americans. We are Democrats. We have some rights. The Constitution is as much our possession as it is yours. We are entitled to be shielded by it, protected by it, as well as men from other sections of the land. There are no geographical questions in the Constitution. The Constitution does not say that below a certain line such and such is the law, and above that line something else is the law. We have as much rights as have any others to cling to the Constitution, and we have as much right to say that when the Senate of the United States acts it has got to act by a majority or a quorum; that when one of its committees acts it has got to act by a quorum, such as is either established by the rules of the committee, or the common law, or the rules of the Senate.

Mr. President, I hope the Chair will bear in mind the importance of this matter. The importance of the ruling will extend far beyond this particular question. If committees in this body can simply conduct a sort of a running debate on the sidewalk, or in their offices, or in the restaurant, and then have their messengers sent over to a committee and have the committee act, we are doing away with orderly, legal, constitutional, free government in this Republic.

I insist, Mr. President, that since the committee did not have a quorum at any time to consider the measure, and since the committee has not adopted a rule fixing less than a majority as a quorum, and the point of no quorum having been made in order and in time throughout all the proceedings, the bill is improperly before the Senate, and ought to be sent 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 add to the remarks 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 person 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.

Mr. DOXEY. May I ask 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?