H. R. 2266. A bill granting an increase of pension to Alice Shaw; to the Committee on Invalid Pensions.

H. R. 2267. A bill granting an increase of pension to Matilda A. Button; to the Committee on Invalid Pensions.

H. R. 2268. A bill granting an increase of pension to Elizabeth Earnshaw; to the Committee on Invalid Pensions.

H. R. 2269. A bill granting an increase of pension to Harriet E. Miller; to the Committee on Invalid Pensions.

By Mr. PACE:

H. R. 2270. A bill for the relief of Mrs. Frances Brooks Hydrick; to the Committee on Claims.

By Mr. REECE of Tennessee:

H. R. 2271. A bill for the relief of Grant Drinnon; to the Committee on Military Affairs.

By Mr. RABAUT:

H. R. 2272. A bill authorizing the Treasury of the United States to make a refund to the Tivoli Brewing Co.; to the Committee on Claims.

By Mr. RAMSPECK:

H. R. 2273. A bill for the relief of E. C. Fudge; to the Committee on Claims.

By Mr. SHORT:

H. R. 2274. A bill granting a pension to Annie Mary Watson; to the Committee on Invalid Pensions.

H. R. 2275. A bill granting a pension to Zarilda Frances Garrison; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

323. By Mr. ANGELL: Resolution of the Bulb Co-op of Oregon, asking for the enactment of legislation authorizing the appraisal and sale of any farm equipment, machinery, supplies, or other property not being used effectively; to the Committee on Agriculture.

324. By Mr. FITZPATRICK: Petition of Local No. 3, International Brotherhood of Electrical Workers of Greater New York, favoring the Government of the United States reimbursing our armed forces in currency at the cessation of hostilities, the equivalent of 1 month's pay at $50 per month for each month of service rendered from December 7, 1941, to the end of hostilities; to the Committee on Military Affairs.

325. By Mr. HANCOCK: Petition of William Drexler and other residents of Syracuse, N. Y., favoring the passage of House bill 1111; to the Committee on World War Veterans' Legislation.

326. By Mr. IZAC: Petition of members of the First Baptist Church of Fallbrook, Calif., relative to the protection of fathers, brothers, and friends from alcohol; to the Committee on the Judiciary.

327. Also, petition of members of the Central Christian Church of San Diego, Calif., relative to the protection of fathers, brothers, and friends from alcohol; to the Committee on the Judiciary.

328. By Mrs. NORTON: Joint resolution of the Legislature of the State of New Jersey, memorializing the Congress of the United States to find ways and means of mitigating the lot of the conquered peoples in Nazi-occupied lands, and protesting the barbarism of Nazi Germany in its announced plan of annihilating the Jews in occupied countries; to the Committee on Foreign Affairs.

329. By Mr. ROLPH: Senate Resolution 81 of the State of California, Sacramento, Calif., relative to establishing ceiling prices for poultry in California; to the Committee on Banking and Currency.

330. Also, resolution of the Sailors' Union of the Pacific, San Francisco, Calif., relative to allowances for seaman's loss of life and limb; to the Committee on the Merchant Marine and Fisheries.

331. Also, resolution of the Furniture Worker's Union, Local 1541, San Francisco, to amend the National Social Security Act, so as to include all cemetery employees within the benefits and provisions of this act; to the Committee on Ways and Means.

332. By the SPEAKER: Petition of Francis Jean Reuter, petitioning consideration of a resolution with reference to his petition No. 221; to the Committee on the Judiciary.

333. Also, petition of sundry citizens of Cambridge and other cities of Massachusetts, petitioning consideration of their resolution with reference post-war planning; to the Committee on Foreign Affairs.

SENATE

TUESDAY, MARCH 23, 1943

Rev. Bernard Braskamp, D. D., pastor of the Gunton Temple Memorial Presbyterian Church, Washington, D. C., offered the following prayer:

O Thou God of all majesty and mercy, whose greatness is unsearchable and whose amazing goodness crowneth all our days, we approach Thy throne, compelled not only by our necessities, but encouraged by every gracious invitation in Thy holy word.

May this be a day of unclouded vision and invincible strength for our President and these Thy servants as they give themselves in faith and in faithfulness to the tasks that challenge the investment and consecration of our noblest manhood.

Grant that we may cleave with increasing tenacity of purpose and with fond affection to that glorious hope when struggling humanity shall enter into the blessed heritage of peace and prosperity.

Hear us in the name of the Christ, our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The Secretary, Edwin A. Halsey, read the following letter:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., March 23, 1943.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. SCOTT W. LUCAS, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

CARTER GLASS,
President pro tempore.

Mr. LUCAS thereupon took the chair as Acting President pro tempore.

Mr. BARKLEY. Mr. President, I send to the desk a unanimous-consent request and ask for its present consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the request.

The Chief Clerk read as follows:

I ask unanimous consent, as provided by paragraph No. 3 of rule 1, that the Senator from Illinois [Mr. LUCAS], designated by the President pro tempore of the Senate today as Acting President pro tempore, may, unless otherwise ordered by the Senate, continue to serve in that capacity during the further absence of the Vice President.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered.

THE JOURNAL

On request of Mr. BARKLEY and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, March 19, 1943, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, who also announced that on March 22, 1943, the President had approved and signed the act (S. 303) to extend the jurisdiction of naval courts martial in time of war or national emergency to certain persons outside the continental limits of the United States.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Taylor, its enrolling clerk, announced that the House had passed the bill (S. 17) to provide for a temporary adjustment of salaries of the Metropolitan Police, the United States Park Police, the White House Police, and the members of the Fire Department of the District of Columbia, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the amendment of the House to the bill (S. 677) to amend the National Housing Act, as amended.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 777. An act to amend an act entitled "An act to regulate the hours of employment and safeguard the health of females employed in the District of Columbia," approved February 24, 1914;

H. R. 1408. An act to amend section 301 (a) (1) of the Agricultural Adjustment Act of 1938, as amended, and the first sentence of paragraph (1) of section 2 of the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended, so as to include the cost of all farm labor in determining the parity price of agricultural commodities;

H. R. 2020. An act to amend the Agricultural Adjustment Act of 1938, as amended, for the purpose of further regulating interstate and foreign commerce in tobacco, and for other purposes;

H. R. 2070. An act to effectuate the intent of the Congress as expressed in section 1, paragraph (k), of Public Law 846, Seventy-seventh Congress, approved December 24, 1942, by adding to the list of institutions named in said paragraph the name of the American Tree Association, an institution similar to the institutions so named;

H. R. 2115. An act to amend the District of Columbia Unemployment Compensation Act to provide for unemployment compensation in the District of Columbia, and for other purposes;

H. R. 2159. An act to provide for special assessments for the laying of curbs and gutters;

H. J. Res. 37. Joint resolution relating to the provision of butter for the patients of St. Elizabeths Hospital; and

H. J. Res. 100. Joint resolution extending the time within which certain acts under

the Internal Revenue Code are required to be performed.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 12) to express the sense of the Congress with respect to the importance of farmers to the effective prosecution of the war, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker pro tempore of the House had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Acting President pro tempore:

S. 171. An act for the relief of Arthur A. Schipke;

S. 405. An act for the relief of Mrs. Ernestine Fuselier Sigler;

S. 517. An act for the relief of Vodie Jackson;

S. 518. An act for the relief of Robert T. Groom, Daisy Groom, and Margaret Groom Turpin; and

H. J. Res. 83. Joint resolution to permit additional sales of wheat for feed.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED OR PLACED ON THE CALENDAR

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

H. R. 1408. An act to amend section 301 (a) (1) of the Agricultural Adjustment Act of 1938 as amended, and the first sentence of paragraph (1) of section 2 of the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended, so as to include the cost of all farm labor in determining the parity price of agricultural commodities; and

H. R. 2020. An act to amend the Agricultural Adjustment Act of 1938 as amended, for the purpose of further regulating interstate and foreign commerce in tobacco, and for other purposes; to the Committee on Agriculture and Forestry.

H. R. 2070. An act to effectuate the intent of the Congress as expressed in section 1, paragraph (k) of Public Law 846, Seventy-seventh Congress, approved December 24, 1942, by adding to the list of institutions named in said paragraph the name of the American Tree Association, an institution similar to the institutions so named; to the calendar.

H. R. 777. An act to amend an Act entitled "An Act to regulate the hours of employment and safeguard the health of females employed in the District of Columbia," approved February 24, 1914;

H. R. 2115. An act to amend the District of Columbia Unemployment Compensation Act to provide for unemployment compensation in the District of Columbia, and for other purposes;

H. R. 2159. An act to provide for special assessments for the laying of curbs and gutters; and

H. J. Res. 37. Joint resolution relating to the provision of butter for the patients of St. Elizabeths Hospital; to the Committee on the District of Columbia.

H. J. Res. 100. Joint resolution extending the time within which certain acts under the Internal Revenue Code are required to be performed; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION PLACED ON THE TABLE

The concurrent resolution (H. Con. Res. 12) to express the sense of the Congress with respect to the importance of farmers to the effective prosecution of the war, and for other purposes, was ordered to be placed on the table.

GREETINGS FROM PRESIDENT OF THE GRAND NATIONAL ASSEMBLY OF TURKEY

The ACTING PRESIDENT pro tempore laid before the Senate greetings contained in a radiogram from the President of the Grand National Assembly of Turkey, at Ankara, a translation of which was ordered to be printed in the RECORD, as follows:

[Translation]

ANKARA, TURKEY,
March 18, 1943.

Mr. HENRY A. WALLACE,
President of the Senate,
Washington, D. C.:

In the course of the reading of the ministerial proclamation to the Grand National Assembly of Turkey on the occasion of the appointment of his new cabinet, M. Saracoglu spoke of Turkish American relations in the following terms: "You know that the election of Ismet Inonu, as Chief of State has been communicated to the House of Representatives in Washington, which received this news with a thunder of applause."

Now from this exalted rostrum, in my turn, I address in your name to America, republican and democratic, the greetings, sympathy, and esteem of Turkey, republican and democratic. I am very happy to announce to you that the statements of the president of the council were greeted with an ovation and with the enthusiastic and unanimous applause of the entire assembly.

Accept, Mr. President, the assurance of my highest consideration.

ABDULHALIK RENDA,
President of the Grand National Assembly of Turkey.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

CANCELATION OF CERTAIN INDIAN DEBT CHARGES

A letter from the Secretary of the Interior transmitting, pursuant to law, a copy of his order canceling certain charges existing as debts due the United States by individual Indians or tribes of Indians (with an accompanying report); to the Committee on Indian Affairs.

EVERETT A. ALDEN ET AL.

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation for the relief of Everett A. Alden, Robert Bruce, Edgar C. Faris, Jr., Kathryn W. Ross, Charles L. Rust, and Frederick C. Wright from the obligation of restoring to the Government cash differences between the amount paid to them and the amount they might properly have been paid as employees of the National Bituminous Coal Commission (with accompanying papers); to the Committee on Claims.

REPORT OF DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Department of Commerce for the fiscal year ended June 30, 1942 (with an accompanying report); to the Committee on Commerce.

REPORT OF COMPTROLLER OF THE CURRENCY

A letter from the Comptroller of the Currency, transmitting, pursuant to law, his annual report covering the activities of the Bureau of the Comptroller of the Currency for the calendar year 1942 (with an accompanying report); to the Committee on Banking and Currency.

FINANCIAL REPORT OF THE PERSHING HALL

A letter from the executive director of the national legislative committee of the American Legion, Washington, D. C., transmitting, pursuant to law, a report of the Pershing Hall Fund (with an accompanying report); to the Committee on Military Affairs.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of the Department of the Navy (5), United States Tariff Commission, Tennessee Valley Authority, Federal Trade Commission, and the Interstate Commerce Commission which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The ACTING PRESIDENT pro tempore appointed Mr. BARKLEY and Mr. BREWSTER members of the committee on the part of the Senate.

PETITIONS AND MEMORIALS

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

By the ACTING PRESIDENT pro tempore:

A resolution of the Minneapolis Central Labor Union, of Minneapolis, Minn., favoring the enactment of anti-poll-tax legislation; to the Committee on the Judiciary.

A letter in the nature of a memorial from the Minnesota Railroad & Warehouse Employees, Marius Nielsen Local No. 581 remonstrating against the enactment of the so-called McKellar bill, providing for confirmation by the Senate of nominations to Federal positions with compensation of $4,500 per annum or more; to the Committee on the Judiciary.

A letter in the nature of a memorial from the American Federation of State, County, and Municipal Employees, of Riverside, Calif., remonstrating against the enactment of the so-called McKellar bill, providing for confirmation by the Senate of nominations to Federal positions with compensation of $4,500 per annum or more; to the Committee on the Judiciary.

A joint resolution of the Legislature of the State of New Jersey; to the Committee on Foreign Relations:

"Senate Joint Resolution 3

"Joint resolution memorializing the Congress of the United States to find ways and means of mitigating the lot of the conquered peoples in Nazi-occupied lands, and protesting the barbarism of Nazi Germany in its announced plan of annihilating the Jews in occupied countries

"Whereas the wanton barbarism of Nazi dominion has caused untold suffering and anguish to peoples of all nationalities and all faiths which have refused to yield, and has united the entire civilized world in armed and moral protest against it; and

"Whereas the Jewish people in particular, scattered defenseless and unrepresented by any civil or political authority, has been singled out for especial attack ever since the accession of the Nazis to power; and

"Whereas the corrosive doctrine of anti-Semitism has been and is being utilized by the Nazi regime as an avowed instrument for undermining the morale and confidence of the peoples of those nations which are their prospective victims, as a prelude to armed attack; and

"Whereas it has been confirmed by our State Department that the announced purpose of the Nazi regime is to liquidate the Jewish population of Nazi-occupied Europe, an execrable deed of horror and barbarism of unparalleled magnitude in human history, which has profoundly shocked the conscience of the civilized world; and

"Whereas the said program of mass murder, upon which the Nazi state has officially embarked, has already claimed 2,000,000 innocent victims and thousands more perish daily; and

"Whereas the traditional American policy of humanity, justice, and fair play renders it imperative that the powerful voice of the American people ring out in defense of all the conquered peoples of Nazi-occupied Europe, and, particularly, in defense of a people which has no government of its own to plead its cause: Now, therefore, be it

"Resolved by the Senate and General Assembly of the State of New Jersey:

"1. The Legislature of the State of New Jersey protests the brutalities practiced against all the conquered peoples of Nazi-occupied Europe and the barbaric, cruel, and premeditated plan of the German leaders to liquidate the Jewish population now enmeshed in Nazi toils as being against the laws of God and man.

"2. The legislature petition the President of the United States, Congress, and the Secretary of State to use the weight and prestige of their respective offices in making effectively felt to the Nazi overlords the protest of the conscience of the civilized world against their inhuman and barbaric practice against the peoples of the conquered countries, and particularly with respect to the Jewish population now situate in Nazi-occupied territory, and to hold the said Nazi warlords to strict accountability for their manifold crimes before the bar of justice

"3. The legislature petition the President of the United States, Congress, and the Secretary of State to use the weight and prestige of their respective offices to prevail upon the leaders of the United Nations to establish havens of refuge for those few unfortunates who manage to escape the Nazi oppressor and to facilitate the passage and travel of said refugees to the aforesaid havens of refuge

"4. The secretary of state of New Jersey be, and he is hereby, directed to transmit copies of this joint resolution to the President of the United States, the Vice President of the United States, the Secretary of State, the Speaker of the House of Representatives, and the Senators and Representatives of the State of New Jersey in the Congress of the United States.

"5. This resolution shall take effect immediately."

A concurrent resolution of the Legislature of the State of New York; to the Committee on Finance:

"Senate Resolution 19

"Whereas the national administration has enacted legislation to provide old-age security benefits for many of our citizens and is contemplating the expansion of the social security program to include other groups not now eligible for such benefits; and

"Whereas under the social security law only the employees of covered employers may participate in social security benefits, and only the covered employers are required to pay social security tax, the covered employer and the covered employee each paying one-half thereof; and

"Whereas there are in the State of New York a great many employees who were formerly covered by the law and were formerly eligible for benefits thereunder, but who, through no action or choice on their part, became ineligible under the law when they, through no action or choice on their part, became employees of uncovered employers; and

"Whereas a great many of such employees, who so became ineligible under the social security law, are desirous of being eligible thereunder and being covered thereby, and to participate in social security benefits, and are willing to pay not only the amount of employee contributions but also the amount of employer contributions which their present employer would have been required to pay if such employer were covered under the law: Now, therefore, be it

"Resolved (if the assembly concur), That the Legislature of the State of New York hereby petitions the Congress of the United States to amend the Social Security Act to provide that all employees who were formerly covered by the social security law and who heretofore made contributions thereto in the form of employee tax, and who became ineligible through no action or choice on their part, may again become eligible under the social security law for social security benefits upon signifying their willingness to pay, not only the amount of employee contributions, but also the amount of employer contributions which their present employer would have been required to pay if such employer were covered by the law; and be it further

"Resolved (if the assembly concur), That a copy of this resolution be immediately transmitted to the President of the United States, the Secretary of the United States Senate, the Clerk of the House of Representatives, and to each Member of the Congress elected from the State of New York."

A joint resolution of the Legislature of the State of Washington; to the Committee on Military Affairs:

"Senate Joint Resolution 1

"Joint resolution relating to the pledging of every resource to our President in the battle to preserve our country and the principles of democracy everywhere

"Be it resolved by the Senate and House of Representatives of the State of Washington, in legislative session assembled:

"Whereas, since our last assembling our country and most of the free peoples of the world have been drawn into a life and death struggle with the totalitarian powers who are seeking to destroy our Christian civilization and way of life: Now, therefore, be it

"Resolved, That we pledge our every resource to our President in the battle to preserve our country and the principles of democracy everywhere, and we call upon our Representatives in Congress, regardless of party, to support him to the utmost in his leadership in our war effort and those of our valiant allies in their struggle against the unholy aggressor nations who are violating international law and shocking the conscience of mankind; and be it further

"Resolved, That we urge that this war be waged until the dictators are completely overthrown and that no negotiated peace short of such complete overthrow be entertained; and be it further

"Resolved, That a copy of this resolution be immediately transmitted to the Honorable President, Franklin D. Roosevelt, the Secretary of the United States Senate, and Clerk of the United State House of Representatives, and to all Members of the Senate and the House of Representatives of the United States from the State of Washington."

A joint memorial of the Legislature of the State of Washington to the Committee on Finance:

"Senate Joint Memorial 2

"Joint memorial relating to the adoption by Congress of the necessary legislation to put into effect some plan of collecting income taxes each month as the money is actually earned

"To the Honorable Franklin D. Roosevelt, President of the United States, and to the Senate and House of Representatives of the United States, in Congress assembled:

"We, your memorialists, the Senate and the House of Representatives of the State of Washington, in legislative session assembled, most respectfully represent and petition as follows:

" 'Whereas the present method of collecting Federal income taxes under which method the taxpayer is obliged to make provision for payment of such taxes during the succeeding year is especially burdensome to those taxpayers who earn salaries or wages; and

" 'Whereas such taxpayers are generally now employed at good wages and are well able to pay income taxes out of their current income; and

" 'Whereas many of such taxpayers are persons of uncertain residence and will be of uncertain employment in the event that war activities cease; and

" 'Whereas the collection of income taxes on the pay-as-you-go basis should result in increased revenue to the United States;

" 'Now, therefore, your memorialists respectfully pray that the Congress of the United States speedily pass the necessary legislation to put into effect some plan of collecting income taxes so that such taxes may be collected on salaries and wages each month and as the taxpayer is actually earning his salary and wages: And be it

" '*Resolved*, That copies of this memorial be immediately transmitted to the Honorable Franklin D. Roosevelt, President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and to each Member of the Congress from the State of Washington.' "

Two joint memorials of the Legislature of the State of Washington; to the Committee on Commerce:

"Senate Joint Memorial 5

"Joint memorial relating to the purchase, maintenance, and operation of bridges across the Columbia River between Washington and Oregon, by the United States

"To the Honorable Franklin D. Roosevelt, President of the United States, and the honorable Senate and House of Representatives of the United States, in Congress assembled:

"Whereas there is now pending before the Congress of the United States, a bill for an act providing for the acquisition by the United States of the interstate bridge, including the approaches thereto, across the Columbia River between Longview, Wash., and Rainier, Oreg., and for the maintenance and operation of said bridge after such acquisition free of tolls; and

"Whereas the Senate of the State of Washington, the House concurring, recognizes the inestimable benefits to the States of Washington and Oregon and to the communities involved by such acquisition and maintenance and operation of said bridge free of tolls; and

"Whereas there are two other bridges which cross the Columbia River between the States of Washington and Oregon, namely, a bridge between White Salmon, Wash., and Hood River, Oreg., and a bridge between

Stevenson, Wash., and Cascade Locks, Oreg.; and

"Whereas it is the belief of the Senate of the State of Washington, the House concurring, that each and both of said bridges should also be acquired, together with their approaches, by the United States and maintained and operated after such acquisition free of tolls: Now, therefore, be it

"Resolved, That we, the Senate and House of Representatives of the State of Washington, do hereby respectfully memorialize and petition the President of the United States and the Congress of the United States, to enact and approve at the earliest practicable moment, the pending legislation so providing for the acquisition of the bridge across the Columbia River between Longview, Wash., and Rainier, Oreg., and for the maintenance and operation of the same after such acquisition free of tolls; and be it further

"Resolved, That we, the Senate and House of Representatives of the State of Washington, do hereby respectfully memorialize and petition the President of the United States and the Congress of the United States to cause to be enacted into law, suitable legislation for the acquisition of the two bridges across the Columbia River, one bridge between White Salmon, Wash., and Hood River, Oreg. and the other between Stevenson, Wash., and Cascade Locks, Oreg., and for the maintenance and operation of said two bridges after such acquisition free of tolls; and be it further

"Resolved, That copies of this memorial be immediately transmitted to the Honorable Franklin D. Roosevelt, President of the United States, and to the Secretary of the Senate of the United States, and to the Clerk of the House of Representatives of the United States, and to all Members of the Senate and House of Representatives of the United States from the State of Washington."

Senate Joint Memorial 6

"Joint memorial relating to the enactment of appropriate legislation by Congress to prevent pollution and destruction of fish life in the interstate portion of the Columbia River and its tributaries

"To the Honorable Franklin D. Roosevelt, President of the United States, and to the Senate and House of Representatives of the United States, in Congress assembled:

"We, your memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, most respectfully represent and petition Your Excellency and honorable bodies, as follows:

"'Whereas the Federal Government, through the building of the Bonneville Dam and the construction of numerous aids to navigation, has expended millions of dollars upon the interstate portion of the Columbia River and has provided the opportunity for vast industrial development in this area; and

"'Whereas the States of Washington and Oregon have likewise made large expenditures of public funds to develop fish life and other natural resources along this river and to make more available to the public the natural beauty of this region; and

"'Whereas, properly supervised, this interstate portion of the Columbia River will become a region of great recreational and scenic value and an area of orderly industrial development for the benefit of the general public; and

"'Whereas the special interest of any individual or group of individuals should not be permitted to cause pollution of the waters of the Columbia River and its tributaries in this area or damage the fish life therein; and

"'Whereas we are reliably informed that the Senate and House of Representatives of the State of Oregon, in legislative session assembled, intend to adopt a similar memorial to be sent to Your Excellency and honorable bodies: Now therefore

"'We, your memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, urge that the Congress immediately enact appropriate legislation affecting the interstate portion of the Columbia River and its tributaries in this area, to control pollution from war industries, military establishments, housing projects, and other sources of contamination, either bacterial or chemical, so that the public may enjoy the full use of these waters for domestic, industrial, and recreational purposes and that fish life therein be perpetuated: And be it

"'*Resolved,* That copies of this memorial be immediately transmitted to the Honorable Franklin D. Roosevelt, President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and to each Member of Congress from the States of Washington and Oregon.'"

A joint resolution of the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution 25

"Joint resolution memorializing Congress not to pass reciprocal trade agreements

"Whereas the reciprocity agreement proposed by the Federal Department of State under which almonds from Iran would be admitted into the United States in competition with American-grown almonds is considered by American almond growers as a dangerous precedent leading to the extension of this policy to other almond growing nations and thus ultimately endangering if not ruining the American almond industry: Now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California (jointly), That we, the members of the California Legislature, in session assembled on this 28th day of January 1943 do most respectfully request that the Department of State does not enter into a reciprocal trade agreement with any foreign country which will serve to place the product of low-priced foreign labor in competition with those of the California farmer; and be it further

"Resolved, That the chief clerk of the assembly be, and is hereby directed to send copies of this resolution to the President of the United States, the Vice President of the United States, the Department of State, the Speaker of the House of Representatives, and to the Senators and Congressmen from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Military Affairs:

"Assembly Joint Resolution 33

"Joint resolution relative to memorializing Congress to enact legislation providing a Federal system of workmen's compensation for civilian defense volunteers injured in the course of their duties.

"Whereas a subcommittee of the insurance committee of the Assembly of the State of California was appointed to inquire into the need for a system of workmen's compensation for civilian defense volunteers injured in the course of their duties; and

"Whereas said subcommittee has conducted hearings in the several sections of California and has heard testimony from representatives of all counties and cities and local civilian defense organizations, all of whom were unanimous in the opinion that such legislation is essential; and

"Whereas it is the considered opinion of the Legislature of the State of California that such workmen's compensation is primarily a Federal responsibility in that the organization for such volunteer services and the nature of the duties of such volunteers are directly related to the conduct of the war: Now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California (jointly), That the Legislature of the State of California hereby memorializes Congress to enact legislation which will provide a Federal system of workmen's compensation benefits for civilian defense volunteers injured in the course of their civilian defense duties; and be it further

"Resolved, That a copy of this joint resolution be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, Members of the Congress representing the State of California, and the chairmen of the committees of the Congress before which such legislation is pending."

A resolution of the Senate of Puerto Rico; to the Committee on Territories and Insular Affairs:

"Senate Resolution 3

"Resolution requesting the Senate and the House of Representatives of the United States of America to enact legislation to the effect that, while the present war emergency exists, there be assigned shipping space for the shipment of 60,000 tons a month of food articles for our island and raw materials and fertilizers for insular industries and agricultural activities

"Whereas the shipping space assigned to our island by the War Shipping Administration is very limited and has given rise to a very great scarcity of the subsistence articles most necessary for the feeding of our people, as well as to the lack of fertilizers indispensable for agricultural activities and of raw materials for our industry; and

"Whereas should this condition continue to prevail in Puerto Rico, there would be aggravated still more the acute crisis already existing in our island, with the consequent paralyzation of industries and the unemployment of our working masses: Now, therefore, be it

"Resolved by the Senate of Puerto Rico:

"1. To request the Senate and the House of Representatives of the United States, as they are hereby requested, to assign by law, while the present war emergency lasts, shipping space for Puerto Rico for the shipment of 60,000 tons a month of subsistence products for our people and of raw materials and fertilizers for our industries and agricultural activities.

"2. That a certified copy of this resolution, once approved, be sent to the presiding officers of the Senate and of the House of Representatives of the United States; to the chairman of the Committee on Territories and Insular Affairs of the Senate of the United States; to the chairman of the Committee on Insular Affairs of the House of Representatives of the United States; to the Secretary of the Interior, the Honorable Harold L. Ickes; to the Resident Commissioner for Puerto Rico in Washington, the Honorable Bolivar Pagán, and to the chairman of the Chavez committee of the Senate of the United States."

By Mr. CAPPER:

A petition, numerously signed, of sundry citizens of Marion County, Kans., praying for the enactment of Senate bill 860, relating to the sale of alcoholic liquors to the members of the land and naval forces of the United States; to the Committee on Military Affairs.

By Mr. VANDENBERG:

A resolution of the board of directors of the Ontonagon County (Mich.) Rural Electrification Association, favoring the adoption of the proposed incentive payment plan for the encouragement of increased farm production during the 1943 season; to the Committee on Agriculture and Forestry.

A resolution of the council of the city of Saginaw, Mich., favoring the enactment of

legislation to institute uniform time throughout the State of Michigan; to the Committee on Interstate Commerce.

A resolution of the commission of the city of Royal Oak, Mich., favoring a change in the rationing regulations so as to permit local ration boards to give a reasonable allowance of gasoline to members of the armed forces who are at home on furlough; to the Committee on Banking and Currency.

A resolution adopted by a mass meeting of citizens of Lithuanian origin, held at Grand Rapids, Mich., reaffirming loyalty to the President of the United States, pledging every possible assistance to the Nation and her Allies in waging total war so that the unconditional surrender and destruction of the Axis Powers may be swift and sure, and also requesting that the Government remain firm in its refusal to recognize the foreign occupation of Lithuania and other small occupied nations of Europe, etc.; to the Committee on Foreign Relations.

By Mr. JOHNSON of California:

A resolution of the Senate of the State of California; to the Committee on Banking and Currency:

"Senate Resolution 81

"Whereas in normal times the poultry industry in this State is of paramount importance to the people of California; and

"Whereas this importance has been tremendously magnified by reason of the existing shortages of meat and other forms of protein; and

"Whereas there annually exists at this time of year a normal surplus of cockerels which in the past have been destroyed because of a lack of available market; and

"Whereas this surplus of cockerels could be raised and marketed as broilers within a relatively short time if the ceiling price for broilers would permit the raising and marketing of broilers by poultrymen without incurring a substantial loss; and

"Whereas it would appear that the Office of Price Administration and other Federal agencies should do all in their power to encourage and stimulate the raising of broilers for use in California in order to relieve the present meat and protein shortage; and

"Whereas despite the efforts of the poultrymen of the State of California to persuade the Office of Price Administration to realize the uniqueness of the California situation, the Office of Price Administration insists on fixing ceiling prices for California on production costs of other States where labor and feeding costs are much lower; and

"Whereas the persistence of the Office of Price Administration in its present conduct will result in the loss of many million pounds of poultry meat for use in California; and

"Whereas local Office of Price Administration officias have refused to take appropriate steps to alleviate present conditions even when they have had power so to do: Now, therefore, be it

"Resolved by the Senate of the State of California, That the Honorable Prentiss Brown, Administrator of the Office of Price Administration, and the Honorable Claude Wickard, Secretary of Agriculture, be and they are hereby memorialized to direct their regional representatives for California to establish ceiling prices for poultry in California that will permit making available to the citizens of the State this essential supplement to the meat and protein supply; and be it further

"Resolved, That the secretary of the senate shall transmit copies of this resolution by telegram to the President, the Vice President, to the Senators and Congressmen from California, and to the Honorable Prentiss Brown, Administrator of the Office of Price Administration and the Honorable Claude Wickard, Secretary of Agriculture."

(The ACTING PRESIDENT pro tempore laid before the Senate a resolution identical with the foregoing, which was referred to the Committee on Banking and Currency.)

By Mr. RADCLIFFE:

A joint resolution of the General Assembly of the State of Maryland; to the Committee on Foreign Relations:

"House Joint Resolution 4

"Joint resolution requesting the Congress of the United States to pass a resolution approving the principle of world federation and the President of the United States to initiate procedure to formulate a constitution for the federation of the world.

"Whereas it is necessary at the present juncture of human affairs to enlarge the bases of organized society by establishing a government for the community of nations, in order to preserve civilization and enable mankind to live in peace and be free, the following principles and objectives are hereby enunciated in the declaration of the federation of the world:

"Man, the source of all political authority, is a manifold political being. He is a citizen of several communities—the city, the state, the nation, and the world. To each of these communities he owes inalienable obligations and from each he receives enduring benefits.

"Communities may exist for a time without being incorporated but, under the stress of adversity, they disintegrate unless legally organized. Slowly but purposefully through the centuries, civilization has united the world, integrating its diverse local interests and creating an international community that now embraces every region and every person on the globe. This community has no government and communities without governments perish. Either this community must succumb to anarchy or submit to the restraints of law and order.

"Governments can only be established through the deliberate efforts of men. At this hour two elemental forces are struggling to organize the international community—totalitarianism and democracy. The former, a recent version of repudiated militarism and tyranny, is predicated upon the principle of compulsion, rules through dictatorship, and enslaves men; the latter, a proved bulwark of the rights of man as a human being and as a citizen, derives its authority from the consent of the governed, embodies the will of freemen, and renders their collective judgments supreme in human affairs. The cornerstone of totalitarianism is the ethnographic state, whose restricted interests define the scope of its favors; the foundation of democracy is man whose integrity is inviolable and whose welfare is its primary concern. The motivating power of the former is violence; of the latter, freedom. One feeds upon unscrupulous ambition; the other upon an enlightened sense of obligation.

"One or the other of these forces will now triumph and govern mankind. The present conflict is irrepressible and decisive. It is the challenge of the ages to the generation of today, and represents those spiritually cosmic forces which visit the world at critical periods in human history to shape the destinies of men. This world cannot remain half slave, half free; half totalitarian, half democratic. The laws of civilized society prevent intercourse between slaves and freemen from being either congenial or profitable. If totalitarianism wins this conflict, the world will be ruled by tyrants, and individuals will be slaves. If democracy wins, the nations of the earth will be united in a commonwealth of free peoples, and individuals, wherever found, will be the sovereign units of the new world order.

"Man has struggled from time immemorial to endow the individual with certain fundamental rights whose very existence is now imperiled. Among those rights is man's freedom to worship, speak, write, assemble, and vote without arbitrary interference. To safeguard these liberties as a heritage for the human race, governments were instituted among men, with constitutional guaranties against the despotic exercise of political authority, such as are provided by elected parliaments, trial by jury, habeas corpus, and due process of law. Man must now either consolidate his historic rights or lose them for generations to come.

"The ceaseless changes wrought in human society by science, industry, and economics, as well as by the spiritual, social, and intellectual forces which impregnate all cultures, make political and geographical isolation of nations hereafter impossible. The organic life of the human race is at last indissolubly unified and can never be severed, but it must be politically ordained and made subject to law. Only a government capable of discharging all the functions of sovereignty in the executive, legislative, and judicial spheres can accomplish such a task. Civilization now requires laws, in the place of treaties, as instruments to regulate commerce between peoples. The intricate conditions of modern life have rendered treaties ineffectual and obsolete, and made laws essential and inevitable. The age of treaties is dead; the age of laws is here.

"Governments, limited in their jurisdiction to local geographical areas, can no longer satisfy the needs or fulfill the obligations of the human race. Just as feudalism served its purpose in human history and was superseded by nationalism, so has nationalism reached its apogee in this generation and yielded its hegemony in the body politic to internationalism. The first duty of government is to protect life and property, and when governments cease to perform this function they capitulate on the fundamental principle of their raison d'être. Nationalism, moreover, is no longer able to preserve the political independence or the territorial integrity of nations, as recent history so tragically confirms. Sovereignty is an ideological concept without geographical barriers. It is better for the world to be ruled by an international sovereignty of reason, social justice, and peace than by diverse national sovereignties organically incapable of preventing their own dissolution by conquest. Mankind must pool its resources of defense if civilization is to endure.

"History has revealed but one principle by which free peoples, inhabiting extensive territories, can unite under one government without impairing their local autonomy. That principle is federation, whose virtue preserves the whole without destroying its parts and strengthens its parts without jeopardizing the whole. Federation vitalizes all nations by endowing them with security and freedom to develop their respective cultures without menace of foreign domination. It regards as sacrosanct man's personality, his rights as an individual and as a citizen, and his role as a partner with all other men in the common enterprise of building civilization for the benefit of mankind. It suppresses the crime of war by reducing to the ultimate minimum the possibility of its occurrence. It renders unnecessary the further paralyzing expenditure of wealth for belligerent activity, and cancels through the ages the mortgages of war against the fortunes and services of men. It releases the full energies, intelligence, and assets of society for creative, ameliorative, and redemptive work on behalf of humanity. It recognizes man's morning vision of his destiny as an authentic potentiality. It apprehends the entire human race as one family, human beings everywhere as brothers, and all nations as component parts of an indivisible community:

"There is no alternative to the federation of all nations except endless war. No substitute for the federation of the world can organize the international community on the basis of freedom and permanent peace. Even if continental, regional, or ideological federations were attempted, the governments of these federations, in an effort to make im-

pregnable their separate defenses, would be obliged to maintain stupendously competitive armies and navies, thereby condemning humanity indefinitely to exhaustive taxation, compulsory military service, and ultimate carnage, which history reveals to be not only criminally futile but positively avoidable through judicious foresight in federating all nations. No nation should be excluded from membership in the federation of the world that is willing to suppress its military, naval, and air forces, retaining only a constabulary sufficient to police its territory and to maintain order within its jurisdiction, provided that the eligible voters of that nation are permitted the free expression of their opinions at the polls.

"It being our profound and irrevocable conviction—

"That man should be forever free and that his historic rights as an individual and as a citizen should be protected by all the safeguards sanctioned by political wisdom and experience.

"That governments are essentital to the existence of communities and that the absence of government is anarchy.

"That there exists an international community, encompassing the entire world, which has no government and which is destined, as a consequence of the present war, either to be ruthlessly dominated and exploited by totalitarianism or to be federated by democracy upon the principle of freedom for all nations and individuals.

"That all human beings are citizens of this world community, which requires laws and not treaties for its government.

"That the present conflict will determine the survival of free institutions throughout the world, and that it is morally incumbent upon this generation, as one of the declared objectives of the current war, to federate the nations in order to make secure and hereafter unchallenged freedom for all peoples everywhere, and in order to impart to those who are called to give their lives and fortunes for the triumph of democracy the positive assurance of the incorruptible utility of their sacrifice.

"That world federation is the keystone in the arch of civilization, humanity's charter of liberty for all peoples, and the signet authenticating at last the union of the nations in freedom and peace.

"That the universal ordeal, through which mankind is now passing, marks the birth of a new epoch that will affirm for all time the indestructible solidarity of civilization and the abiding unity of the human race.

"That there are supreme moments in history when nations are summoned, as trustees of civilization, to defend the heritage of the ages and to create institutions essential for human progress. In the providence of God, such a crisis is this hour, compelling in duty and unprecedented in responsibility, a fateful moment when men meet destiny for the fulfillment of historic tasks: Now, therefore, be it

"Resolved by the General Assembly of Maryland, That all peoples of the earth should now be united in a commonwealth of nations to be known as the Federation of the World, and to that end it hereby endorses the declaration of the federation of the world as if specifically set forth in the preamble hereof, and makes said declaration a part of this resolution in the same manner as if same were recited herein, and requests the Senators and Members of the House of Representatives in Congress from the State of Maryland to support and vote for a resolution in the Congress of the United States, approving the principle of world federation and requesting the President of the United States to initiate the procedure necessary to formulate a constitution for the federation of the world, which shall be submitteed to each nation for its ratification; and be it further

"Resolved, That in the opinion of the General Assembly of Maryland, there should be selected a territory for the seat of government for the Federation of the World, and that the nation in which the said territory is located be requested to withdraw its jurisdiction over this area and cede it to the Federation of the World for its capital with all the prerogatives and attributes of sovereignty, in order that there might be built in this area a city symbolic of world unity, adequate for the needs of the nations and worthy of the aspirations and destiny of mankind; and be it further

"Resolved, That the secretary of state of Maryland be and he is hereby directed to send, under the great seal of the State of Maryland, copies of this resolution to the President of the United States, the President of the United States Senate, to the Speaker of the House of Representatives of Congress, and to each Member in the United States Congress from the State of Maryland."

(The ACTING PRESIDENT pro tempore laid before the Senate a joint resolution identical with the foregoing, which was referred to the Committee on Foreign Relations.)

By Mrs. CARAWAY:

A concurrent resolution of the General Assembly of the State of Arkansas; to the Committee on Education and Labor:

"House Concurrent Resolution 20

"Whereas the Works Progress Administration has cooperated in the establishment and operation of the hot lunch projects, which has been furnishing hot lunches in the various public schools of the State of Arkansas for the use and benefit of our school children; and

"Whereas said Works Progress Administration is curtailing its activities in the State of Arkansas, and will discontinue serving said hot lunch projects at the expiration of this term: Now, therefore, be it

"Resolved by the House of Representatives of the Fifty-fourth General Assembly of the State of Arkansas (the Senate concurring therein), That we memorialize the Congress of the United States of America to take the necessary action to provide for the continued operation of the hot lunch projects in the public schools of our State; be it further

"Resolved, That the secretary of state be, and is hereby instructed to mail a copy to the President of the United States Senate, the Speaker of the House, and to the two United States Senators, and the Representatives from the State of Arkansas."

(The ACTING PRESIDENT pro tempore laid before the Senate a concurrent resolution identical with the foregoing, which was referred to the Committee on Education and Labor.)

By Mr. McCARRAN:

A joint resolution of the Legislature of the State of Nevada; to the Committee on Commerce:

"Senate Joint Resolution 4

"Joint resolution memorializing Congress not to enact legislation concerning commercial and private air commerce, and aviation, until such time as the present war has been concluded

"Whereas the Congress of the United States has before it for consideration House bill 1012 and Senate bill 246 affecting air commerce; and

"Whereas air commerce (air lines) represents a minor part of civil aviation, and private flying and fixed-base operations represent a major part of civil aviation whose operations are not interstate in character and, therefore, are of no concern of the Federal Government, the pending legislation would deny to the States their inherent rights to govern within their own State and would seriously jeopardize private flying and fixed-base operations; and

"Whereas by applying the intent of this legislation to other forms of transportation our national economy would be seriously affected; and

"Whereas there is no immediate need for this legislation as the President of the United States is vested with full power under the defense act to regulate all aircraft, civilian or otherwise, if necessary; and

"Whereas those men who are serving their country in the various branches of service are unable to voice their sentiments or opinions on this proposed legislation at this time, and they are the persons who have contributed more to the development of aviation and are entitled to their place in aeronautics when and if they return from active duty; and

"Whereas there is ample time for such legislation to be considered in the future since consideration has not been given future developments and improvements which will change methods now used in the regulation of aircraft: Now, therefore, be it

"Resolved, That the State Legislature of the State of Nevada respectfully requests that no action be taken on the above-mentioned bills or any similar bill or bills by Congress until the present war is over and peace is established; be it further

"Resolved, That a copy of this resolution be forwarded to the clerk of the United States Senate, the Clerk of the United States House of Representatives, the clerk of the interstate and Foreign Commerce Committee of Congress, and to each of the Nevada Senators and Representative in Congress."

(The ACTING PRESIDENT pro tempore laid before the Senate a joint resolution identical with the foregoing, which was referred to the Committee on Commerce.)

By Mr. McCARRAN:

A joint resolution of the Legislature of the State of Nevada; to the Committee on Mines and Mining:

"Senate Joint Resolution 2

"Joint resolution memorializing Congress to relax restrictions on gold and silver mining

"Whereas the recent orders of the War Production Board closing gold and silver mines in the State of Nevada have resulted in only negligible transfers of miners to other fields of work; and

"Whereas this transfer is more than offset by the impairment of the morale and the far-reaching effect on the economic structure of mining communities; and

"Whereas the State of Nevada by its acts and the use and sacrifice of its men and resources in the present world-wide struggle has proven its unqualified, all-out devotion to the war effort; and

"Whereas the preservation of the mining industry of this State by the employment of men too old for induction in military service and where they cannot be employed in other fields of work will not impede the war effort: Now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, That the Congress of the United States be memorialize to pass necessary legislation to relax restrictions on gold and silver mining to the end that the economic structure of mining communities in this State will not be destroyed; and be it further

"Resolved, That duly certified copies of these resolutions be transmitted by the secretary of state to the President of the United States, to the Presiding Officer of the United States Senate, to the Speaker of the House of Representatives, to each of the United States Senators from Nevada, and to the Nevada Representative in Congress."

(The ACTING PRESIDENT pro tempore laid before the Senate a joint resolution identical with the foregoing, which was referred to the Committee on Mines and Mining.)

By Mr. GILLETTE:

A concurrent resolution of the General Assembly of the State of Iowa; to the Committee on the Judiciary:

"Senate Concurrent Resolution 14

"Whereas the people of the State of Iowa have steadfastly and sacrificially, in peace and in war, manifested their devotion to the ideals of democracy; and

"Whereas a vigilant citizenry is the best safeguard of the democratic way of life; and

"Whereas it is held by the people of Iowa to be a fundamental right of the people to know how their duly elected representatives in the General Assembly vote on the final passage of all measures affecting the people, and to protect this right have impressed the Constitution of Iowa with the following provision:

" 'Passage of bills. Article 3, section 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal'; and

"Whereas, measures of grave concern to the people of Iowa and of the Nation are not infrequently passed by the Congress of the United States without a recorded vote of its members on final passage, thus depriving the people of Iowa of a fair opportunity of knowing how their duly elected members in the National Legislature voted thereon; and

"Whereas a fair opportunity on the part of the people of Iowa to scrutinize the acts and conduct of the Members of Congress is essential to the fulfillment of the ideal of democracy; and

"Whereas men and women on the fighting fronts, on land and sea, and those held in enemy prisons in distant places in the world, are entitled, upon their return to the homeland, to have a record of the votes cast by their representatives in the National Legislature, on the final action on all important measures during this critical period of the Nation's history: Therefore be it

"Resolved by the Senate of the Fiftieth General Assembly of Iowa (the House concurring), That the Congress of the United States be memorialized to forthwith take such action as may be appropriate to require a recorded vote of the Members of the Congress on the final passage of all bills and all measures of general public interest."

(The ACTING PRESIDENT pro tempore laid before the Senate a concurrent resolution identical with the foregoing, which was referred to the Committee on the Judiciary.)

By Mr. MAYBANK:

A resolution of the House of Representatives of the State of South Carolina; to the Committee on Commerce:

"Whereas the bridge over and the approaches to the Great Pee Dee River on United States Highway 76 between Florence, S. C., and Marion, S. C., was completed in 1923; and

"Whereas this crossing is now obsolete and unsuitable for present-day traffic, especially military traffic; and

"Whereas the crossing is on the established strategic network and is on the route between Fort Bragg, N. C., and Fort Jackson, S. C., and also between Fort Bragg, N. C., and Charleston, S. C., which is a port of embarkation; and

"Whereas the State Highway Commission of South Carolina, on February 20, 1941, authorized and approved the rebuilding of this crossing and allotted funds for this purpose but the project is held up because of the nonavailability of necessary materials: Now, therefore, be it

"Resolved by the house of representatives, That the War Department is hereby respectfully memorialized to declare the improvement of this crossing as essential to the war effort and to secure release of the necessary materials in order that the State Highway Department may proceed with its construction; be it further

"Resolved, That copies of this resolution be immediately sent to the Secretary of War, to the two United States Senators from South Carolina, and to the Representative in Congress from the Sixth South Carolina Congressional District."

By Mr. THOMAS of Oklahoma:

A resolution of the House of Representatives of the State of Oklahoma; to the Committee on the Judiciary:

"House Resolution 31

"A resolution memorializing the Congress of the United States to enact legislation permitting garnishment proceedings to be directed against any salaries, wages, or fees paid by the Federal Government to its employees; and declaring an emergency

"Whereas there exists no Federal law permitting garnishment proceedings to be instituted against an employee of the United States Government for the purpose of levying legal claims against his salary, wage, or fees for such Federal employment; and

"Whereas an inequality is apparent, in that such action may be taken against an employee of the State of Oklahoma; and

"Whereas the lack of such a law pertaining to Federal employees has resulted in great injustice to persons holding legal and valid claims against employees of the United States Government, in that such persons are without legal remedy in the satisfaction of such claims: Now, therefore, be it

"Resolved by the House of Representatives of the Nineteenth Session of the Oklahoma Legislature:

"SECTION 1. That the Congress of the United States be memorialized and urged to enact suitable legislation removing the exemption of Federal salaries, wages, and fees from garnishment proceedings.

"SEC. 2. It being immediately necessary for the preservation of the public peace, health, and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

RELIEF FOR POLISH REFUGEE CHILDREN

Mr. DANAHER. Mr. President, on March 20 I received from the Right Reverend Monsignor Lucien Bojnowski, of New Britain, Conn., a resolution and petition addressed to the President of the United States. As chairman of the resolutions committee, Monsignor Bojnowski reported the action of the Polish American Citizens Committee inspired by the poignant sufferings of Polish refugees, and petitioning for relief. The situation is well outlined in the resolution, and because of its significant import, I ask unanimous consent that it be printed in full in the body of the RECORD.

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

Whereas thousands of Polish children are now refugees from their native land; and

Whereas these children, now found in Russia, India, Iraq, and other countries are not provided for sufficiently to assure them continual living conditions; and

Whereas our United States of America has shown herself to be today the compassionate mother of the oppressed peoples of the world and has often opened her arms to take under her mantle this earth's refugees: This assembly therefore

Resolves, We American citizens of Polish descent, of the Sacred Heart of Jesus Parish, of New Britain, Conn., totaling more than 5,000 in number, do earnestly request our President, His Excellency Franklin Delano Roosevelt and other honorable members of our Government to grant permission that at least a portion of the aforesaid Polish refugee children be allowed entrance into these Continental United States of America, and be allowed asylum within these borders for the duration of the present world struggle.

REV. L. BOJNOWSKI,
MARCIN ROSAL,
PAULEN NUREGYZK,
Rev. I. J. FIEDORCZYK,
Resolution Committee.

Mr. MALONEY subsequently said: Mr. President, I have received a letter from Rev. A. J. Fiedorczyk, president, Polish American Citizen Committee of New Britain, Conn., and with it a resolution adopted by members of the Sacred Heart of Jesus Parish in New Britain, Conn., and signed by Rev. L. Bojnowski and others, praying that Polish refugee children be allowed entrance into the United States for the duration of the present world struggle. In view of the fact that my colleague [Mr. DANAHER] has presented and had printed in the RECORD an identical resolution, I shall not, of course, request that printing of the resolution be duplicated in the RECORD.

STANDARD FOR GRADING OF BUTTER—RESOLUTION OF NEBRASKA LEGISLATURE

Mr. BUTLER. Mr. President, the State of Nebraska, while it might not be at the top, is near the top among the States in the production of dairy products. A recent method of scoring or grading butter very definitely reflects to the disadvantage of the grading custom which has been developed over a good many years. It was deemed sufficiently important by the Legislature of the State of Nebraska to cause it to adopt a resolution on the subject, and in behalf of my colleague, the junior Senator from Nebraska [Mr. WHERRY], and myself, I present for appropriate reference and should like to have appear in the body of the RECORD at this point the resolution adopted by the Legislature of the State of Nebraska.

The resolution was referred to the Committee on Agriculture and Forestry and under the rule ordered to be printed in the RECORD, as follows:

Legislative Resolution 11

Resolution grading butter and cream

Whereas the Department of Agriculture of the United States has recently revised the standards of quality of butter, substituting for an official point score an alphabetical score of AA, A, B, and C grades; and

Whereas the statutes of Nebraska prescribe grades of cream and require a higher price to be paid for No. 1 cream than for undergrades, and for over 20 years the butter made from Nebraska No. 1 cream has been graded and sold in the butter markets of the United States as "Standard 90 Score," and is the top grade of butter sold and consumed in this and many other States; and

Whereas the revised grade of butter established by the Department of Agriculture of the United States classifies this butter, made

from Nebraska's No. 1 cream, grade "B," thereby misleading consumers to believe it is a second or inferior grade of butter: Therefore be it

Resolved by the Fifty-sixth Session of the Nebraska Legislature,

1. That the Secretary of the Department of Agriculture is requested to rescind the Revised Official United States Standards for grade of creamery butter which became effective February 1, 1943, and restore the former standards, or to revise such standards so that butter made from Nebraska No. 1 cream may continue to be classed and known as "Standard A grade."

2. That a copy of this resolution be suitably engrossed by the clerk of the legislature, and sent to the Secretary of Agriculture of the United States, and to each of the Senators and Representatives from Nebraska in the Congress of the United States.

INVESTIGATION OF HIGHWAY TRANSPORTATION CONDITIONS—RESOLUTION OF NEVADA LEGISLATURE

Mr. McCARRAN. I present a joint resolution passed by the Legislature of Nevada, memorializing the Congress of the United States, that a committee be appointed to investigate the conditions that prevail in the highway transportation industry in 11 Western States in respect to the procurement of necessary repair parts and tire replacements, and to take such other and necessary action in the premises as will relieve and prevent any further disruption of the motor trucking and passenger bus industry, and to enable food producers to produce and cultivate their crops, and so forth. I ask that the resolution be referred to the appropriate committee.

There being no objection, the joint resolution was referred to the Committee on Commerce, and, under the rule, ordered to be printed in the RECORD, as follows:

Assembly Joint Resolution 20

Joint resolution relative to the growing shortage of motor transportation

Whereas the population of the 11 Western States is thinly spread over an area of 1,189,140 square miles, with a railroad trackage of only about 40,000 miles; and

Whereas within the State of Nevada there are 265 communities wholly dependent upon highway transportation for the movement of persons and property; and

Whereas the farming and stock-raising industries are almost wholly dependent upon highway transportation for the shipment of in-bound equipment and supplies and the hauling of their products to market; and

Whereas the mining industry is entirely dependent upon truck transportation for equipment, materials, and supplies, and the movement of ore to the mill or to railhead; and

Whereas the State of Nevada depends heavily upon neighboring States, particularly California, Idaho, and Utah, for a large portion of its fruits, vegetables, meat products, and vital food supplies of all kinds, which must of necessity be transported by truck during all or part of the journey to the retail outlet or ultimate consumer; and

Whereas Nevada is an important bridge State through which must necessarily pass huge quantities of essential war materials, foodstuffs, and other important commodities moving between the Pacific coast and inland points, a large portion of which must move via highway; and

Whereas large numbers of Nevada's citizens are dependent upon highway busses for transportation from point to point, particularly at the present time, when the use of private automobiles is drastically restricted; and

Whereas the railroads are overburdened in furnishing the transportation needs of the armed forces of the United States during the war emergency, and are not equipped with rolling stock, cars, or locomotives to take over any considerable portion of the transportation of foodstuffs, war materials, and commodities essential to the maintenance of the necessary civilian economy, heretofore transported by motor vehicles; and

Whereas new or additional motor vehicles are unobtainable; and

Whereas large numbers of motortrucks, trailers, busses, and motorized farm implements, indispensable for the necessary production of foods, supplies, and war materials are in disrepair and out of service because needed repair parts or tires cannot be obtained; and

Whereas motortruck and bus transportation is rapidly becoming difficult or impossible to obtain, due to the increasing demands and the lessening number of motor vehicles available for the necessary needs of the people; and

Whereas any further lessening of the number of motor vehicles available for transportation will seriously interfere with the agricultural, livestock, and mining industries of this State and jeopardize the supply of food, the production of strategic minerals, and the essential civilian economy of the State of Nevada; and

Whereas it is apprehended that because of the conditions recited above the farmers, fruit and vegetable growers, and livestock men will be hindered in the production and marketing of food and there will not be a sufficient number of motor vehicles to transport this year's crops of vegetables, fruits, grains, and livestock to market, and the transportation of strategic minerals and other raw and processed materials from and to war production plants will be seriously interfered with: Now, therefore, be it

Resolved by the Assembly and the Senate of the State of Nevada (jointly), That the Congress of the United States be, and the same is hereby, memorialized to appoint a committee to immediately investigate conditions that prevail in the highway transportation industry in the 11 Western States in respect to the procurement of necessary repair parts and tire replacements and to take such other and necessary action in the premises as will relieve and prevent any further disruption of the motor trucking and passenger bus industry and enable food producers to produce and cultivate their crops and convey the same to market, and insure the production and transportation of strategic ores and minerals; and be it further

Resolved, That copies of this resolution be forwarded to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Nevada Senator and Member of the House of Representatives in the Congress of the United States.

(The ACTING PRESIDENT pro tempore laid before the Senate a joint resolution identical with the foregoing, which was referred to the Committee on Commerce.)

COMPARISON OF INCOME OF RURAL AND URBAN POPULATIONS

Mr. SHIPSTEAD. Mr. President, I present and ask to have printed in the RECORD and appropriately referred a letter in the form of a petition from the International Apple Association dealing with the income of persons on the farm in relation to the income of persons living in villages and cities, and also a table prepared by the International Apple Association, and a statement dealing with the data contained in the table.

There being no objection, the letter and table, together with the statement, were referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

INTERNATIONAL APPLE ASSOCIATION,
Rochester, N. Y., February 23, 1943.

Hon. HENRIK SHIPSTEAD,
Senate Office Building,
Washington, D. C.

MY DEAR SENATOR: We desire to submit for your consideration certain data released by the Department of Agriculture with regard to the income of persons not engaged in agriculture as compared with the income of persons engaged in agriculture.

We are satisfied that we cannot get production by the retention of the relationship in existence in 1910–14 or 1919–29, and by calling either basis parity.

It is essential that the food be produced to win the war and, in order to do this, the producer must pay his employees and he must be able to live.

We are satisfied you will appreciate from this record of the income during the past 33 years that the placing of prices on perishable agricultural commodities is fraught with danger. The producer never knows whether he will get a crop or not.

If the Office of Price Administration, in price fixing, adheres to parity, it must follow prices of a base period which may or may not have been remunerative or even cover costs of production. The matter is serious. We are deeply concerned.

The highest costs ever known in agriculture are assured.

Weather and conditions determine the yield. A low yield with high costs per unit necessitates a commensurate price, if the individual is to stay in production.

A low yield and a low price will put the producer out of business, and we need the food to win the war and write the peace.

We must do all in our power to aid in the production of the food and in keeping those who are left in agriculture in position to work.

Sincerely yours,

SAMUEL FRASER.
Secretary.

Income per year and per capita of persons not on farms and persons on farms

[U. S. Department of Agriculture, Bureau of Agricultural Economics]

Year	Person not on farms			Person on farms			
	Yearly income per person not on farms	Daily income, person not on farms		Yearly net income from agriculture per person on farms	Daily income of person on farms	Yearly and daily with Government payments added, 1933 to date	Ratio nonfarm income to farm
1910	$482	$1.32		$139	$0.38		
1911	468	1.28		123	.34		
1912	483	1.32	$1.33	135	.37	$0.37	3.59 to 1
1913	521	1.43		137	.38		
1914	482	1.32		141	.39		
1915	502	1.37		137	.38		

Income per year and per capita of persons not on farms and persons on farms—Continued

Year	Person not on farms		Person on farms			Ratio nonfarm income to farm
	Yearly income per person not on farms	Daily income, person not on farms	Yearly net income from agriculture per person on farms	Daily income of person on farms	Yearly and daily with Government payments added, 1933 to date	
1916	$579	$1.58	$157	$0.43		
1917	638	1.75	259	.71		
1918	670	1.83	305	.83		2.20 to 1
1919	762	2.09	321	.88		
1920	875	2.40	266	.73		
1921	718	1.97	120	.33		6.00 to 1
1922	715	1.96	154	.42		
1923	812	2.22	181	.49		
1924	788	2.16 $2.70	182	.50 $0.58		3.79 to 1
1925	810	2.22	224	.61		
1926	856	2.34	217	.59		
1927	818	2.24	211	.58		
1928	828	2.26	223	.61		
1929	870	2.38	224	.61		
1930	760	2.08	172	.47		
1931	605	1.66	115	.31		
1932	442	1.21	75	.21		
1933	417	1.14	91	.25	$95 $0.26	
1934	487	1.33	99	.27	112 .31	
1935	540	1.48	144	.39	158 .43	
1936	626	1.72	165	.45	170 .47	
1937	670	1.83	192	.53	197 .54	
1938	621	1.70	154	.42	164 .45	
1939	657	1.80	154	.42	171 .47	
1940	716	1.96	161	.44	179 .49	4.00 to 1
1941	825	2.26	237	.65	254 .70	3.23 to 1
1942[1]	1,014	2.77	369	1.01	389 1.06	2.60 to 1
	Average					
1910–19	$559	$1.53	$185	$0.51		3.00 to 1
1920–29	809	2.22	200	.55		4.04 to 1
1930–39	583	1.60	136	.37	$143 $0.39	4.10 to 1

[1] 1942 preliminary and subject to change.

The headings are self-explanatory. The record covers 33 years. The first column shows the yearly income per person not on farms. The second column shows the daily income of these individuals. The third column shows the yearly income per person on farms, and the fourth column shows their daily income. For the period 1933 to 1942 there are Government payments to agriculture and these have been added to give the total yearly and daily income per person on farms. The final column shows the ratio of the nonfarm income to the farm income.

These data are pertinent at this time. There is much misconception as to the position of agriculture.

Population: Our population consists of about 29,000,000 people in agriculture and about 105,000,000 not in agriculture. Included in the latter are about 7,000,000 or more in the armed forces. The total is about 134,000,000.

1910–14 period: This is the so-called base period for parity consideration. 1910–14 shows a relationship existing between the daily per capita income of urban and agricultural inhabitants of $1.33 to $0.37; or, when the agricultural population had $1, the rest of society has $3.50.

Income of persons on farm: In arriving at the income of agriculture this includes the rent for the farmhouse and charges for the commodities furnished by the farm to the farm family; it is not the cash income.

In the case of the urban population, the record is that of the total urban income divided by the total urban population. All figures are close approximations; they cannot be regarded as exact to the cent.

In the case of the income of the urban dweller, employed in factory or office, and of those securing income from dividends, there is not a problem of the home and farm supplies as covered with regard to agriculture.

1919–29 period: 1919–29 may furnish a better basis for comparison because it is closer to the present date. This period shows a per capita daily income relationship of $2.20 to $0.58, or $3.79 to the urban dweller whenever the agricultural worker receives $1. It has been suggested as a better basis for parity than 1910–14.

1933–41 period: In this period agriculture was in receipt of funds from the Government for conservation and limitation of food production and other purposes. These Government payments reached a total of $800,000,000 a year in 1941, which was equivalent to 5 cents a day per person on the farm, in the year 1941, and about this amount in 1942. This raised the income of the agricultural group in 1941 to 70 cents a day while the urban group received $2.26.

The year 1941 shows a return to the relationship of the so-called base period 1910–14 and to that of the decade 1910–19 and away from the second base period 1919–29; for the relationship for the year 1941 was $3.23 to the urban dweller when agriculture received $1, with Government payments included, as compared with $3.47 to $1 without Government payments.

1930–39 and 1941: Contrast the relationship to which society had become accustomed in the decade 1930–39, of $1.60 for the urban dweller and 39 cents for agriculture, a relationship of $4.10 for the urban dweller when agriculture received $1 with that of 1941 or 1942.

1942 income of persons not on farms (preliminary and subject to revision): This is the highest per capita income the United States has ever known. The total of $1,014 per year, and a daily per capita income of $2.77 for persons not on farm, exceeds the favorable condition which prevailed in 1920 when the figures were $875 total and $2.40 per day. The population figure used for the year 1942 is 104,917,000 for this group. It includes the armed forces.

1942 income of persons on farms (preliminary): The sum of $369 per capita was received by the 29,048,000 farm population. This exceeds the previous high of 1919 when $321 were received, and is in marked contrast with the $75 per person received in 1932 and the 3-year average of $88 for the period 1932–34. Stated on a per-day basis, the 1942 record is $1.01, against a previous high in 1919 of 88 cents and compared with a 1930–39 average of 37 cents and with the low of 21 cents a day in 1932. Some idea can be developed of the condition of agriculture after living for a 10-year period on an average per capita income of 37 cents a day. Some reference has been made at times to the Government payments, and with the Government payments added, the average per day for the decade 1930–39 is 39 cents. Having become accustomed to so meager an income, the sum of $1.06 (Government payments added) made available in 1942 has been an important factor in enabling payment of debts. In many places the payment of debt has been so important that there is little left available for accumulation of savings which could be used for capital expenditures for production of crops in the forthcoming year.

Averages: The 1910–19 average is $3 to $1. The 1920–29 average is $4.04 to $1. The 1930–39 average is $4.10 to $1. Since that time the relationship has become closer. In 1940 it was $4 to $1; in 1941 $3.23 to $1; while 1942 shows a relationship of $2.60 to $1. (Preliminary.)

For two decades the public have become accustomed to a relationship of about $4 to $1, or that when the person not on the farm had a $4 income the individual on the farm should receive $1. In 1941 when the first break-away from this relationship became evident and with the Government payments, the relationship was $3.23 to $1, statements were frequently made that the increases in prices of food were piratical and unconscionable, and demands for price fixing arose. Any question as to the correctness of the relationship was and is lost sight of. It was simply that the public expected prices to be continued in their former relationship. Whether we can ever win a war on such a basis, or the fact that we may lose a war because of this relationship is not recognized, but it is high time to give consideration to the problem.

Some relationships: The record shows bright spots and tragedies; 1918 shows the highest relationship for agriculture, when the daily income of those not on the farm was $1.83, while those on the farm got 83 cents, a relationship of $2.20 to $1. The collapse of farm prices in 1921 and the tragedy accompanying same are fully borne out by the figures; the urban population received $1.97 and the farm population received 33 cents, a relationship of practically $6 to $1. Food was cheap in relation to income. The relationship was, if anything, worse for agriculture than that existing in 1932.

Since food is to win the war and write the peace, and unless we have food, the whole of our activity ceases; it is essential that the facts be known and the public advised of their peril. Inability to pay the price for labor from the meager returns available and the draft have caused a loss of over 1,000,000 workers from agriculture in 2 years, or over 12 percent of the men in the total—30,269,000 men, women, and children then in agriculture. The whole question of our food supply and its production is in jeopardy and yet the uninformed believe it is essential to hold prices of agricultural commodities to the 1910–14 relationship or the 1919–29 relationship and expect and propose that the agricultural population shall be frozen to the farm, with these returns for their labor. Out of the profits from his labor the farmer is to save the additional essential capital needed to finance the winning of the war so far as food and farm products affect it. Certainly our financial support of this essential would not indicate realization of the seriousness of the situation.

If the whole problem were not so tragic, it might be viewed as a comedy of errors.

We are at war. We are in peril. Our whole mode of life is in the balance. So long as there is freedom to move in industry, agri-

culture must be able to pay those it employs and it should at this time be able to repay some of its most pressing indebtedness, for 2 decades of a relationship of $4 to $1 have been a serious matter and nothing but the urge of ownership of land and the urge to work land kept these people tied to it.

Agriculture must be enabled to produce the food, and we believe that this can and will be done if the people are left free to operate with the skill and knowledge that have been developed and are inherent. If this is done, these people will again produce the wherewithal to win the war and write the peace, but it requires men as well as money.

Statesmanship requires that the majority shall not destroy an essential minority.

Consider the record.

The data are furnished by the United States Department of Agriculture.

Fruits and vegetables are perishable: So far as fresh fruits and vegetables are concerned, and we do not undertake to speak for any other branch of agriculture, the perisability of these commodities is an important limiting factor in their holding or storing and in their distribution, as well as in their production, and it is our good judgment that there is no mind sufficiently comprehensive in its vision, scope, and ability to view the picture of a continental area like the United States and prescribe or dictate the proper policy for each of the 3,000,000 farms which are engaged in the production of these commodities. Of the 6,000,000 farms in the United States about half grow fruits and vegetables to a greater or lesser extent. To win the war we believe that these individuals should be left free to function to their greatest capacity and should be encouraged to produce as was done with success in World War No. 1.

In the opening address before the new session of Parliament at Ottawa on January 28, 1943, Mr. Mackenzie King, Premier of Canada, closed his address with the statement: "Only the utmost sustained effort on the part of all the United Nations will insure the defeat of the Axis Powers."

President Roosevelt in his proclamation December 16, 1942, of Farm Mobilization Day, said: "Food is no less a weapon than tanks, guns, and planes. As the power of our enemies decreases, the importance of the food resources of the United States increases." Also that farmers must find "ways and means of insuring for the year 1943 the maximum production of vital foods upon every farm in this country"—all of which we most earnestly endorse.

With four men to a square mile, one man to 160-acre farm, and climate and weather dominating, when they do not determine, when these men can work and at what they can work, what crops they can produce and their yields, there is little possibility of other successful control, we might say no other control is possible. Little incentive is needed; all that is required is that it shall be made humanly possible for this portion of society to function, and, as with the production of guns and planes, the wherewithal to meet the essential cost is the first requisite. The farm producer must be able to pay his way. This cannot be accomplished by insistence on the retention of the ratio of income in effect between agriculture and the rest of society in 1910–14 or 1919–29 and naming it "parity."

PETITION OF FARMERS OF TREGO COUNTY, KANS.

Mr. CAPPER. Mr. President, I present for appropriate reference and ask unanimous consent to have printed in the RECORD as part of my remarks at this point, without the attached signatures, a petition signed by W. P. N. Hansen, of Ogallah, Kans., and more than 100 other farmers of Trego County. The petition urges that the A. A. A. be kept functioning through the emergency on "a changeable basis to meet requirements of war or peace," and it also advocates full parity loans; continuation of soil conservation payments; parity loans only when necessary; continuation of crop insurance; acreage allotments only when necessary; greater local authority, especially as to conservation practices in the counties; less red tape and paper forms.

The petition also suggests that the farmer is entitled to a fair income in return for the task of feeding and clothing so many of his fellow men. I believe this petition represents very fairly the thinking of a very large proportion of our farmers in these days, and I commend it to the attention of my colleagues.

There being no objection, the petition was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, without the signatures attached, as follows:

To the honorable Members of Congress of these United States of America

GENTLEMEN: On the occasion of the tenth anniversary of the farm program, we farmers of Trego County endorse the Agricultural Adjustment Administration to the extent the name implies: Adjustment up or down, whatever is necessary, with a surplus not too burdensome, financed soundly, not to depress markets.

Farming is different than any other industry, there is a capital investment to be protected, labor to be compensated, and a standard of living involved. Products of the farm are produced in two categories, daily produce and seasonal products. Under seasonal products wheat and livestock are our main products for this locality.

Not beyand recall, just a few years ago, wheat was 25 cents, corn 10 cents, hogs 3 cents ($3 per hundredweight), cattle 2 to 4 cents locally. These prices may have been avoided by a farm program.

We respectfully submit the following:

The keeping of the Agricultural Adjustment Administration to function on a changeable basis to meet requirements of war or peace because it is the only farm organization elected by farmers and reaching everyone that is interested in farming, without the customary membership fees, dues, closed meetings, and black balls; no objections to these other farm organizations, as they do a great good.

Full parity loans on a basis to include items in cost of production, labor, taxes, and interest.

Soil conservation payments, wind and water erosion, guarding of fertility and practical use of land.

Parity payments only when necessary if prices are not obtainable by other methods.

Crop insurance takes most of the hazards out of farming.

Acreage allotments when necessary.

A little more authority at the county or farm level, especially as to conservation practices in the counties.

A little less red tape and paper forms.

At war or in peace we think farmers are entitled to a fair income comparable to the great job they do of feeding and clothing their fellow men.

REPORTS OF A COMMITTEE

The following reports of the Committee on Military Affairs were submitted:

By Mr. HILL:

S. 872. A bill to authorize the President to appoint Frank T. Hines a brigadier general in the Army of the United States; without amendment (Rept. No. 131); and

S. J. Res. 31. Joint resolution providing for awards of honor for agricultural production; without amendment (Rept. No. 132).

AMENDMENT OF SECTIONS 722 (d) AND 780 (b) OF THE INTERNAL REVENUE CODE

Mr. GEORGE. Mr. President, from the Committee on Finance I report back favorably without amendment House Joint Resolution 100 extending the time within which certain acts under the Internal Revenue Code are required to be performed, and I submit a report—No. 129—thereon. The joint resolution deals with a matter which the Senate Finance Committee has considered, and the committee has unanimously reported the bill.

It is a measure on which the Treasury Department asks immediately action. As soon as the morning hour shall have been concluded I will ask that the joint resolution be taken up for consideration.

INCLUSION OF COST OF FARM LABOR IN DETERMINING PARITY PRICE

Mr. SMITH. Mr. President, from the Committee on Agriculture and Forestry I report back favorably without amendment House bill 1408 to amend section 301 (a) (1) of the Agricultural Adjustment Act of 1938, as amended, and the first sentence of paragraph (1) of section 2 of the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended, so as to include the cost of all farm labor in determining the parity price of agricultural commodities, and I submit a report (Rept. No. 130) thereon. The report made by the House committee is so pertinent that I have attached it to the report of the Senate committee. I wish to give notice now that on the first legislative day the Senate again meets I shall ask for consideration of the bill.

The ACTING PRESIDENT pro tempore. The bill will be received and placed on the calendar.

Mr. BARKLEY. Mr. President, for the information of the Senate and the Senator from South Carolina, I will say that conversations have been going on as to when that bill might be taken up. The first suggestion was that we meet tomorrow for its consideration, but certain Senators felt that it was entitled to greater study than could be given it between now and tomorrow. It is my present view, however, that the Senate will be in session on Thursday, and, so far as I am concerned, I know of no reason why the bill should not be disposed of then one way or the other. The bill is on our doorstep, and should be disposed of.

Mr. SMITH. Mr. President, I do not know how there can be any controversy over the subject matter of the bill. It contains but one amendment; that is to add to the parity of the farmer's produce the cost of his labor. That is

the only change made by the bill. I do not see how there can be any controversy over that matter.

REPORT ON DISPOSITION OF EXECUTIVE PAPERS

Mr. BARKLEY, from the Joint Select Committee on the Disposition of Executive Papers, to which were referred for examination and recommendation two lists of records transmitted to the Senate by the Archivist of the United States that appeared to have no permanent value or historical interest, submitted reports thereon pursuant to law.

BILLS INTRODUCED

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

By Mr. CLARK of Missouri:

S. 903. A bill to amend Section 602 (d) (1) of the National Service Life Insurance Act of 1940, as amended; to the Committee on Finance.

By Mr. McNARY:

S. 904. A bill to provide that certain lands within the State of Oregon may be opened for location and entry under the mining laws; to the Committee on Public Lands and Surveys.

By Mr. THOMAS of Idaho:

S. 905. A bill for the relief of Antonio Arguinzonis; to the Committee on Immigration.

By Mr. MALONEY:

S. 906. A bill to amend section 74 of the Judicial Code, as amended, to change the terms of the District Court for the District of Connecticut; to the Committee on the Judiciary.

By Mr. THOMAS of Oklahoma:

S. 907. A bill to amend the Bank Robbery Act of May 18, 1934, as amended; to the Committee on the Judiciary.

By Mr. DOWNEY:

S. 908. A bill to further the national defense and security by checking speculative and excessive price rises, price dislocations, and inflationary tendencies, and for other purposes; to the Committee on Banking and Currency.

S. 909. A bill for the relief of Mrs. Stephen A. King; to the Committee on Claims.

S. 910. A bill to amend the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. NYE:

S. 911. A bill exempting from taxation so much of the compensation of personnel in the armed forces as does not exceed $2,000; to the Committee on Finance.

By Mr. MEAD:

S. 912. A bill to extend the provisions of the Reclassification Act of February 28, 1925, to include custodial employees in the Postal Service; to the Committee on Post Offices and Post Roads.

By Mr. RUSSELL:

S. 913. A bill to amend the act of February 5, 1917, to extend the authority to deport aliens; to the Committee on Immigration.

By Mr. WHERRY (for himself and Mr. NYE, Mr. BYRD, Mr. McKELLAR, and Mr. GEORGE):

S. 914. A bill to provide for the orderly liquidation and dissolution of the regional agricultural credit corporations; to repeal the laws authorizing their creation by the Reconstruction Finance Corporation and their operation; and to restore to the United States Treasury the funds subscribed by the United States or by the Reconstruction Finance Corporation to the capital of such corporations, thereby strengthening the credit of the Government, reducing its nonessential expenditures, contributing to the present manpower problem through a reduction in the number of Government employees, resulting in a substantial contribution to the war effort, and for other purposes; to the Committee on Banking and Currency.

INTERNATIONAL CONSTITUTIONAL CONVENTION TO PROVIDE FOR AN INTERNATIONAL GOVERNMENT

Mr. KILGORE (by request) submitted the following concurrent resolution (S. Con. Res. 10), which was referred to the Committee on Foreign Relations:

Resolved by the Senate (the House of Representatives concurring), That the Congress respectfully requests the President to invite foreign governments to send representatives to attend an international constitutional convention charged with the duty of drafting a constitution which shall provide—

(1) For an international government;

(2) For participation by all nations desiring so to do;

(3) For an International Administrative Board consisting of 15 men;

(4) For an International Supreme Court;

(5) For an International Congress consisting of senators from each participating nation;

(6) For free religion;

(7) For free press;

(8) For free speech;

(9) For free assembly;

(10) For retention by all nations of the right to maintain the form of internal government desired by each;

(11) For the abolition of all armaments by all nations; except an international police force under the control of the international government;

(12) For complete control by the international government of all international questions and relationships;

(13) For a program designed to raise the economic condition, living standards, wages, etc., of all people;

(14) For a program of improved international trade relations;

(15) For a program of international social improvement;

(16) For a program of international educational improvement; and

(17) For machinery to amend the constitution when found necessary.

PORTRAIT OF THE LATE SENATOR ARTHUR PUE GORMAN, OF MARYLAND

Mr. RADCLIFFE. Mr. President, I submit a resolution providing that the Architect of the Capitol be authorized and directed to accept the portrait of the late Hon. Arthur Pue Gorman, formerly a Senator from the State of Maryland, as a gift to the Senate of the United States from his family, and to cause the portrait to be hung in the Senate wing of the National Capitol.

Mr. President, I do not wish to take the time of the Senate with any extended remarks on this subject at this time, but will doubtless make a longer statement on some later date. Senator Gorman was long a prominent figure in Maryland. He was a Member of the United States Senate between the years 1881 and 1899. In 1903 he returned to this body, remaining here until his death in 1906. For years Senator Gorman was one of the ablest and most active and dominant men in the Senate, and was so recognized generally in those days. For instance, he was chairman for a long time of the Democratic steering committee of this body, and was the leader of the Democratic Party in several of the most dramatic and successful contests conducted in the Senate during the years he was a Member. It is no reflection upon the many competent men who have represented Maryland in this body to say that no Senator from Maryland during the past 100 years was more influential or powerful in the United States Senate than was Senator Gorman. His chairmanship of the national Democratic campaign of 1884 was highly skillful and dramatic.

The portrait which his family has offered is a very generous, suitable, and highly prized gift, and I hope it will be accepted, and will be hung in a very prominent position in the Capitol near the Senate Chamber.

I ask that the resolution be referred to the Committee on the Library.

The resolution (S. Res. 117) was referred to the Committee on the Library as follows:

Resolved, That the Architect of the Capitol is authorized and directed to accept a portrait of Hon. Arthur Pue Gorman, late a Senator from the State of Maryland, as a gift to the Senate of the United States from his family, and to cause such portrait to be hung in a suitable place in the Senate wing of the National Capitol.

REVISED EDITION OF SENATE DOCUMENT NO. 58, SEVENTY-SEVENTH CONGRESS—ORGANIZATION, PERSONNEL, FLEET, AND SHORE ESTABLISHMENTS OF THE NAVY

Mr. WALSH submitted the following resolution (S. Res. 118), which was referred to the Committee on Printing:

Resolved, That a revised edition of Senate Document No. 58, Seventy-seventh Congress, containing information relative to the organization, personnel, fleet, and shore establishments of the United States Navy, with corrections and supplemental data, be printed with illustrations as a Senate document.

DEATH OF FORMER GOV. FRANK O. LOWDEN, OF ILLINOIS

Mr. BROOKS. Mr. President, on last Saturday, March 20, the Nation lost one of its outstanding citizens, Illinois lost one of her most illustrious sons, and thousands upon thousands of us lost a dear friend, in the passing of former Gov. Frank O. Lowden, of Illinois. His life story is filled with hardships overcome, as he, the son of a blacksmith, forged his way from poverty to vast riches—not alone in money, but genuine riches in friendships, in accomplishments, in service rendered to the political party of his choice, to the people of his district whom he so ably represented in Congress for two terms, to the State of Illinois which he led as Governor through the trying days of the First World War, to the Nation which constantly felt his influence in matters of public interest, including prison reforms, intelligent taxation, protection and advancement of our land, and the people who live in the land, in matters of domestic and foreign affairs.

The influence of this great man's activity during his 82 years will live on and on, for few citizens are ever privileged to have such vast knowledge of so many phases of our national advancement and life, including the law, agriculture, industry, philanthropy, and politics. I express the sentiment of the State I in part represent when I say we have lost a

great citizen, a dynamic leader, and a beloved friend.

Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks the detailed account of his life as presented by the Associated Press on March 20, so that those Members now serving in Congress who were not privileged to know him personally may read of the service and accomplishment of this distinguished former Member of the Congress of the United States.

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

SUCCUMBS AT 82 AFTER ATTACK OF PNEUMONIA—STRICKEN ON WINTER STAY IN ARIZONA

TUCSON, ARIZ., March 20.—Frank O. Lowden, 82 years old, World War No. 1 Governor of Illinois, died today at El Conquistador Hotel, where he was a winter visitor.

Tired and feeble when he arrived, the Republican elderly statesman suffered an attack of pneumonia 2 weeks ago. He gradually grew worse until his death.

Only his nurse, Miss Maxine Brown, was with him, but members of the family had been in close contact by telephone as his condition grew worse. His daughter, Mrs. Albert F. Madelener, Jr., was informed in Chicago of his death.

PLANNED TO SPEND WINTER

Lowden arrived here January 26, intending to remain until spring. He lived on his farm near Oregon, Ill., but spent the winters in Arizona for his health.

During his 25 years in active politics, Lowden held only two offices—Congressman and Governor—but few men in history came closer to the Presidency of the United States without attaining it.

His last years were spent quietly, but upon numerous occasions he was consulted on Republican Party affairs by midwestern leaders, particularly regarding agricultural policies.

OPPOSED RANCOR IN PEACE

His last interview with the press, given on his birthday anniversary January 25, contained a plea that contending nations approach the peace table without rancor or passion if they wish for an enduring peace in the future.

Lowden supported the position of his old friend, Herbert Hoover, that a "cooling-off period" should be had before determining final conditions of peace.

MIDWEST'S FAVORITE SON

Frank Orren Lowden, World War No. 1 Governor, was called the favorite son of the Midwest. He was successful as a teacher, lawyer, businessman, and farmer. He was a national authority on farm problems. His famed Sinnissippi farm in Ogle County is noted for the fine Holstein cattle bred there.

But perhaps Lowden was better known as the man who missed by a narrow margin realizing his ambition to become President of the United States; as the man who in 1924 declined the Republican nomination of Vice President, a nomination that was tantamount to election; and as the man who turned down more Federal appointments than any other person in American history.

ENTERED POLITICS IN 1896

Lowden entered politics in 1896 as a speaker in the "full dinner pail" campaign for President McKinley. He was active as a Republican leader until a few years before his death. Yet in that length of time he held but two elective offices. He served in the National House of Representatives from 1906 to 1911 and was wartime Governor of Illinois from 1917 to 1921.

It was with the election of President McKinley that Lowden began his record of turning down political appointments. He declined the appointment of First Assistant Postmaster General. Next, President Taft asked him to become Assistant Secretary of the Navy. President Harding urged him to head the Navy Department. President Coolidge invited him to be Ambassador to Great Britain or to join his Cabinet, presumably as Secretary of Agriculture. He preferred to remain on his farm.

Despite his great wealth (he was Illinois' wealthiest Governor), Lowden came up through the ranks of adversity. He was born January 26, 1861, at Sunrise, Minn., the son of the village blacksmith. As a boy he went to Iowa in a prairie schooner, his family settling on a farm in Hardin County.

TAUGHT COUNTRY SCHOOL

He taught a country school as a young man at Burlington, Iowa, for 5 years and then earned his way through the University of Iowa to be graduated as valedictorian of his class.

Young Lowden came to Chicago in 1886. He worked his way through law school by serving as a law clerk and living in an attic. He completed a 2-year course in 1 and again was named valedictorian and prize orator of his class.

As a young lawyer he won recognition for his brilliance. He established a profitable law practice, being noted especially for his trial court ability. Here was the beginning of his great wealth. This was augmented in several business reorganizations and by his farm holdings.

In 1896, when he was 35, he married Florence Pullman, daughter of George Pullman, founder of the Pullman Co. Three daughters and a son were born to them. Mrs. Lowden died July 5, 1937.

ELECTED GOVERNOR IN 1916

Lowden was a candidate for Governor of Illinois in 1904, but was defeated for nomination by Charles S. Deneen. However, he was chosen national Republican committeeman and held that post until 1912. In 1916 he again ran for Governor. This time he won easily.

It was during that campaign that his opponents ridiculed him as a gentleman farmer, and said he didn't know how to milk a cow.

"I didn't know that ability to milk a cow was one of the qualifications for Governor," he answered, "but I challenge the other candidates to a milking contest and I'll agree to let the contest decide the election." His challenge was not accepted.

As Governor, Lowden established himself as a sound business executive. He reduced taxes. He established the budget system. He consolidated 125 bureaus, boards, and commissions into 9 major departments, each with a responsible director. He launched an extensive good-roads program throughout the State.

WON NATIONAL ATTENTION

His excellent record as Governor, his handling of the Chicago race riots, and his quick settlement of the Chicago streetcar strike brought him national attention, and in 1920 he consented to run as a Presidential candidate. During the close of the Wilson Administration it was evident that the next administration would be Republican.

Lowden, Senator Hiram W. Johnson, and Gen. Leonard Wood were the outstanding Republican candidates, with Lowden having the solid backing of the agricultural interests. At the Chicago convention the race was reduced to these three.

For hours, ballot after ballot, the three candidates were deadlocked, with indications, however, of a probable victory for Lowden. Then at a psychological moment charges of vote buying were raised. Lowden, Johnson, and Wood were eliminated, with the nomination and ultimate election going to Warren G. Harding, the dark horse of the convention.

ASKED TO RUN WITH COOLIDGE

Four years later the Republican Party offered Lowden the nomination for the Vice Presidency as running mate for Calvin Coolidge, but he upset all precedent and declined the nomination. Gen. Charles G. Dawes replaced him on the ticket.

Again in 1928 Lowden consented to run for President, and he wrote the farm plank for the Republican platform. His plank was rejected and he withdrew as a candidate.

For several years after the 1928 campaign, Lowden remained virtually out of political life, devoting himself to his farming interests, but his hatred of the New Deal brought him out of retirement in 1936, when he campaigned for Gov. Alfred M. Landon, of Kansas, Republican nominee for President.

Lowden's role in ensuing years was that of a revered elder statesman of the Republican Party. He made a Nation-wide radio address in behalf of the Republican national ticket in October 1940, warning that the 1940 Presidential election might be the last free election in the United States.

OPPONENT OF UNDECLARED WAR

From his summer camp on an island in the St. Lawrence River, he issued a statement in August 1941, bearing the signatures of 15 widely known persons, including Landon, former President Herbert Hoover, former Vice President Dawes, and Hanford MacNider.

This statement declared that "fundamental principles of democratic government" were being undermined by naval action and military occupation of bases outside the Western Hemisphere and appealed to Congress to "put a stop to step-by-step projection of the United States into an undeclared war."

OPPOSED COUNTY SYSTEM

In the last few years Lowden divided his time between his farm and his winter home in Chandler, Ariz. On his eightieth birthday—January 26, 1941—he issued a message of optimism to the world, reaffirming his confidence that right triumphs in the end, and expressing the belief that the future may be looked forward to with faith and hope.

Advancing age did not hang cobwebs on his ideas. In a 1932 speech he advocated abolition of the county system of government "as a relic of oxcart days."

On the eve of his birthday in 1936, he made public his plan for a permanent farm program within the framework of the Constitution, warning that swift steps must be taken to protect the soil from overcropping and erosion. Former President Hoover urged that the essence of the plan be incorporated in the Republican Party's 1936 platform.

KNOWN FOR PHILANTHROPIES

The Presidential campaign of 1940 brought him out of retirement briefly. He made one radio speech in opposition to a third term for President Roosevelt, declaring it carried with it a threat of dictatorship.

Lowden was known for his many philanthropies. At his Sinnissippi farm he and Mrs. Lowden maintained a recuperation home for sickly children. He was a trustee of the old Thomas Orchestra Association and had served on the boards of St. Luke's Hospital, the Chicago Relief and Aid Society, and the Carnegie Endowment for International Peace. He headed the directorate of the Pullman Free School of Manual Training. He gave the Boy Scouts a 20-year lease, without cost to them, on a 240-acre tract of virgin timberland, part of his Sinnissippi farm.

From 1921 to 1930 he was president of the Holstein-Friesian Association of America, the largest purebred livestock association in the world. He had served as trustee of Northwestern University and had been honored by many universities.

ONE-HUNDREDTH BIRTHDAY ANNIVERSARY OF MRS. ANNA KNIGHT GREGORY

Mr. BARKLEY. Mr. President, an opportunity has been afforded me by the absence of the junior Senator from Pennsylvania [Mr. GUFFEY] to call the Senate's attention to the fact that Mrs. Anna Knight Gregory, of Williamsport, Pa., the last real Daughter of the American Revolution, is today celebrating the hundredth anniversary of her birth.

Mrs. Gregory, the former Miss Anna Knight, was born at Liverpool, Pa., March 23, 1843. Her father, Richard Knight, was a drummer boy in Capt. John Beatty's Company of the Fifth Pennsylvania Battalion in the Revolutionary War.

I wish to extend to Mrs. Gregory, on the part of the Senator from Pennsylvania [Mr. GUFFEY] and myself, congratulations at reaching such an advanced age and enjoying good health.

It is indeed interesting and unusual that there may still be living, even though at such an age, one whose father participated in the Revolutionary War as an actual soldier.

I ask unanimous consent that a clipping from the Williamsport Sun of March 16, 1943, which gives an account of Mrs. Gregory reaching the one-hundredth milestone in life, be printed as a part of my remarks at this point in the RECORD.

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

WOMAN OF THE CENTURY—AFTER 100 YEARS OF LIFE, LAST ACTUAL DAUGHTER OF THE AMERICAN REVOLUTION HOPES SHE'S SEEING END OF WARFARE

(By Marguerite Young)

Mrs. Anna Knight Gregory, 608 Packer Street, this city, marking her hundredth birthday in the midst of the fourth war of her lifetime, says, "I hope to goodness that when this war ends, people will fix things up so that everyone will live well and happily together."

She is the last literal Daughter of the American Revolution.

Mrs. Gregory's face is deeply wrinkled. But she holds her head high. And her sharp blue eyes look on people with clarity, tolerance, and faith.

Her mind is darting nowadays . . . it skips swiftly from the stories her father told her about Valley Forge, to today's newspaper headlines about Tunisia and the Solomons.

It's an abiding conviction with her that living for most people grows better as the decades pass. Once she molded her own wax candles; then she had, successively, kerosene lamps, gas, electric lights. She has seen travel quicken magically; she has used river arks and canal boats, stage coaches, horses and buggies, railroads, automobiles, airships. She pulled lint and spun to make bandages for Civil War soldiers; now her neighbors in modern textile factories turn out parachute silk, for flying soldiers, at incredible speed.

ALL MENFOLK IN WARS

"In one way," she says, "people are not so happy as they were. They live so fast nowadays, and it takes so much to make them happy. In another way, though, people are happier. They have so much more."

Longevity runs in her family—her father was 75 when she was born.

Her own menfolk have been in four wars besides the Revolution . . . in the Civil War, her brother; the War of 1812, her father; the World War, her two grandsons; and now two great-grandsons are just about to go.

None of those died in war, however, and her father outlived three wives. His father, Conrad Knight, enlisted in the Revolutionary forces in 1777. He also was a widower, and insisted upon taking his son, Richard, to war with him. Richard Knight, 11, thus became a drummer boy in Capt. John Beatty's Fifth Pennsylvania Battalion. Both Richard and Conrad were with Washington at Valley Forge—Richard, half a century later, recalled the cold, sickness, and starvation of the barefooted winter of '77, to his daughter, Mrs. Gregory.

Anna Knight was born at Liverpool, Pa., on March 23, 1843. She attended a select boarding school, the Freeburg Academy, and at 18 she married Benjamin Franklin Gregory, a banker, of Selinsgrove.

SELDOM ILL

Mrs. Gregory calls herself a Democrat. ("Roosevelt's got plenty of faults, like the rest of us, but I like him.")

She has taken no special care of her physique, and has been sick rarely. As a young woman she was told by a doctor that she had tuberculosis. She went out West for several months, and hasn't heard of the disease since. Last time she had a doctor was 4 years ago, when she was threatened with pneumonia.

She is up at dawn. She dresses herself, walks about her bright, simply furnished room with pictures of George and Martha Washington on the walls, then sits in her straight chair and reads, or takes a nap. She may nap again after lunch. At about 90 she got her second sight, and for years could crochet and do needlepoint without glasses. She is hard of hearing now, and, she admits, weary at times.

What's kept her healthy and happy? "Being busy," she supposes. "I was always doing something."

ADDRESS BY COL. ARTHUR EVANS, MEMBER OF THE BRITISH PARLIAMENT, AND COMMUNICATION FROM THE BRITISH LORD CHANCELLOR

Mr. BARKLEY. Mr. President, there is in this country, and in the city of Washington, a very prominent Member of the House of Commons of Great Britain and Northern Ireland, Col. Arthur Evans, who is the president of the British group of the Interparliamentary Union. He has today presented to the Speaker of the House of Representatives a communication, in his capacity as president of the British group, and in the same capacity he has brought to me a communication similar in tenor, addressed to me in my capacity as president of the American group. I ask unanimous consent that this communication from Colonel Evans be read from the desk.

The ACTING PRESIDENT pro tempore. Is there objection to the request made by the Senator from Kentucky? The Chair hears none, and the clerk will read.

The legislative clerk read as follows:

On behalf of the Lord Chancellor of Great Britain I am charged to deliver to you, sir, as Acting Presiding Officer of the Senate, this communication, which is addressed to Vice President HENRY A. WALLACE, and in the name of four parliamentary committees, the British group of the Interparliamentary Union, the Welsh Parliamentary Party, of both of which I am chairman; also the British-American Parliamentary Committee and the Empire Parliamentary Association, to express their appreciation of your kindness in receiving me.

These committees, in the aggregate, represent the total membership of both the British Houses of Parliament, and their Members are most anxious to have the closest possible practical contact with their colleagues in the Senate of the United States of America.

You, Senator BARKLEY, as chairman of the American group of the Interparliamentary Union, will recall that in August 1939, at Oslo, this body celebrated the fiftieth year of its foundation and it was on this occasion that your group were good enough to support my nomination as the representative of the United States, the Irish Free State, France, and Great Britain, on the executive committee of five, which executes the decisions of the Union.

For half a century the Interparliamentary Union has devoted its efforts to studying methods for the establishment of a system of law between nations which would permit of the peaceful solution of international disputes. As I ventured to say in the speech which I have just been privileged to make to the Speaker and Members of the House of Representatives, discarding utopian conceptions and all dogmatism, the Union summons to its councils political men of good will, whatever their native country or their opinions. As a unique meeting place where the elected representatives of the people could freely express their opinion, the Union has accomplished work based both on experience of public affairs and on a sincere desire for justice.

Briefly, the object of the Interparliamentary Union, as given in its statutes, is "the development of the work of international peace and cooperation between nations." It also studies questions of general interest, the solution of which can be furthered by parliamentary action. Owing, unhappily, to the exigencies of total war, it has not been possible for the annual conferences to take place, but parliamentary opinion, as expressed through the committees to which I have referred, is strongly of the opinion that it is essential, in the interests of those they represent, and in spite of manifest difficulties, that every effort should be made to bring about personal contact which would enable frank and open expression of views on those essential problems, the solution of which is vital before final victory is achieved.

It is well, I think, for us to remember that the English-speaking people were the first to light the torch of parliamentary government. It is now for us to hold it aloft as a beacon of light to people of less happy lands. That is a real responsibility, both for our countries and, in particular, for the American and British groups of the Interparliamentary Union and to those of us who are steeped in congressional and parliamentary tradition. With a firm conviction of the advant ges which it confers on all free peoples, it should be a very congenial responsibility.

During the prosecution of total war it would be idle to pretend that parliamentary government is an easy system to work, for it entails in all electors rare qualities of self-control and understanding. We who are in this position cannot only think of ourselves or of our own section of the population. Our responsibility is to think of the whole community and what is to the advantage of all. Under this system the people have a right to think and speak as they will, but those who are charged with the responsibility of voicing opinions in high places must think wisely and speak wisely. Other-

wise, the liberty which we enjoy will gradually degenerate into license, and that license will degenerate into anarchy, and finally authority will have to be restored by some such revolutionary methods as we have seen so painfully adopted in other countries. Under our system, rights imply duties, and we feel that one of these duties is to see whether it is in any way possible for parliamentarians to have the benefit of the direct guidance of Members of Congress at this most critical period in the history of the United Nations.

I hope, Senator BARKLEY, as chairman of the American group of the Interparliamentary Union, you will accept this fragment of stone from the bombed chamber of the House of Commons which was destroyed by enemy action in May 1941. The Portcullis crest of the Houses of Parliament which adorns it is worked in lead from the roof. The scene depicted above the stone is taken from a mural painting in the Palace of Westminster and represents Cabot and his sons receiving the charter from Henry VII to sail in search of new lands.

I think you will agree, Senator, that this souvenir is not without its symbolic significance to the United Nations resisting Nazi tyranny.

Mr. BARKLEY. Mr. President, in connection with the address by Col. Arthur Evans just read, he has also presented to me a brief communication addressed to the Vice President of the United States, signed by the Lord Chancelor of Great Britain, and in the absence of the Vice President I ask that the clerk read this document addressed to the Vice President.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will read.

The legislative clerk read as follows:

LORD CHANCELOR'S OFFICE,
HOUSE OF LORDS,
Westminster, S. W. 1, February 1943.

The Honorable HENRY A. WALLACE,
President of the Senate,
Washington, D. C.

DEAR MR. VICE PRESIDENT: I gladly take the opportunity afforded by the visit of Col. Arthur Evans, M. P. to Washington, as the Chairman of the British Group of the Inter-Parliamentary Union, to send to you my warm greetings and good wishes.

We, in our Upper House here, fully appreciate the many urgent problems before the Senate, over which you preside with so much distinction, and your heavy responsibilities. You and we are at one in our firm resolve never to relax the struggle until complete victory has been achieved and the freedom of the peoples of the world ensured. The close and cordial relations between our two countries and governments constitute a happy augury for the future. The work of the Inter-Parliamentary Union has provided most useful opportunities for the friendly interchange of views and experience, and I am sure that Colonel Evans' visit cannot fail to strengthen the links which unite Westminster and Washington.

I ask you to accept, Mr. Vice President, on your own behalf and that of your honorable House, this assurance of our deep good will and our admiration of the unremitting efforts made by the people of the United States in the cause of world-wide freedom.

Believe me,

Very sincerely yours,

SIMON,
Lord Chancelor.

THE NEEDS OF AGRICULTURE IN WISCONSIN

Mr. LA FOLLETTE. Mr. President, under date of March 19, I received a letter from Hon. Walter S. Goodland, the Acting Governor of Wisconsin, concerning the critical situation with regard to Wisconsin's agriculture. I ask unanimous consent that the Governor's letter and the enclosed resolutions adopted at the Governors' Conference held at Des Moines, Iowa, on March 15, 1943, may be printed in the RECORD as a part of my remarks.

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

STATE OF WISCONSIN,
EXECUTIVE OFFICE,
Madison, March 19, 1943.

Hon. ROBERT M. LA FOLLETTE, Jr.,
Senate Office Building,
Washington, D. C.

DEAR SENATOR LA FOLLETTE: The Wisconsin representatives at the Midwest Governors' Conference, held March 15 at Des Moines, have reported to me that the resolutions adopted by the conference check closely with the present needs of agriculture in this State. A copy of these resolutions is enclosed, and I hope you will give all possible support to the recommendations regarding actions that should be taken by the Federal agencies concerned.

We in Wisconsin subscribe to the emphasis which the resolutions have given to the provision of farm machinery repairs and needed new farm and dairy equipment, and to expansion in the manufacture and use of commercial fertilizer to increase crop yields.

We, also, face a serious shortage of manpower on Wisconsin farms, particularly skilled men to care for our livestock and expecially our dairy cattle. These skilled livestock men are needed on a year around basis, not just during the summer season as is the case with cash crop farms in some States. We hope that our need for year around livestock men can be given careful consideration in all future policies adopted by the Manpower Commission, Selective Service, and other Federal agencies concerned.

A special labor problem in rural Wisconsin is the acute shortage of trained cheesemakers, buttermakers, dairy plant workers, skilled canning factory employees, and other types of skilled workers employed in the local food processing plants. We believe these key workers in the local food processing plants are as urgently needed where they are, as are the workers on farms, and that they should be given the same occupational deferment by Selective Service.

Most of all we urge that the Congress and the President take immediate steps to remedy the present confusion and inefficient duplication and competition between the many Federal agencies concerned with agricultural manpower, food production, and distribution. Centralization of responsibility and authority for all Federal matters that concern farmers in their efforts to increase production will enormously increase farmers' confidence and effectiveness.

We believe, also, that the Nation's welfare will be greatly advanced if less time is spent exhorting farmers to food-production goals, and instead give all possible aid to farmers in order that they can meet the practical difficulties that must be overcome if food production is to be maintained at 1942 levels, let alone increased as is so urgently needed.

Finally, I am convinced that State agencies and organizations could render much more assistance in these food matters than they have been given the opportunity to do by Federal agencies. By both law and practice the States have large authority in these matters. It is unfortunate that so many Federal employees adopt a go-it-alone policy at the expense of the public welfare and the whole war program.

Wisconsin is a leader in the production of most of the foods given highest priority from the standpoint of nutrition and war needs—the high-vitamin, high-protein foods, such as fluid milk, cheese, evaporated milk, butter, dried milk, meat, eggs, and canned vegetables. Our farmers are giving all-out effort to maintain and, if possible, increase the output of these health-giving foods. All they ask is that their Government permit them to obtain the absolutely essential factors for this food production.

Sincerely,

WALTER S. GOODLAND,
Acting Governor.

We, the members of the Governors' Conference at Des Moines, Iowa, March 15, 1943, and composed of the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, that annually produce approximately two-thirds of the food produced in this Nation, do hereby adopt the following conclusion:

The agricultural situation is in crisis—unless we have more manpower and more machinery the food production cannot be maintained. Already serious losses in crop and animal products are imminent; there can be no delay.

We therefore recommend—

1. That agriculture be recognized as an essential war industry and be rated as such with respect to manpower, materials, and equipment.

2. That, while we are not proposing blanket deferment for agricultural workers, we recommend that all experienced labor, essential to farm production be deferred, and that all such farm workers be given proper recognition by Federal authorities with suitable insignia or other mark of distinction forgiving their best services to the country, by remaining on the farm front.

3. That there be provided immediately a supply of steel and other material adequate to complete the manufacture of all partially completed machinery; that all present stocks of machinery be now released for sale; that the needs of material which should be this year provided for farm machinery to be used in 1944 be ascertained by May 1, 1943; and that the present unsatisfactory system of allocation of such machinery which sends machinery where it is not adapted, be supplanted by one which recognizes the actual needs of respective areas.

4. That material be immediately supplied manufacturers of farm machinery repairs and parts, and all restrictions on the manufacture and distribution of the same be removed at once; that full authority be placed in the hands of the local war boards to supply welding rod, bar steel, and other materials used in the local repair of farm machinery.

5. That migrant seasonal agricultural laborers be furnished the necessary transportation to and from work.

6. That available supplies of fertilizer be released immediately for the 1943 crop season.

7. That Congress pass the legislation appropriating $26,000,000 to the Agricultural Extension Service for the purpose of recruiting, transporting, housing, and placing agricultural labor.

In this 1 day's conference, our conclusions have been limited to manpower, machinery, and supply of fertilizer. We do not at this time pass on other farm problems.

Mr. WILEY. Mr. President, I received from the Acting Governor of Wisconsin a letter similar to that which my colleague has received. In view of the fact that he has asked that the letter of the Acting Governor be reproduced in the RECORD, I shall not at this time make a similar request. However, I ask that a

copy of my reply to Acting Governor Goodland be included, and that the short statement which I am about to make follow the introduction of the letter by my colleague.

The ACTING PRESIDENT pro tempore. Without objection the letter referred to by the Senator from Wisconsin will be printed in the RECORD.

The letter is as follows:

UNITED STATES SENATE,
Washington, D. C., March 22, 1943.

Hon. WALTER S. GOODLAND,
Acting Governor, State of Wisconsin,
Madison, Wis.

DEAR GOVERNOR: Thank you for your letter of March 19 and for your courtesy in sending me a copy of the resolutions adopted by the Midwest Governor's Conference held on March 15, 1943, at Des Moines.

I concur wholeheartedly that agriculture should be recognized as an essential war industry, and I have repeatedly recommended such a recognition.

I likewise agree that farm labor should accordingly be recognized as essential and I concur with the recommendation for some suitable insignia to those who serve on the farm front. I might point out that on January 8, 1943, I urged Secretary Wickard to adopt a special recognition for farms whose production is outstanding.

I also agree that the problem of farm machinery has not been adequately met and I have a voluminous file of correspondence in my office indicating my efforts to secure a more workable policy from the W. P. B. I suggested an inventory of farm equipment and farm equipment needs early last year, and I have consistently fought for the adoption of a program which will meet the actual needs of the respective areas. You may be certain that I will continue this fight.

I recognize the necessity of making available adequate supplies of fertilizer for the 1943 crop season and I likewise recognize the necessity for adequate transportation for seasonal agricultural laborers. You may be certain of my active interest in these matters.

Like yourself, I feel that trained dairy workers in food processing plants are an indispensable part of our dairy industry economy and if our war production is to be effective these trained workers must be given proper consideration in our manpower program.

Like yourself, I believe in a clearer integration of State agencies and organizations with the Federal program, and you can be certain of my active interest in this direction.

It is my purpose to insert your very fine letter and the resolutions of the Des Moines conference in the CONGRESSIONAL RECORD.

Yours for victory,

ALEXANDER WILEY.

Mr. WILEY. Mr. President, I should like to stress one point particularly in this correspondence and that is the need for a greater and more effective integration between the various State agencies and organizations with the Federal program. It is obvious that these State agencies and organizations are not being fully utilized despite the valuable services which they could render.

I should like, also, at this point to urge a clarification of the existing confusion and duplication and competition in connection with the food distribution program. All the elements which go to make up the food distribution program are subject to orders and regulations and control and planning by men entirely outside the scope of the food distribution administration. Obviously, this has resulted in cross-purposes and confusion.

The Director of Economic Stabilization and the Administrator of the Office of Price Administration control prices; the Director of W. P. B. controls materials; the Chairman of the War Manpower Commission and the Director of the National Selective Service Agency control manpower.

All these factors are involved in food distribution, and there is apparently little genuine correlation of these conflicting interests in one coordinated food distribution program under one separate and distinct management. That is a crucial problem and until it is met realistically, our food distribution production problem will not be solved.

RATIONING OF GASOLINE AND FUEL OIL

Mr. LODGE. Mr. President, I have recently been in conference with officials of the Office of Price Administration on matters which are of much interest to everyone coming from the rationed States. I have been advised by Mr. John R. Richards, who is the Director of the Gasoline Rationing Division of the Office of Price Administration, that holders of "A" cards who have been using their automobiles for occupational purposes are now authorized, under a new ruling, to apply to their local ration boards for "B" cards. Inasmuch as a number of my constituents were not aware of this ruling, and believing that might be true of constituents of Senators from others of the eastern States, I make this announcement.

I have also been in conference with Mr. Joel Dean, Director of the Fuel Rationing Division of the Office of Price Administration, and have had an exhaustive conference with him, in order that next year some of the errors which have occurred this year in the administration of oil rationing may be avoided. I submitted a great many suggestions to him, which I had received from citizens of my State, and a number of suggestions of my own, and he has responded to those suggestions by letter. Because the matter is of wide public interest to citizens of the rationed area, I ask unanimous consent that the letter be printed in the RECORD as a part of my remarks.

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

OFFICE OF PRICE ADMINISTRATION,
Washington, D. C., March 19, 1943.

The Honorable HENRY CABOT LODGE, JR.,
United States Senate.

MY DEAR SENATOR LODGE: I want to thank you for the many helpful suggestions that you have made in connection with planning of fuel-oil rationing for the heating year 1943–44. I appreciate the time and thought that you have been willing to give to this rationing program and the care with which you have collected and appraised the suggestions of Governor Saltonstall and your constituents. This is an excellent example of the important role that the people's representatives can have in the development and administration of a war emergency program.

Every one of your suggestions is being carefully studied by members of the national office staff. In addition, they are being discussed with each of our several advisory groups. Our Industry Advisory Council, composed of leading members of the petroleum, oil-burning equipment, and insulation industries, has just completed a 2-day meeting. Your suggestions were presented to and discussed by the members of this group. Key members of our field operating staff spent 5 days last week in Washington going over our experience in fuel-oil rationing with a fine-tooth comb and studying the suggestions made by you and by others for streamlining and simplifying the program for next year. Tomorrow an advisory group composed of a few outstanding chairmen of our local boards will come to Washington to confer with us for 2 days on next year's program. In addition, we are planning to have meetings with labor and consumer advisory panels.

By and large the advisory groups that we have met with to date feel that the program has been remarkably successful in view of the magnitude of the supply deficiency, the lateness of the decision to ration and the lack of any previous experience in any place in the world with this kind of rationing problem.

As you know, we formed last year under the chairmanship of Dr. L. D. Bristol a health advisory group composed of 30 of the leading medical and public health authorities and administrators. This group, together with some 60 chief public health advisers of the affected States and cities, were asked whether the fuel oil rationing program had impaired public health during the past winter and whether they had any suggestions for improving the program from the viewpoint of protection of public health. Without a single exception these authorities reported that there was no evidence whatsoever that the health of the people in the fuel oil rationed areas had suffered as a consequence of fuel oil rationing. Furthermore, they specifically denied the occasional rumors of deaths or sickness as a result of the program. Many pointed out that rationing of fuel oil had been a major contribution to the protection of public health since the desperate shortage of fuel oil would have doubtless resulted in much suffering and injury if its distribution had been left to favoritism and chance. The suggestions of these authorities for the improvement of the program from the health viewpoint were few and minor.

This does not mean that improvements cannot be made but it does indicate that the general framework of the plan is sound and that what is most needed are simplifications and revisions rather than complete revamping. Although it is too early to try to indicate specifically the exact nature of the simplification and revision of the program that will result from the excellent suggestions made by you and by other Members of Congress and discussed with these advisory panels, it is clear from the thinking of the groups we have met with so far and from our own planning that the fuel rationing planning for 1943–44 will incorporate many of the suggestions and will in other ways be improved, simplified, and streamlined as a result of our year of operating experience.

A little later when our plans are approaching completion I should like to have an opportunity to discuss this whole problem with you again so that you can see how your suggestions have been concretely helpful to us.

Very truly yours,

JOEL DEAN,
Director, Fuel Rationing Division.

WAR ACTIVITIES OF BOSTON METROPOLITAN CHAPTER, AMERICAN RED CROSS

Mr. TOBEY. Mr. President, among the many agencies and organizations making valuable contributions to the war effort there is none which commands our interest and support to a greater extent

than does the American Red Cross. I take this opportunity to read into the RECORD a recent response to an emergency call made by the Department of Boston, Metropolitan Chapter, American Red Cross. It reads:

In response to a request received from Col. F. J. Shearer, officer in charge, the War Relief Garment Department of the Boston Metropolitan Chapter, American Red Cross, made in their headquarters workrooms, 1,300 bags, 6" x 8", for the Army induction center of Boston. These bags were made in 2½ days.

The original request from the War Department was for 1,000 bags. A great deal of credit goes to these volunteers, who, in response to a telephone call, gladly and quickly came to the Red Cross headquarters to work, many of them putting in a full day, from 9 to 5. This department is under the chairmanship of Miss Helen Cabot.

I wish to say, in closing, that the spirit of the Minute Men of Lexington and Concord is exemplified by these noble, patriotic women of the Boston Metropolitan Chapter of the American Red Cross.

FOOD PRODUCTION—MEMORANDUM BY MINNESOTA DAIRY INDUSTRY COMMITTEE

Mr. SHIPSTEAD. Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum to the Congress of the United States by the Minnesota Dairy Industry Committee.

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

MINNESOTA DAIRY INDUSTRY COMMITTEE,
St. Paul, Minn., February 12, 1943.

MEMORANDUM TO THE CONGRESS OF THE UNITED STATES BY THE MINNESOTA DAIRY INDUSTRY COMMITTEE

"Food will win the war and write the peace," so declared Secretary of Agriculture Wickard, in urging farmers of the United States to expand agricultural production enormously.

If this statement be true, and we believe that it is, anyone familiar with the recent trend of events must have great concern lest this country fail to achieve its ends. The unpleasant fact is that if food will win the war, we are in great danger of losing that war.

If the war is lost through the lack of that vital necessity which is food, the fault will rest squarely upon the shoulders of Government officials charged with the administration of the food and manpower program.

No Government decree, no Presidential directive, no law passed by Congress can cause grain to grow or cows to give milk. Men must work with their hands to produce and process the food needed by this Nation and our allies. Workers on farms must be paid for their work. The pay must come from the food and fiber they produce. The recent Presidential order to increase by 12 hours per week the pay of employees in war and industrial plants, an order that in many cases will add 30 percent to pay-roll costs, will further drain workers from farms into industry. The recent order of Director Byrnes freezing farm prices at less than the necessary levels means that farmers will have less, rather than more, income from which wages can be paid.

As proof of this assertion, there is need only to point out that the national income in 1942 is estimated at approximately $117,000,000,000. Less than 10 percent of this income accrued to agriculture, despite the fact that farmers represent some 23 percent of the population of this country.

The farm manpower situation has been aggravated rather than improved by recent governmental action. The situation will become even more hopeless if the Government further extends its excursions into the farm manpower field by subsidizing the farm wage through paying the difference between what farm labor demands and farmers can pay. Farm labor must work under the direction of the farm operator, not under codes developed by swivel-chair production strategists at the National Capital. The food-production situation is too serious to trust to the mercies of dreamers. Dreams will not produce food.

Until this Nation departs from the use of money as a medium of exchange, farmers also must have money to meet the demands of farm labor and the demands of the tax gatherer and the sellers of farm supplies. This income must come from the sale of farm products. Farm prices must be adjusted to permit farmers to use money for the things that only money can buy.

There is nourishment neither for the body nor the mind in the orders and counter orders, the directives and misdirectives that flow from Washington in an appalling stream. No decree, although signed by the President of the United States, as Commander in Chief of the Army and Navy, and adorned with the great seal of the Republic, will prepare a seedbed, sow the crop, nor furnish the trained, competent workers needed to do the job. Farmers must be free to produce if this Nation and our allies are to be fed. Farm price ceilings must be fixed in accord with facts rather than the dreams of dreamers or the wishes of wistful politicians.

Subsidies cannot help, they can only complicate and aggravate a situation that is alarming, and from indications of the past few weeks is becoming increasingly acute.

We must look to the Congress to take immediate action in the hope that a balanced production of war needs may be had; arms, ammunition, ships, planes, clothing, and the fundamental human need—food.

D. T. CARLSON,
President.

ST. PATRICK'S DAY ADDRESS BY SENATOR MEAD

[Mr. MEAD asked and obtained leave to have printed in the RECORD an address entitled "The Irish-American in World War No. 2," delivered by him at the St. Patrick's Day dinner of the Ancient Order of Hibernians in Syracuse, N. Y., on March 17, 1943, which appears in the Appendix.]

ADDRESS BY HON. HERBERT HOOVER TO MIDWEST GOVERNORS' CONFERENCE

[Mr. CAPPER asked and obtained leave to have printed in the RECORD the address delivered by Hon. Herbert Hoover to the Midwest Governors' Conference at Des Moines, Iowa, on March 15, 1943, which appears in the Appendix.]

RATIONING OF GASOLINE

[Mr. MALONEY asked and obtained leave to have printed in the RECORD an editorial entitled "Free To Go, but Tied," from the Hartford Courant of March 19, 1943, and an editorial entitled "What 'Pleasure Driving'?" from the Hartford Times of March 19, 1943, which appear in the Appendix.]

THE CITADEL: AMERICAN EPIC—ARTICLE BY HERBERT RAVENAL SASS

[Mr. MAYBANK asked and obtained leave to have printed in the RECORD an article entitled "The Citadel: American Epic," by Herbert Ravenal Sass, published in the Saturday Evening Post for March 20, 1943, which appears in the Appendix.]

DEFERMENT OF FARM WORKERS—EDITORIAL IN SIOUX FALLS (S. DAK.) ARGUS-LEADER

[Mr. GURNEY asked and obtained leave to have printed in the RECORD an editorial entitled "Class Deferment of Labor Inadvisable," published in the Sioux Falls (S. Dak.) Daily Argus-Leader of March 19, 1943, which appears in the Appendix.]

ORGANIZATION AND COLLABORATION OF UNITED NATIONS—NEWSPAPER COMMENT

[Mr. BURTON asked and obtained leave to have printed in the RECORD an article written by Walter Lippmann and published in the Washington Post of March 16, 1943, and with an editorial on the same general subject from the Cleveland News of March 15, 1943, which appear in the Appendix.]

RECOMMENDATIONS OF 89 ECONOMISTS FOR ADEQUATE WAR TAXATION

[Mr. BURTON asked and obtained leave to have printed in the RECORD a document entitled "Recommendations of 89 Economists for Adequate War Taxation," which appears in the Appendix.]

PRODUCTION OF FOOD FOR ARMED FORCES AND ALLIES

[Mr. THOMAS of Idaho asked and obtained leave to have printed in the RECORD a letter from J. A. Stewart, of Blackfoot, Idaho, regarding the production of food for the armed forces and the Allied Nations, which appears in the Appendix.]

ELECTRIC COOPERATIVES — EDITORIAL FROM BURLINGTON (VT.) SUBURBAN LIST

[Mr. AIKEN asked and obtained leave to have printed in the RECORD an editorial entitled "Electric Cooperatives," from the Burlington Suburban List of March 18, 1943, which appears in the Appendix.]

PROPOSED CONSTRUCTION OF PIPE LINE FROM TEXAS TO INDIANA

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be stated.

The CHIEF CLERK. A resolution (S. Res. 103) to investigate certain matters in connection with the proposed construction of an additional pipe line from Texas to Indiana, submitted by Mr. CLARK of Missouri (and other Senators) on February 15, 1943.

Mr. LA FOLLETTE. Mr. President, in the absence of the Senator from Missouri [Mr. CLARK], I ask that the resolution may go over without prejudice.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

That concludes the routine morning business.

AMENDMENT OF SECTION 722 (D) AND SECTION 780 (B) OF INTERNAL REVENUE CODE

Mr. GEORGE. Mr. President, I ask unanimous consent for the immediate consideration of House Joint Resolution 100, which was favorably reported from the Finance Committee earlier today.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The CHIEF CLERK. A joint resolution (H. J. Res. 100) extending the time within which certain acts under the Internal

Revenue Code are required to be performed.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the House joint resolution?

Mr. McNARY. Mr. President, I shall have no objection if the routine morning business has been completed.

The ACTING PRESIDENT pro tempore. The routine morning business has been closed.

Mr. McNARY. I have no objection to the consideration of the joint resolution.

Mr. GEORGE. Mr. President, I shall offer a word of explanation. The joint resolution has the approval of the Treasury Department. Section 1 of the joint resolution extends the time within which, under section 722 (d), a taxpayer may file an application for relief from what he considers to be an excessive or discriminatory excess-profits tax.

The second provision extends for the benefit of the Treasury the provisions of another section of the Internal Revenue Code, section 780 (b), from 3 months to 1 year. That particular extension applies to the time in which the Treasury is authorized and required to issue bonds for the tax credit payable to excess profits taxpayers. The time is so short that the Treasury is not able to comply with the exact terms of the law, and is asking for the passage of the joint resolution in order that it may have 1 year, rather than 3 months, from the date of the enactment of the Revenue Act of 1942 in which to issue the bonds to taxpayers who are entitled to receive post-war bonds representing a portion of their excess-profits taxes paid.

Mr. President, that is all I have to say regarding the matter.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H. J. Res. 100) extending the time within which certain acts under the Internal Revenue Code are required to be performed was considered, ordered to a third reading, read the third time, and passed.

CALL OF THE ROLL

Mr. GEORGE. Mr. President, it is my purpose to move that the Senate take up House bill 1780, a bill to increase the debt limit of the United States, and for other purposes. The majority leader has requested, however, that the presence of a quorum be ascertained before motion is made to take up the bill. Therefore, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

Aiken	Butler	Gerry
Austin	Byrd	Gillette
Bailey	Capper	Green
Ball	Caraway	Gurney
Bankhead	Chavez	Hatch
Barkley	Clark, Mo.	Hawkes
Bone	Connally	Hayden
Brewster	Danaher	Hill
Brooks	Downey	Holman
Buck	Ellender	Johnson, Calif.
Burton	Ferguson	Johnson, Colo.
Bushfield	George	Kilgore
La Follette	O'Daniel	Thomas, Utah
Langer	O'Mahoney	Tobey
Lodge	Overton	Truman
Lucas	Pepper	Tunnell
McCarran	Radcliffe	Tydings
McClellan	Reed	Vandenberg
McFarland	Revercomb	Van Nuys
McKellar	Reynolds	Wagner
McNary	Russell	Wallgren
Maloney	Scrugham	Walsh
Maybank	Shipstead	Wherry
Mead	Smith	White
Milliken	Stewart	Wiley
Moore	Taft	Willis
Murray	Thomas, Idaho	Wilson
Nye	Thomas, Okla.	

Mr. HILL. I announce that the Senator from Florida [Mr. ANDREWS] and the Senator from Virginia [Mr GLASS] are absent from the Senate because of illness.

The Senator from Kentucky [Mr. CHANDLER] is out of the city on official business for the Committee on Military Affairs.

The Senators from Mississippi [Mr. BILBO and Mr. EASTLAND], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Idaho [Mr. CLARK] and the Senator from Utah [Mr. MURDOCK] are detained on important public business.

The Senator from Montana [Mr. WHEELER] is necessarily absent.

Mr. McNARY. The Senator from Pennsylvania [Mr. DAVIS] is absent on important public business.

The Senator from New Jersey [Mr. BARBOUR] is necessarily absent.

The Senator from Wyoming [Mr. ROBERTSON] is absent on public business.

The ACTING PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

INCREASE IN THE PUBLIC DEBT LIMIT—LIMITATION OF SALARIES

Mr. GEORGE. Mr. President, I move that the Senate proceed to the consideration of House bill 1780.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 1780) to increase the debt limit of the United States, and for other purposes, which had been reported from the Committee on Finance with an amendment, on page 3, after line 7, to strike out:

SEC. 4. Effective as of October 2, 1942, section 5 of the act of October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes," is amended, by adding subsection (d) to section 5, as follows:

"(d) No action shall be taken under authorization of this act, or otherwise, which will limit the payment of annual salaries to a maximum amount less than the greater of the following:

"(1) The annual rate of salary paid to such employee on December 7, 1941; or

"(2) An amount which after reduction by the Federal income taxes thereon would equal $25,000."

And in lieu thereof to insert:

SEC. 4. (a) Section 4 of the act approved October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Public Law 729 of the 77th Cong.), is hereby amended, effective as of October 2, 1942, to read as follows:

"SEC. 4. No action shall be taken under authority of this act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942."

(b) (1) Section 7 of title II, and all other provisions of Executive order No. 9250, "Providing for the stabilization of the national economy" issued October 3, 1942, and all provisions of Regulation No. 4001.9, promulgated by the Economic Stabilization Director on October 27, 1942, which are in conflict with this section are hereby rescinded; and (2) all orders, regulations, and other directives, and all decisions, promulgated or made by virtue of the said Executive order or regulation which are in conflict with this section are hereby rescinded.

So as to make the bill read:

Be it enacted, etc., That this Act may be cited as the Public Debt Act of 1943.

SEC. 2. Section 21 of the Second Liberty Bond Act, as amended, is further amended to read as follows:

"SEC. 21. The face amount of obligations issued under the authority of this act shall not exceed in the aggregate $210,000,000,000 outstanding at any one time."

SEC. 3. Section 22 of the Second Liberty Bond Act, as amended, is further amended by adding at the end thereof the following subsections:

"(h) The Secretary of the Treasury, under such regulations as he may prescribe, may authorize or permit payments in connection with the redemption of savings bonds to be made by incorporated banks and trust companies.

"(i) Any losses resulting from payments made in connection with the redemption of savings bonds shall be replaced out of the fund established by the Government Losses in Shipment Act, as amended, under such regulations as may be prescribed by the Secretary of the Treasury. The Treasurer of the United States, any Federal Reserve bank, or any incorporated bank or trust company authorized or permitted to make payments in connection with the redemption of such bonds, shall be relieved from liability to the United States for such losses, upon a determination by the Secretary of the Treasury that such losses resulted from no fault or negligence on the part of the Treasurer, the Federal Reserve bank, or the incorporated bank or trust company. The Post Office Department or the Postal Service shall be relieved from such liability upon a joint determination by the Postmaster General and the Secretary of the Treasury that such losses resulted from no fault or negligence on the part of the Post Office Department or the Postal Service. The provisions of section 3 of the Government Losses in Shipment Act, as amended, with respect to the finality of decisions by the Secretary of the Treasury shall apply to the determinations made pursuant to this subsection. All recoveries and repayments on account of such losses, as to which replacement shall have been made out of the fund, shall be credited to it and shall be available for the purposes thereof. The Secretary of the Treasury shall include in his annual report to the Congress a statement of all payments made from the fund pursuant to this subsection."

SEC. 4. (a) Section 4 of the act approved October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes" (Public Law 729 of the Seventy-seventh Congress), is hereby amended, effective as of October 2, 1942, to read as follows:

"SEC. 4. No action shall be taken under authority of this Act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reduc-

ing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942."

(b) (1) Section 7 of title II, and all other provisions of Executive Order No. 9250, "Providing for the stabilization of the national economy" issued October 3, 1942, and all provisions of Regulation No. 4001.9, promulgated by the Economic Stabilization Director on October 27, 1942, which are in conflict with this section are hereby rescinded; and (2) all orders, regulations, and other directives, and all decisions, promulgated or made by virtue of the said Executive order or regulation which are in conflict with this section are hereby rescinded.

Mr. LANGER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. LANGER. Is the committee amendment the section which refers to the $25,000 salary limitation promulgated by the President?

Mr. GEORGE. Yes.

Mr. LANGER. When the time comes I wish to speak against that amendment.

Mr. GEORGE. Mr. President, it is unnecessary, I think, to call the attention of the Senate to the main feature of the bill, which is to increase the debt limit of the United States. The present debt limit is $125,000,000,000. That is to say, under the terms of the present Debt Limit Act only $125,000,000,000 may be outstanding at any one time. The bill proposes to increase the debt limit to $210,000,000,000, and also to amend section 21 of the Second Liberty Bond Act, as amended, so as to authorize the increase.

There are two other minor provisions in the bill as it comes from the House. They are to be found in subparagraphs (h) and (i) on page 2 of the bill. They are made necessary by virtue of the fact that as the sale of bonds constantly increases, the redemption of bonds may likewise increase. The Treasury desires to have the assistance of chartered banks and trust companies in redeeming the bonds, and desires to compensate the banks and trust companies, which may act as clearing houses for the redemption of bonds.

It will be recalled that the Treasury will find it necessary greatly to increase bond sales early in April. At the present time the $125,000,000,000 debt limit is very nearly reached. That is to say, outstanding bonds absorb the borrowing power with the exception of approximately $6,000,000,000. Early in April it will be necessary for the Treasury to increase the debt by some $14,000,000,000. An increase of $14,000,000,000 would therefore exceed the existing debt limit of $125,000,000,000.

It will also be recalled that in the Budget and in the message of the President it was stated that the national debt would stand at approximately $135,000,000,000 at the end of the current fiscal year, and that it was contemplated that the national debt would stand at approximately $210,000,000,000 by the end of the next fiscal year—that is, by July 1, 1944. Therefore, the bill would authorize an increase in the debt limit from $125,000,000,000 to $210,000,000,000.

The House inserted section 4 in the bill, and by unanimous action of the Senate Finance Committee section 4 was stricken and a substituted section 4 was adopted. I should say that on the motion to report the bill to the Senate the action was not unanimous on reporting the new section 4. The distinguished junior Senator from Pennsylvania [Mr. GUFFEY] registered his vote against it, on the ground, as he explained, that the matter embraced in section 4 should not be contained in the bill.

Mr. President, I take it that the only controversial feature in the bill is section 4. The Senate committee substitute for the so-called Disney amendment contained in the original section 4 of the bill begins at line 21 on page 3 and continues to the end of the bill. As the Finance Committee interpreted the Disney amendment, it was thought that that amendment, dealing only with salaries and not with wages, would limit the power of the President to place limitations upon any increases in salaries after December 7, 1941, until the salary reached approximately $25,000 after taxes, or until the salary reached the level of approximately $67,200. Under our present revenue laws an earned income of $67,200 will result, after the payment of Federal taxes, in a balance to the taxpayer of approximately $25,000.

So interpreting the so-called Disney amendment, offered in the other House by the distinguished Representative from Oklahoma, the Senate Finance Committee was of the opinion that no limitation or prohibition should be placed upon the power of the President and the Stabilization Administrator to limit increases in salaries above the base fixed in the Stabilization Act.

The Senate Finance Committee was also of the opinion that December 7, 1941, having in fact no actual or legal relation to the act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes, the base wage or salary level, below which there should be no reduction, should be related to the period fixed in the act itself. So section 4 of the act as amended by the Finance Committee is as follows:

No action shall be taken under authority of this act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942.

That is the language in the act to which I have referred as the Stabilization Act.

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

Mr. GEORGE. I yield.

Mr. VANDENBERG. I invite the Senator's attention to what is obviously a typographical error in line 7, section 4, page 4, which might well be corrected before we forget it. Instead of the words "reducing wages or salaries," the language in the print is "reducting wages or salaries." I suggest that the Senator ask for a correction of the typographical error.

Mr. GEORGE. I was reading from the committee report on the bill, which is correct. I ask unanimous consent that on page 4, in line 7, of the printed bill, "reducting" be changed to "reducing."

The ACTING PRESIDENT pro tempore. Without objection, the correction will be made.

Mr. GEORGE. Mr. President, section 4 is the exact language found in the act approved October 2, 1942, namely, the Emergency Price Control Act of 1942. The Senate Finance Committee merely stopped at that point and eliminated the proviso in the law as it was passed last year. That provision reads as follows:

Provided, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities, and also aid in the effective prosecution of the wa .

I believe I may say, Mr. President, that it was the judgment of the majority of the Finance Committee—and I certainly have no hesitancy in saying that it is my best opinion—that this provision did not authorize, and cannot be fairly construed to authorize the wholesale or general reduction of salaries or wages below the level which wages or salaries reached during the period fixed in the act, to wit, between January 1, 1942, and September 15, 1942. That, Mr. President, is itself a definite limitation upon the power of the Administrator to affect wages or salaries. However, the proviso did authorize some action by the Administrator within the limitation itself, which the act had already prescribed, to wit—

for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942.

That itself, as I have said, is a definite limitation upon the power of the Administrator. But if I may use somewhat involved language, the proviso is an authorization for affirmative action within the limits of that limitation. It was the judgment of your committee, and, as I have already said, it seems to be undoubtedly sound, that no authority generally to reduce all salaries was contemplated or given by the act. That interpretation harmonizes with statements made on the floor of the Senate by the distinguished former Senator from Michigan, Mr. Brown, in charge of the emergency price-control bill of 1942, when he assured the Senate that it was not intended by the bill to authorize a general reduction of salaries, and in fact that no provision of the bill did so.

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

Mr. GEORGE. I yield.

Mr. BARKLEY. Inasmuch as the Senator may not have read the debate recently, I think his attention should be called to the response of the then Senator from Michigan, Mr. Brown, who was in charge of the bill, to a question propounded by his colleague the senior Senator from Michigan [Mr. VANDENBERG] as to whether the bill, or any part of it, authorized a general decrease in all incomes. Mr. Brown stated that in his judgment it did not authorize a decrease in all incomes. It seems that an effort

has been made to draw a distinction between incomes and salaries which are specifically mentioned in the law. It is my recollection that in reply to the question former Senator Brown confined his denial to the authority of the bill to authorize the President to reduce all incomes, but not necessarily salaries. I do not wish to get into a controversial interpretation on that point.

Mr. GEORGE. I thank the Senator for calling it to my attention; but, with all due respect, the bill then before the Senate did not deal with incomes at all except income arising from wages and salaries. Therefore, when the question was propounded to the distinguished former Senator from Michigan he could have referred only to incomes derived from wages and salaries. It was his view, it would seem, that the authority to reduce salaries and wages was confined, in any event, to specific instances on narrow classes. The distinguished Member in charge of the bill on the floor of the House of Representatives committed himself precisely as I have just stated.

Mr. President, since the bill dealt only with salaries and wages, it would have been a perfectly idle question to ask whether or not the bill authorized a reduction in all incomes. That was not the subject matter of the price-control bill. That bill gave to the Administrator the authority to fix ceilings on wages and salaries, and on farm products under certain conditions. That was the sole purpose of the legislation.

When one reads section 4, which is the existing law, or so much of it as the Senate Finance Committee recommends the reenactment of, it seems perfectly clear. It is as follows:

> No action shall be taken under authority of this act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942.

The act contemplated the fixing of salaries for particular work, and, correctly read, it meant only one thing, namely, that the rate of wages or the rate of salary could not be reduced below the level reached by the wage or salary during the period from January 1, 1942, to September 15, 1942. Therefore the Finance Committee was of the opinion that no general authority to reduce all salaries above a certain level had been intended by the act or was, in fact, granted by the act.

I say that, Mr. President, by way of explaining the reason why the Senate Finance Committee recommended the elimination of the proviso which I have already read.

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

Mr. GEORGE. I yield.

Mr. TYDINGS. Will the Senator inform me what would be the effect in the following instance: Suppose the president of a concern died last month and suppose the vice president became the president; under the committee amendment would the vice president be entitled to receive the same salary the deceased president had received, assuming that it was above the limitation fixed in the bill?

Mr. GEORGE. Mr. President, that is a matter which the committee thought was beyond its jurisdiction. The committee was very well satisfied with the rules and regulations which had been adopted by the Treasury Department and by the Commissioner of Internal Revenue. The committee did not, in the first instance, when this bill was originally introduced, suggest any change in section 4 of the Price Stabilization Act; but the House, having rewritten section 4 providing that no salary should be reduced below the level of the salary as of December 7, 1941, and also providing that no limitation should be placed upon any increase of any salary until it reached approximately $67,200, the Senate committee rewrote the provision which the House itself had rewritten and had included in the bill.

Mr. President, I do not think that a lengthy argument upon this matter is called for. The other provisions in section 4 following the one referred to are simply intended to make it entirely clear that no action taken by the Executive in a specified Executive order or taken by the Economic Stabilization Director in a numbered regulation would be continued, thereby resulting in some confusion.

The whole question is covered in section 4 of the bill, which is made effective as of the date of the passage of the Wage Stabilization Act, that is October 2, 1942, and reads as follows:

> No action shall be taken under the authority of this act with respect to the wages or salaries—

Reading the second part only which is in controversy—

> or (2) for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942.

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

The ACTING PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. GEORGE. I am pleased to yield to the Senator from Michigan.

Mr. VANDENBERG. I should like to ask the Senator from Georgia if this would be a fair statement of the situation which results from the Senate committee amendment: In cleaning up the illegal action taken under the Executive order, is it not a fact that the Disney amendment, as adopted by the House, left certain discriminations in favor of salaries as against wages, and that the amended bill, as now presented by the Senate Finance Committee, removes all discriminations, and all chance of a charge of any discrimination as between the treatment of wages and salaries, and puts both of them on the same level under the original terms of the Price Control Act?

Mr. GEORGE. The Senator is entirely correct. Both wages and salaries under this bill as amended by the Senate Finance Committee can be stopped at the level reached by the wage or salary during the period specified in the original act, but no reduction of either wage or salary is to be made which will have the effect of pulling down the wage or salary below the level of the wage or salary during the period specified in the Price Control Act.

Your committee, therefore, thought and felt, Mr. President, that, since both wages and salaries were placed upon precisely the same basis, and since it had not been the intention at least of the Congress, and as we think had not been the legitimate act of the Congress, to authorize any general reduction of wages or salaries below those levels, we recommend the passage of this bill.

Mr. DANAHER and Mr. BONE addressed the Chair.

The ACTING PRESIDENT pro tempore. Does the Senator from Georgia yield, and, if so, to whom?

Mr. GEORGE. I yield first to the Senator from Connecticut.

Mr. DANAHER. In view of the fact that when the original regulation was issued on October 27, 1942, it contained a provision to the effect that any determination of the Board should not be subject to review by the Tax Court or by any court in any civil proceedings, I feel certain that the Senator from Georgia shares the common feeling of dismay which pervaded the minds of many of us upon discerning that provision. In the light of the discussion of the subject now appearing in the Senate Finance Committee report, would not the Senator from Georgia feel that properly the entire report might be printed in the RECORD as a part of his remarks or, at least, to follow his discussion of the bill?

Mr. GEORGE. I shall be very glad to ask that so much of the report as relates to section 4 down to the end of the report be printed in the RECORD as a part of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The portion of the report (No. 123) referred to is as follows:

> Section 4 of the bill which was referred to the committee also contained a provision which would have the effect of prohibiting any action under the Stabilization Act of October 2, 1942, or otherwise limiting the payment of annual salaries to a maximum amount less than the greater of the following:
>
> "(1) The annual rate of salary paid to such employee on December 7, 1941; or
>
> "(2) An amount which after reduction by the Federal income taxes thereon would equalize $25,000."
>
> In lieu of this provision, the purpose of which is explained at some length in House Report No. 181 at pages 4 to 7, inclusive, the committee recommends amending section 4 of the Stabilization Act of October 2, 1942, so as to repeal the provision which served as the basis for the action taken by the President and the Economic Stabilization Director in reducing salaries to approximately $25,000 net after payment of taxes.
>
> The amendment recommended by the committee also provides for rescinding all provisions of Executive Order No. 9250 issued by the President on October 3, 1942, Regulation No. 4001.9 issued by the Economic Stabilization Director on October 27, 1942, and all orders, regulations, and other directives, and all decisions, promulgated or made by virtue

of such Executive order or regulation, which are in conflict with section 4 of the Stabilization Act of October 2, 1942, as amended. The committee amendment also provides that it shall be effective as of October 2, 1942.

The committee amendment would have the effect of terminating, as of October 2, 1942, the authority which the Congress granted to the President by the following language of section 4 of the Stabilization Act of October 2, 1942:

"*Provided*, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war."

The power of the President to reduce wages or salaries by Executive action "to the extent that he finds necessary to correct gross inequities and also aid in the effective prosecution of the war" would thus be terminated.

The balance of the language of such section 4 would remain unchanged under the committee amendment, and the section would read as follows:

"SEC. 4. No action shall be taken under authority of this act with respect to wages or salaries (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reducing the wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942."

As a result of the retention of this language, the powers granted to the President by the Congress with respect to limitations upon salary and wage increases for the purposes of the stabilization program would remain as they have been since October 2, 1942.

With regard to the effect of the amendment made by the bill to section 4 of the Stabilization Act of October 2, 1942, your committee wishes to point out that in that section, as so amended, the words "any particular work" contained in clause (2) refer to the particular work of a particular employee and not merely to a particular type of work. For example, this section, as amended, is not intended to invalidate or prohibit a wage-stabilization order establishing a maximum wage for any particular type of work, so long as exception is made allowing the payment of wages higher than such maximum wage to any particular employee for that particular type of work where such higher wages were being paid to such employee for such work at the time the order was issued.

In connection with the Executive action taken for the purposes of the stabilization program, it was brought to the attention of the committee by Senator Danaher that Regulation No. 4001.2 of the Economic Stabilization Director, issued October 27, 1942, provided that determinations of the National War Labor Board with respect to certain wage and salary payments were to be final and not subject to review. The language referred to is as follows:

"Any determination of the Board made pursuant to the authority conferred on it shall be final and shall not be subject to review by the Tax Court of the United States or by any court in any civil proceedings."

An amendment was suggested to the effect that nothing contained in the Stabilization Act of October 2, 1942, should be construed to authorize the issuance of any regulation or order denying the right of appeal to or review by any court concerning any determination, ruling, or decision where the right to such appeal or review would otherwise exist.

By Regulation No. 4001.4, issued by the Economic Stabilization Director on October 27, 1942, the Commissioner of Internal Revenue was granted authority to determine the validity of certain wage and salary payments for the purposes of the stabilization program, and the following provision is found in such regulation with respect to the determinations made by the Commissioner:

"Any determination of the Commissioner made pursuant to the authority conferred on him shall be final and shall not be subject to review by the Tax Court of the United States or by any court in any civil proceedings."

On behalf of the Treasury Department it was stated that the existing regulations promulgated by the Commissioner of Internal Revenue and the Secretary of the Treasury, and having the approval of the Economic Stabilization Director, expressly state that the provision therein contained relating to the conclusiveness of determination is not intended to deny to any employer or employee the right to contest, in the Tax Court of the United States or in any court of competent jurisdiction, any provision of the regulations, on the ground that such provision is not authorized by law, or otherwise to contest any action taken or determination made under such regulations, on the ground that such action or determination is not authorized, or has not been taken or made in the manner required, by law.

In view of this statement, which clarifies the intent of the provisions in the regulations issued by the Economic Stabilization Director on October 27, 1942, the proposal relating to the right of appeal and review was not included in the amendment recommended by the committee.

The committee believes that no construction should be placed upon such regulations, or upon any other regulations issued in connection with the stabilization program, that would preclude any individual from exercising any rights or remedies that he might otherwise have under the law by way of protection against arbitrary administrative action.

The committee urges the speedy enactment of the bill as reported.

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

Mr. GEORGE. I yield.

Mr. DANAHER. When the matter was discussed it was brought out that when the Treasury itself realized the full import of the original regulation it had sought to apply certain correctives, and we in the committee were satisfied that there was no longer to be apprehended under the regulation a denial of a test of the legality of the regulation or of any case arising thereunder. Is not that so?

Mr. GEORGE. That is correct, and it is so stated in the report.

Under the regulations of the Treasury, which have the approval of the Stabilization Director, any person aggrieved may, in any court of competent jurisdiction, question the legality of any action taken; that is to say, it is open to him to assert that the action taken is not authorized by law, or that it was taken in a manner not provided by law, or, stating it in the negative, that it was not taken or made in the manner required by law.

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

Mr. GEORGE. I yield.

Mr. BONE. I have heard so much discussion about the figure $67,200 that I should like to inquire how that figure is achieved. Is it the average figure of the income of a married man with one or two children, or how is it arrived at? It has been used so freely as a basis of comparison that I should like to know.

Mr. GEORGE. I will make this statement generally. I do not know to what particular class of taxpayers it was applied, whether to a single person or to a person with wife or children, but in the stabilization order issued by the Stabilization Director the figure $67,200 came into the picture. Earned net income of $67,200 will yield approximately $25,000 a year to the person earning it, after he has paid his Federal income tax only. That is not exactly accurate, because, as the Senator points out, the taxpayer may be an unmarried person, or he may be married with wife and no children, or he may have children. The net result would vary somewhat, but, broadly speaking, earned income of $67,200 will yield, after paying Federal income taxes only, a net of approximately $25,000.

Mr. BONE. Unless there has been a drastic change in our income-tax statutes, which I have not noted, the credits and allowances to the taxpayer would include the payment of State taxes of all kinds, so that he would not be compelled, out of his remaining $25,000, to pay State taxes.

Mr. GEORGE. The Senator is wrong. Under the order issued by the President the earned income, the income from salary, can be affected only by the Federal income tax, not by any other kind of tax.

Mr. BONE. If a man pays taxes on his home in a State, for instance, he is allowed that as a deduction.

Mr. GEORGE. He is allowed that as a general tax deduction, but not under this order.

Mr. BONE. I appreciate that; but, as I understand and as I recall the order, it did not affect adversely, or attempt to change, the provision allowing a deduction or a credit for the payment of State taxes. I do not so recall. I may be in error.

Mr. GEORGE. It fixed a flat limitation of $25,000 net, approximately $25,000, after the payment of Federal income taxes only, and that might, of course, be reduced, and would be reduced, by the payment of State income taxes, if any, or taxes upon property which the taxpayer might own.

Mr. BONE. Taxes on property, for instance, payable to a State, have always been allowed as a deduction, precisely as the operating overhead of a business has been allowed, or wages and salaries paid by a corporation are allowed.

Mr. GEORGE. That is true; they are allowed in computing the net taxable income, but not under the salary limitation order. Without any regard to what else the taxpayer might be entitled to set up by way of deduction, the order merely cuts off the salary at $25,000 net, after the payment of Federal income taxes only, and it takes an income of $67,200 to result in a $25,000 net.

Mr. BONE. I am not sure that I made my position clear. It cuts the salary off after the payment of the Federal income tax. Enshrined in the Federal income-tax statement is the allowance for State taxes. All of us are allowed to claim

credit for the payment of taxes on our homes.

Mr. GEORGE. In the case of a salary of $100,000, it is simply cut back to $25,000 under the Executive order. A person can have no consideration whatever for any tax he may pay to any State or city.

It might be of interest to the Senator if I called his attention to a few cases, figures as to which I myself secured. These are actual cases, though I do not wish to call the names.

In the first case, the salary of the individual is $150,000. His net income from stocks, bonds, rents, and other investments is $57,800, making a total of $207,800, before the application of the salary limitation order.

Under the order the salary is reduced to $67,200, and the individual has the same $57,800, or a total income of $125,000.

His Federal tax on 1942 taxable income amounted to approximately $142,000. His State tax on his 1942 income amounted to $11,000. His victory tax amounts to $3,300. He paid premiums on insurance and old-age retirement amounting to $8,000. He paid taxes on tangible personal property of $13,000. He paid interest and amortization on mortgages in the amount of $6,000. He paid charitable subscriptions which he had made amounting to $5,000. His expense for needy relatives, to which he was committed, was $1,700.

This individual has a net deficit of $65,000, whereas, if he had been permitted to retain his salary of $150,000, he would have a net balance of $13,600.

No expenditures for living, for food, for clothing, for medical expenses, or for anything else, enter into the computation.

Mr. President, I do not care to discuss the matter at length, certainly not at this time. I wish merely to say that, under a fair interpretation of the emergency Price Control Act, it was not intended by the Congress, at least it was not intended by those in charge of the bill on the floor of the Senate, to authorize a general reduction in salary, but only reduction in specific cases, or in specific classifications. That is the view we have taken of the matter.

Mr. President, I do not need to call attention to the fact that the salary limitation does not fight against inflation, it does not touch the question of inflation. It is not a revenue-producing matter. It actually results in the loss of revenue. It was estimated by Mr. Colin F. Stam, I believe, before the House committee, that this order would result in an annual loss in revenue of approximately $100,000,000.

Moreover, the Bureau of Internal Revenue must draw cut its best equipped men and send them over the country to administer the Executive order. The order accomplishes no purpose save the fanciful purpose of producing a state of equality.

Mr. President, equality in earnings has its place in no economy save the communistic state. Equality in opportunity is written into the economy of every forward-looking and progressive free enterprise system on the face of the earth.

On the face of it the Executive order is grossly inequitable, because it applies only to earned income; it reduces only what a man earns as his salary or his wage, and does, not, because it cannot, affect those incomes which result from investment. I would not support the order if it did affect all incomes, but since it does not and cannot affect all incomes, it is grossly inequitable to apply a limitation upon what a man may earn as a result of his labor, his ability, his initiative, his energy, his capacity to manage human enterprise.

I undertake to say that if in the beginning of this Government our fathers had been unwise enough to have limited the income which any citizen could make, instead of labor now receiving, in some cases, more than $10 a day, it would be receiving less than $1 a day. That is the history of the free enterprise system.

The Executive order applies to only a relatively few persons. What has that to do with it? It is undoubtedly the chief function of the Government, speaking through its judicial branch, to preserve the rights of the one man as against the 90 and 9, and when Government ceases to function in that way it degenerates into a mob.

Mr. President, without further discussion of this matter, except to revert to the fact that the order applies to only relatively very few people in the United States, variously stated to number from 1,580 to about 3,000—and again to repeat that that has nothing whatever to do with the merits of this proposal—I should like to add that, while there may be only a few hundred or a few thousand men in the country whose earnings have exceeded $25,000 a year after payment of Federal income taxes alone, without any regard to other taxes, there are several million young Americans who would like to know and like to feel that it is within their power, if they have the intelligence, and the industry, and the ambition, to earn more than $25,000 a year after the payment of Federal income taxes.

The Finance Committee was of the opinion, and of the settled opinion, that the Executive order is unwise, that it goes beyond the intent and purpose of the Congress, that it accomplishes no desirable purpose, that it results in the loss of Federal revenue and increased cost to the Government to administer it. The committee was of the opinion that if taxes are not sufficiently high they can be raised again, and that the whole question is properly dealt with under the tax act.

I may say, Mr. President, that not only under the tax act but under the renegotiation of contracts law passed by the Congress no unreasonable salary on Government contracts may be earned. The taxes themselves in the higher brackets go beyond 90 percent of the total income of the taxpayer.

We were compelled to put a ceiling on rates, and to provide that in the case of individual income taxpayers no income should be taxed at a rate in excess of 90 percent. Actually the applicable rates would very nearly run the tax up to 100 percent in the very highest brackets. Even a $200,000 income, Mr. President, under our tax law, is today taxed 88 percent income tax, plus 5 percent Victory tax, plus the State income tax, plus the property tax, plus every other tax that applies to it. So it was the opinion of the committee that the tax act dealt adequately with this matter. It was the opinion of the committee that under the renegotiation of contracts act no person dealing with the Government—and the Government is a large customer now—could make an exorbitant salary. An exorbitant salary would be disallowed, and such salaries are disallowed by those who administer that act.

Recalling these facts, Mr. President, we thought it was entirely useless to continue this provision in the act upon which the Executive order numbered in the bill and the administrative regulation identified in the bill had been issued.

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

Mr. GEORGE. I am pleased to yield to the Senator from Michigan.

Mr. VANDENBERG. The Senator referred to two existing checks upon excessive salary, namely, the renegotiation act and the higher brackets of the income tax. In order to complete the record, I suggest that the Senator might add that there is a third check against exorbitant salaries in the continuous power of the Treasury Department to disallow excessive salaries as corporation charges.

Mr. GEORGE. That is true, and that has been a part of the law since the beginning of our income tax laws. It is now a continuing part of the law, and of course the Commissioner of Internal Revenue has that power, and unquestionably exercises it.

Mr. President, the very greatest difficulty we have is in finding administrative officers who will content themselves with the carrying out of the plain, the manifest, and the undoubted intent and purpose of the Congress. I am not criticizing any particular administrator, but whenever those who administer the law share no public responsibility for its enactment, such a result may be expected.

We intended to do a few obvious things in the Price Control Act. We intended to give authority under certain conditions to place a ceiling on the prices of farm products. We intended to authorize the placing of a ceiling on wages and salaries. The clear purpose of Congress cannot be mistaken; the clear intent of Congress cannot be doubted by anyone. If those charged with the administration of the act would content themselves with carrying out the unquestioned intent of Congress there would be far greater happiness in the United States than there is at this hour.

The present Administrator of the Office of Price Administration is earnestly striving to do and is doing a very good job. He will do a better job if he will reject once and for all the theory of Dr. Galbraith that price ceilings must be imposed to prevent people from making what he considers exorbitant profits. If he adheres to that theory and applies it, the act will be further amended on this

floor. The O. P. A. is charged with stopping as far as possible the increase in the cost of commodities, including farm products, under the conditions named in the law, and checking the rapid rise of wages and salaries. Why cannot the administrators content themselves with the discharge of their plain duty under the law? Is not that just about as big a job as anyone is capable of performing?

The difficulty here arises because under some possible interpretation of the law price ceilings may be adjusted, lowered to prevent profits believed by the agent to be unreasonable. We would meet the inflation problem, Mr. President, if we did not attempt to remake American economy and to right all of the fancied inequities in our price system according to the judgment of administrators who have no responsibility for the enactment of the law. They have no responsibility, in the last analysis, to the American people. We alone have that responsibility. I deplore the attempt to read interpretations into a simple program of this kind, which was intended to stop the rapid rising of prices which would result in the destruction of the workers and of the people in the middle brackets, at least, and the destruction of our whole economy, if we may say so, instead of doing the simple things which Congress intended should be done—simple in the sense that they could be readily understood, and not misinterpreted, in any quarter.

So, Mr. President, the House of Representatives having nullified the orders made and actions taken under this particular section of the Emergency Price Control Act, and the Senate desiring to correct it, as we think, in the manner which I have imperfectly pointed out, the committee voted to accept the action of the House in principle, and specifically the substance of an amendment which was offered on the floor of the House, and which was rejected by a narrow vote, as being preferable to the so-called Disney amendment.

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

Mr. GEORGE. I yield.

Mr. McNARY. I have greatly enjoyed the clarifying statement of the able Senator in charge of the bill with respect to salary limitations; but as my eyes glance over section 21, which is with regard to the obligations which may be issued, I see that they shall not exceed $210,000,000,000. While that is House language, unquestionably the Senate committee considered that as thoroughly as though it were their own incorporation. I should like to have an explanation from the Senator as to why that sum was settled upon as the amount which governmental obligations should not exceed. What elements did the committee take into consideration in connection with that matter?

Mr. GEORGE. They will be found set forth on page 2 of the report. If I may briefly read it, I think the Senator will understand the essential facts which we had in mind:

> The 1944 Budget submitted to Congress in January indicates that the deficit for the current fiscal year will amount to $57,000,000,000 and, in addition, that the Treasury will be required to advance to governmental corporations approximately $5,000,000,000 to finance their activities.
>
> The reference is to such agencies as the Reconstruction Finance Corporation and other agencies which at this time are financed in part, and in many instances in whole, by the Treasury.
>
> The report continues:
>
> On the basis of these estimates the public debt on June 30, 1943, will amount to $134,800,000,000. The estimated deficit in the fiscal year beginning July 1, 1943, without taking into consideration any additional budgetary revenues from new taxation, will amount to $71,000,000,000. The Treasury will also be required to raise $4,700,000,000 for the governmental corporations. The estimated increase in the public debt for the fiscal year beginning July 1, 1943, based on these estimates, will thus be $75,700,000,000 and leave a public debt on June 30, 1944, of $210,500,000,000.
>
> Therefore, the limit of $210,000,000,000 was thought to be adequate to enable the Government to carry on its fiscal program until the end of the next fiscal year.

Mr. McNARY. Then it would apply only for the fiscal year 1944?

Mr. GEORGE. For the remainder of the current fiscal year, and for the next fiscal year.

Mr. McNARY. Until June 30 of next year, at which time it is thought by the able Senator in charge of the bill that it will be necessary to pass another bill extending the limit for the issuance of obligations. Is that correct?

Mr. GEORGE. Undoubtedly, if our expenditures continue at the current or present rate, it will be necessary further to raise the debt limit.

Mr. McNARY. Did the committee consider the estimate that we might have to face next year at this time?

Mr. GEORGE. No; the committee did not go into that matter. Probably it proceeded on the theory that we should cross bridges as we come to them, that we could not forecast what the expenditures would be, but that unquestionably they would be high, even if the war should come to an abrupt end at any time within the current calendar year.

Mr. McNARY. The Senator gives a great deal of attention to matters of this kind, and is skilled beyond most Members of the Senate in fiscal matters.

From time to time we read that an estimate of $300,000,000,000 has been placed on the debt of the country in 1945, at the beginning of the fiscal year, which would be July 1 of next year. I assume that the Senator has speculated, or prophesied, or given consideration to certain figures, which I thought would be very interesting to have in the RECORD. That is the reason I am asking for the best judgment of the able Senator from Georgia.

Mr. GEORGE. I have not undertaken to do so, Mr. President, and I would not be competent to do it. However, at the present rate of expenditure and the present rate of tax revenues, or income, the deficit for the fiscal year beginning July 1, 1944, will approximate, at least, the deficit for the next fiscal year. That alone would amount to more than $75,000,000,000, which, added to the $210,000,000,000, would make the amount at the end of the fiscal year 1944 approximately $285,000,000,000, assuming that no additional expenditures are made.

Mr. McNARY. I think that is a very safe prophecy and I appreciate having it for the RECORD.

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

Mr. GEORGE. Certainly.

Mr. BARKLEY. I was not present in the city last week when the committee took action on the bill. I note that in the Senate amendment on page 4, reenacting section 4, clause (2) at the end of that section, as written into the act of October 2, is omitted. This language is omitted:

> *Provided*, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war.

The Committee on Banking and Currency, of which I also happen to be a member, in writing that language into the price-control measure, felt that there might be individual cases of gross inequity with respect to salaries or wages, and the President was given authority to correct such gross inequities in such cases as we might all admit he might have done so in contemplation of this provision, without regard to any reduction covering large classes of persons whose pay might be regarded as constituting a gross inequity. Why did the committee, in the proposed reenactment of section 4, eliminate clause (2)?

Mr. GEORGE. The committee eliminated it for this reason: If the Senator will look at section 4, clause (2) of section 4 to which he refers, as it now stands in the existing law, reads:

> No action shall be taken under authority of this act with respect to wages or salaries * * * (2) for the purpose of reducing the wages or salaries for any particular work below the highest wages or salaries paid therefor betwen January 1, 1942, and September 15, 1942.

In the opinion of the committee that is itself a limitation upon the power of the Administrator.

Mr. BARKLEY. Yes.

Mr. GEORGE. The further power, which is given in the proviso to which the Senator refers, having been used as the basis of a general order limiting or reducing all salaries to a certain level, the committee was of the opinion that the power should not be longer continued. There was no practical purpose to be served by it, for the reasons which I have tried briefly to discuss.

The Senator will see that there is no limitation on the power of the President or the Administrator to prevent further increases in salaries or wages beyond the level reached by wages or salaries within the dates specified.

Mr. BARKLEY. As I interpret the elimination, clause (2) at the bottom modifies clause (2) in the middle of that section, so that while it is provided that no action shall be taken for the purpose of reducing wages or salaries for any particular work between those dates, clause (2) at the bottom was a modification of that, to the extent that where there was

an individual gross inequity the President might, without regard to the limitation in the earlier clause (2), make adjustments under the later clause (2).

Mr. GEORGE. Personally I think that the Administrator would have technical authority to do precisely that; but I do not think there was any authority for a general or wholesale reduction.

Mr. BARKLEY. I understand the Senator's position in that respect, and I am not entering into that controversy; but with this language stricken out, the Administrator would have no authority even to adjust an individual outstanding inequality. Is that the Senator's interpretation?

Mr. GEORGE. That is true, because we did not think that the congressional intent was to confer such authority. What the Congress contemplated was a clear purpose to prevent further increases in wages, salaries, and prices.

Mr. BARKLEY. There is no doubt that under the language of the law the Administrator has authority to prevent any increases in wages or salaries.

Mr. GEORGE. Yes; and we have left it that way. The House bill did not do so.

Mr. BARKLEY. There has been doubt in the minds of perfectly honest persons as to whether reductions should be made, whether they be of salaries or wages. No effort has been made to reduce wages. An effort has been made to stabilize wages by putting a ceiling upon them. The only case in which the law has been administered in such a way as to attempt to reduce wages generally has been in Executive Order No. 9250, I believe, which affected salaries above $25,000, or up to $67,200. If I am mistaken, the Senator will correct me; but I do not think there has been any effort to reduce salaries or wages except in that order. Is that true?

Mr. GEORGE. I know of none, except perhaps that the Labor Board has fixed wages within one or two narrow areas, and provided that the wages should not exceed a certain level. However, in such cases the Board was at pains to take care of any individual wage which had already exceeded the ceiling.

Mr. BARKLEY. I think the situation referred to by the Senator applied to cases in which there had already been more than a 15-percent increase, based upon the so-called Little Steel formula, and that in the adjustment within that 15-percent formula, here and there some reductions were probably necessary.

Mr. GEORGE. That is true; but the reduction was not made with respect to a wage which had actually been established.

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

Mr. GEORGE. I am glad to yield.

Mr. LANGER. Are we now considering section 4, or the entire bill?

Mr. GEORGE. The entire bill.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a definition of salary and wages, found in the report on the bill by the House Committee on Ways and Means.

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

DEFINITION OF SALARY AND WAGES

For the purposes of this section:

The amendment made by section 4 of the bill applies only to salaries. All forms of direct or indirect compensation for personal services of an employee which is computed on a weekly, monthly, annual, or other comparable basis, except a wage basis, constitutes a salary. Thus bonuses, additional compensation, profit-sharing payments (except that for the purposes of this section compensation calculated by a percentage of corporate earnings before taxes shall not be considered a profit-sharing payment and will not be considered as a "rate of salary") and other similar forms of remuneration to a salaried employee are included as part of his salary. Insurance and pension benefits to the extent that they are reasonable in amount are, however, not included. Wages are to be distinguished from salaries in that wages are compensation for personal services computed on an hourly, daily, piece work, or other comparable basis.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment on page 3, after line 7.

Mr. LANGER. Is that section 4?

Mr. GEORGE. It begins with section 4.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

Aiken	Hatch	Radcliffe
Austin	Hawkes	Reed
Bailey	Hayden	Revercomb
Ball	Hill	Reynolds
Bankhead	Holman	Russell
Barkley	Johnson, Calif.	Scrugham
Bone	Johnson, Colo.	Shipstead
Brewster	Kilgore	Smith
Brooks	La Follette	Stewart
Buck	Langer	Taft
Burton	Lodge	Thomas, Idaho
Bushfield	Lucas	Thomas, Okla.
Butler	McCarran	Thomas, Utah
Byrd	McClellan	Tobey
Capper	McFarland	Truman
Caraway	McKellar	Tunnell
Chavez	McNary	Tydings
Clark, Mo.	Maloney	Vandenberg
Connally	Maybank	Van Nuys
Danaher	Mead	Wagner
Downey	Millikin	Wallgren
Ellender	Moore	Walsh
Ferguson	Murray	Wherry
George	Nye	White
Gerry	O'Daniel	Wiley
Gillette	O'Mahoney	Willis
Green	Overton	Wilson
Gurney	Pepper	

Mr. McNARY. The Senator from Pennsylvania [Mr. DAVIS] is absent on important public business. He has requested me to announce that he supported the debt limit bill in committee and favors its passage by the Senate.

The Senator from New Jersey [Mr. BARBOUR] is necessarily absent.

The Senator from Wyoming [Mr. ROBERTSON] is absent on public business.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). Eighty-three Senators having answered to their names, a quorum is present.

Mr. LANGER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LANGER. Am I correct in understanding that if section 4 of the pending bill shall not be adopted, the old section 4, containing the proviso clause will remain the law?

The PRESIDING OFFICER. The Senator is correct.

Mr. LANGER. Mr. President, if there is one man in the United States who I believe has proven to be a friend of the average citizen, it is Thurman Arnold. I desire to bring to the attention of the Senate three or four paragraphs from his book entitled "Democracy and Free Enterprise," which is the last book written by him. In the book Mr. Arnold says:

> In the same way the disease of cartelization progressed in other industries; concentration grew to an alarming extent, particularly in the basic materials which are the source of all industrial production. The building up of these organizations did more than simply create shortages in basic war materials. It led—

And this is significant—

to the development of an economy divided into two economic worlds.

> The first was the world of organized industry; the second was the world of small, unorganized businessmen, farmers, laborers, and consumers. In the first world there was the power to maintain high prices no matter how much the demand for the product fell off. When this power was exercised, purchasing power was curtailed, production dropped, men were laid off. This, in turn, lowered purchasing power and made demand drop still further. A vicious downward spiral was set in operation. In the second world unlimited competition still existed and could not be controlled. In this world lived the farmers, retailers, and small businessmen who supply the consumers with both goods and labor. Here, when the supply increased or the demand fell off, prices dropped to the bottom, but the people went right on producing as much as the conditions of the market would permit. In the first world we had concentrated control, which makes possible high and rigid prices. These, in turn, led to restriction of production and wholesale discharge of labor. In the second world we found competition among these groups, low flexible prices, large production, and labor standards often at starvation levels.
>
> The final result, before the unbalanced industrial boom created by the present war, has nowhere been better described than by President Roosevelt in his monopoly message of 1935. He said:
>
> "Statistics of the Bureau of Internal Revenue reveal the following amazing figures for 1935:
>
> "Ownership of corporate assets: Of all corporations reporting from every part of the Nation, one-tenth of 1 percent of them owned 52 percent of the assets of all of them.
>
> "And to clinch the point: Of all corporations reporting, less than 5 percent of them owned 87 percent of all the assets of all of them."

Mr. Arnold quoted President Roosevelt further as follows:

> "Income and profits of corporations: Of all the corporations reporting from every part of the country, one-tenth of 1 percent of them earned 50 percent of the net income of all of them.
>
> "And to clinch the point: Of all the manufacturing corporations reporting, less than 4 percent of them earned 84 percent of all the net profits of all of them."

Mr. President, as Mr. Arnold says:

> All this is history. It is an old story to the farmers of this country. However, I present it as background, since it bears on the

economic problem which the present has forced on the unorganized industries of this country. Billions of dollars had to be poured into this unbalanced economic structure under the pressure of sheer immediate necessity. This necessity brought into sharp relief how our antiproductive monopoly control had been working.

We suddenly woke up to find acute shortages in every basic noncompetitive industry. We are short of power in a country abounding in power; we are short of metals and chemicals; we are short of transportation; we are short of skilled labor. In every industry which has been able to restrict supply in order to put a floor under prices, we find a lack of capacity. This lack of capacity is not hurting the industries which are responsible for these shortages. The burden—

I call this to the attention of the Senate as forcefully as I possibly can—

The burden is being borne entirely by independent businessmen and farmers whose supplies are being cut off by the imposition of priorities.

So, Mr. President, here we have speaking an expert, Thurman Arnold, who in charge of the Antitrust Division of the Department of Justice, has made a thorough study of the situation extending over a period of years. Anyone who has read his book on Democracy and Free Enterprise knows how the East has been built up at the expense of the South and the West; how in the East the large industries have been using the South and the West as colonies, and have been transporting raw material from those sections to the East, where it is manufactured into goods. There is no better example of it than synthetic rubber. Anyone who has followed the testimony before the Gillette committee knows that it would be much simpler and certainly much more economical to take the fruits that rot in Oregon or the grain that spoils in the Middle West and manufacture them into synthetic rubber in those sections, instead of transporting those products to the Atlantic coast where they may reach the point of being considered waste and poured into the ocean, but in the West they could be used for feed to fatten cattle.

Mr. President, I come now more definitely to the consideration of section 4 of the pending measure. I oppose section 4, and I hope it will not be adopted, but that the original act may stand.

Mr. President, I have only the greatest respect for the distinguished senior Senator from Georgia [Mr. GEORGE], but he said this morning there was some doubt as to the legality of the proviso clause which was added to the original section 4 which reads:

That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities, and also aid in the effective prosecution of the war.

When the distinguished Senator from Georgia indicates that there is some doubt as to the legality of that provision I call the attention of the Senate to an opinion rendered by Mr. Biddle, Attorney General of the United States, dated October 3, 1942, in which he advised the President that he had examined the proposed Executive order providing for the stabilization of the national economy submitted to him and he said that it had his approval as to form and as to legality.

Mr. President, I also have before me a speech which I consider the best one delivered in the other House of Congress on this subject.

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

Mr. LANGER. I yield.

Mr. TAFT. The opinion rendered by the Attorney General rather expressly avoids any indication of a desire to give an opinion. He says it has his approval as to form and contents, but as to frankly expressing any opinion that it was legal or giving any reason for his view, the Attorney General completely avoided the issue, and has not put on record any defense whatever of the adoption of the $25,000 salary limitation.

Mr. LANGER. Probably at least a dozen Members of this body have been attorneys general of their States at some time or other, as I have been, and they know, as I think the Senator from Ohio must know, that it is not necessary that an attorney general go into all of the details and ramifications of a measure, such as the senior Senator from Ohio would seem to suggest. The Attorney General said—and I quote his opinion in its entirety—

OCTOBER 3, 1942.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: I have examined the proposed Executive order providing for the stabilizing of the national economy submitted to me today.

It has my approval as to form and legality.

The distinguished Senator from Georgia a few moments ago said he had some doubt as to its legality. Here we find the Attorney General of the United States specifically passing upon that point.

As I was about to say, in the other House there was no speech which interested me more greatly than that delivered by Representative USHER L. BURDICK. His speech is short, so I am going to read it in full, for I think it is of tremendous importance. Speaking on the 17th day of March, he said this:

Mr. Speaker, it is not often that the House indulges in dishonest parliamentary practice. Last week, in the passage of the debt-limit bill, we had a glaring example of this kind of legislation.

I call the attention of the Senate to the fact that I do not say that that action over there of the other body was dishonest, but that one of their own Members upon the floor said so. He calls it dishonest parliamentary practice.

Mr. BURDICK continues:

The issue before us should have been whether we would or would not increase the debt limit from $115,000,000,000 to $210,000,000,000. That issue would have been straight-cut and, of course, would have passed with only a few dissenting votes.

We are at war and whatever debt limit it takes will be arranged.

When this bill came in, however, it had an extraneous matter attached to it that had no relation whatever to the issue on the debt limit. This rider—in substance—repealed the Executive order limiting salaries to $67,200.

The chicanery practiced by those who handled this bill was to compel everyone who wanted to raise the debt limit—which every patriot wanted to do—to vote to rescind the President's order fixing a limit on salaries. Of course, it did not work out that way. I, for one, voted "no," not because I refused to raise the debt limit, but for two other reasons.

First, I do not believe in this kind of "foxy" legislation. Every person with just a common understanding of parliamentary law will see that the matter of the President's order should have come before the House as a direct issue rather than being sneaked in under cover of legislation that everyone favored anyway.

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

Mr. LANGER. I yield.

Mr. TAFT. The Senator will note, however, the peculiar position in which Congress would place itself if that argument were admitted. Congress passes a law, let us say. The President then issues an Executive order for which no basis is provided in the law, although it is claimed that he has that right. Thereupon it is claimed by the Senator that we must pass another law, which the President will have the power to veto. It seems to me that if we are assuming to say here that the President acted without authority, that he was usurping power, it is perfectly proper to put such an amendment on a bill which the President practically cannot veto. Of course, that practice has been pursued for many years in the Senate. It may not always be justified, but it seems to me that if there is any case in which it may be justified, it is a case in which Congress takes the position that the President has usurped power which Congress did not intend to give the President in the legislation it enacted.

Mr. LANGER. Of course, the answer is that the President may veto the bill now pending, if it shall be passed. It is no argument to say that he could veto the rider if it were all by itself, because he can veto the whole measure. But the attempt is made to take something which some of us in the Senate do not like and attach it to something which its sponsors know we will want to vote for—namely, the measure increasing the debt limit. I object to that practice; I do not think it is proper. I think the Senator should have the right—and I propose to give it to the Senate before I get through, if my amendment shall be adopted—to vote separately on the rider and on the provision for the increase of the debt limit.

Mr. TAFT. The Senate has that right now, in voting on the amendment. Nothing deprives the Senate of the right to vote separately on the question of the $25,000 salary limit. In fact, that is the question now before the Senate. It is unnecessary to offer an amendment further to that effect.

Mr. LANGER. I understand that, but the reason I am on my feet speaking is that I intend to see to it that the Senate

shall have a right to vote on the two proposals separately.

Representative BURDICK proceeds:

Second, I voted "no" because I was of the firm opinion that this Congress had given the President power to issue such an order, and that when he fixed the top salary at $67,200, or $25,000 clear of all taxes, that he did the best thing that could be done for the country.

I may add, in passing, that Mr. BURDICK is one of the outstanding lawyers of our State. He has been an assistant United States district attorney in the State, by appointment of President Hoover, in addition to holding very many other prominent positions. He proceeds:

PRESIDENT'S RIGHT TO FIX SALARIES

I have gone over this act—to amend the Emergency Price Control Act of 1942—as a lawyer and after careful consideration I am of the opinion that the President usurped no function or power which had not been given him by the Congress. Every person who does not agree with my conclusions ought to read Public Law 729 pertaining to the matter of the right of the President to fix salaries. Here is what Public Law 729 says:

"The President may, except as otherwise provided in this act, thereafter provide for making adjustments with respect to prices, wages, and salaries, to the extent that he finds necessary to aid in the effective prosecution of the war or to correct gross inequities.

* * * * *

"The President may, from time to time, promulgate such regulations as may be necessary and proper to carry out any of the provisions of this act.

* * * * *

"No action shall be taken under authority of this act with respect to wages or salaries (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act, or (2) for the purpose of reducing the wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942: *Provided*, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war."

It will be obvious that the President was given absolute power over the matter of fixing salaries—with two reservations. The first reservation was that he could take no action inconsistent with the two labor acts already on the statute books, namely, the Fair Labor Standards Act and the National Labor Relations Act. The second reservation was that he could not reduce wages or salaries below those paid in a certain period. But there immediately follows a clause under a provision that gives the President full power to reduce salaries "to correct gross inequities and also aid in the effective prosecution of the war." This provision suspends, in certain cases, the reservation contained in provision second of section 4 of Public Law 729. In other words, Congress made two reservations of power. The first was absolute. The second was not absolute and to be disregarded entirely if to "correct gross inequities and also aid in the effective prosecution of the war." Does anyone contend that a salary of $400,000 paid to the head of a concern making instruments of war is not a "gross inequity" in comparison to the pay of labor, the pay of soldiers, or the pay received by 90 percent of the American people? Does anyone contend that lowering this $400,000 salarly to a net of $25,000 does not contribute to the "effective prosecution of the war?"

The President exercised the authority granted in this act and by proper proclamation announced that no salary would be permitted which netted the individual more than $25,000 annually. To put it in other words, no salary above $67,200 would be permitted. These figures seem inconsistent, but after the Federal tax is deducted from a $67,200 salary, only $25,000 remains.

About 130,000,000 people in the United States will applaud the President in reducing these salaries which, in some instances, reached over $400,000 annually.

Mr. President, when the Senate had under consideration the question of taxing future issues of securities which had hitherto been tax exempt, the senior Senator from Wisconsin [Mr. LA FOLLETTE] read into the RECORD upon the floor of the Senate a statement showing that one man in America has an income of $5,000,000 a year, and that scores of others have incomes of over a million dollars a year. At about the same time, as I recall during the same week, the Senator from Iowa [Mr. GILLETTE] presented upon the floor of the Senate a record prepared by one of the Federal bureaus showing the number of persons who were drawing large salaries, some salaries extending not to the sum of $400,000 a year, but to over $800,000 a year.

Mr. President, let us contrast that with another speech made upon the floor of the Senate a short time ago by the senior Senator from Wisconsin. Who is paying for the war? The Senator from Wisconsin, when he opposed the use tax on all automobiles, said the poor man is paying for the war, the middle class man is paying for the war, just as they paid for World War No. 1. Yet after the senior Senator from Wisconsin had argued so eloquently as to the unfairness of placing a use tax of $5 on every automobile, regardless of its value, after he had argued that a hired man on some farm may on Sunday use an automobile which is worth only $15 or $20 to go to town, and that under that tax measure he pays $5, the same amount as is paid by a man who owns a Rolls Royce or some expensive automobile which is used every day, yet when the question came to a vote the Senate, by a vote of 35 to 32, voted against the proposal made by the senior Senator from Wisconsin.

Mr. BURDICK continued:

Those few millions of people that are left in our population—after deducting 130,000,000—will, of course, find fault with the Presidential order.

The proponents of this bill—containing a repeal of the President's order—strove diligently to make the issue one of the President having assumed a power which he did not have in law. The President was made to appear as a usurper of this power. Many of the Members who made such statements also voted this extraordinary power to the President.

Mr. BURDICK then said:

I could not follow my brother Republicans in their almost solid vote for the repeal of the President's Executive order, for two reasons: First, I try to be consistent. Nearly all Republicans who voted this power to the President voted to rescind it, not because the President had not done the right thing, but because they wanted to get back the power which they themselves had handed over. This did not apply to the new Republican Members because they had no part in the matter, but the old Republicans who made all the noise in the debate were the very ones who voted the power to the President.

Secondly, the President wisely exercised his power. He found salaries ranging all the way from $85,000 to $400,000 being paid in industries holding Government contracts. He could see that—even with tax deductions—some few were enriching themselves off the misery of the people who were supporting this gigantic war effort. Where can be found a sane man or woman who would appear on a witness stand and say the President was wrong? Deep in their hearts, those who voted against the President on this legislation know the President was right.

Nothing can be gained—politically—by any party in taking a stand against a measure which is right and which will be supported by 90 percent of the American people.

I am not here in this Congress—

Mr. BURDICK said—

to contribute to the success of the Republican Party—or any party. I am here to contribute to the success of our common country, and no party consideration will have the least effect upon my determination to see this war through as quickly as possible to a complete victory. The President is the Commander in Chief of all our forces. He is not only entitled to my support but has it. As long as he never does anything worse than reduce a salary from $400,000 to $67,200 annually, neither he nor those who support him will be condemned by the overwhelming majority of the people of the United States.

Mr. President, in this connection I desire to bring to the attention of the Senate a speech made by the minority leader, the Senator from Oregon [Mr. MCNARY] on November 5, 1942, immediately following the last election. What did the Senator from Oregon say at that time? His speech is found on page 8711 of the CONGRESSIONAL RECORD. He said:

Mr. President, if the recent election should cause our friends in control of the administration and the conduct of the war to be more careful in respect to such vast expenditures, the election will have been a grand victory for the American people. Every time we waste such vast sums of money it means more taxes to pay. My sympathy—

The Senator from Oregon said—

does not go out to the man whose salary is limited to $25,000. That does not matter. There are millions of the underprivileged, of the toiling, who receive but little compensation, who will suffer, who, indeed, are now suffering, but who will suffer more acutely from nervous disorders, and other forms of misery when March 1, 1943, comes around.

Mr. President, what do we find in the Republican Party now? We find that a few weeks ago Representative MARTIN made a speech, the main contention of which was that the $67,200 limitation had to be removed.

Three days after Mr. MARTIN made that speech, his successor as chairman of the Republican National Committee, Mr. Spangler, made a speech, in which he reiterated that the Congress would have to take off the limitation of $67,200.

Mr. President, I am happy to belong to the Republican Party in the State of North Dakota, but I say as one belonging to the major faction of that party in that State that no support will be found for the kind of doctrine preached, so far as the pending bill is concerned, by those

leaders of the Republican Party, but rather the Republicans of North Dakota will follow the Senator from Oregon [Mr. McNARY], the minority leader of the Senate.

I agree with the statement made by a columnist in an article published in a Washington newspaper last week. He said that the Republican Party, in leading the fight as it did in the House, when 9 of the 10 Republican members on the Ways and Means Committee voted to attach the rider to the pending bill, will be committing political suicide among the common people of this country by advocating such legislation.

So, Mr. President, even assuming that the argument made by the senior Senator from Georgia is correct, that the country would not have reached the high state of development it has reached if salaries had been limited at the time of the foundation of our Government, nevertheless in a time of war I, for one, believe in human rights above property rights, and I believe that the President should be authorized not alone to reduce salaries but to take any property anywhere in America which he believes to be needed to carry on the war effort successfully.

Our sons are taken for the war. In a short time our daughters may be taken, and I say that when an administration can do that, it should be authorized, as the President was authorized by legislation, at least to reduce a millionaire's salary to $67,200 a year. It is my cold, considered judgment that when this question is put up to the American people—as it will be put up to them, because the President will see to that when the time comes—the people will express themselves in no uncertain terms.

The President's record is clear on it. He has written three letters to the Senate. In one, the President said to the Democratic Members of the Senate, "We made a pledge. It is contained in our platform. That pledge was that we should tax future tax-exempt securities issued by the National Government and by the States and counties." Yet some of the very Democratic Senators who were elected on that platform voted against their own President.

Some time later the President wrote to the Congress a letter in which he said that he believed in the limitation of $67,200.

When such a limitation was attached to the bill in the House, the President wrote a third letter in which he said that he believed that incomes and salaries together should not amount to more than $50,000 net.

So the President has made a record upon which he can go before the people of America. It is my judgment that if the Republican Members of this body are so foolish as to follow the reactionaries in the other House—those who did not dare let the House have a record vote on the bill by itself, but attached it, and passed it as thus attached, to a bill involving an increase in the debt limit—a measure for which they knew every patriotic Member of the Senate would vote—I say that in my opinion, at least—take it for what it may be worth—a Senator who follows what was done over there is not representing the rank and file of the people of the country.

So, Mr. President, I hope that section 4, as it is contained in the bill, will not be adopted; and on that question I ask for a yea-and-nay vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee. On that question the yeas and nays are demanded.

Mr. TAFT. Mr. President, I should like to make a few comments on phases of the situation which I think have not perhaps been clearly brought out by the debate which has already occurred.

In the first place, in the debate relative to large salaries the question of taxation has been entirely overlooked. As a matter of fact, under the tax law now in effect, and which may well be made more severe, a man who receives a salary of $100,000 has to pay in taxes approximately $63,000, so that he nets $37,000; for the second $100,000 in salary he can keep only about $9,000; and for the third $100,000 in salary he can keep only $7,000. So as a matter of fact, the actual difference in terms of dollars that he will receive, whether under the present law or under the law with the particular section referred to repealed, will not be very material. The total salary received, as limited by our tax system, is reduced almost as much as it is reduced by the President's order.

I think it is also fairly clear that the President's order does go beyond anything which was authorized by the statute which was passed in October by the Congress. It will be remembered that the President proposed to the last Congress that they put a limitation of $25,000 on all incomes, both those from salaries, those from investments, or otherwise. That proposal was considered both by the House committee and by the Senate committee. Both committees rejected it. No Member of either the House or the Senate even attempted to offer the amendment. As a matter of fact, representatives of the American Federation of Labor appeared before the Senate Finance Committee and opposed any limitation to $25,000. Such a limitation had originally been a proposal of the C. I. O., and the C. I. O. appeared in favor of it, but they were the only ones who did appear in favor of it before the committee. So the proposal was rejected by Congress.

Then we came to consider a bill the purpose of which was not to limit salaries, but to stabilize wages and salaries. That bill was passed by the Congress. It provided that such stabilization should, so far as practicable, be on the basis of the levels which existed on September 15, 1942. Clearly, the over-all purpose was simply to stabilize wages and salaries where they were, and thereafter to permit the President to make adjustments if he might see fit to do so. There was no power to impose any limits. It might be argued that in a particular case the President had power to consider the question and decide whether there was a gross inequity as to it; but no general power was given; and I think the gentlemen in charge of the bill, both in the Senate and in the House, took that position.

Mr. STEAGALL, the chairman of the House Committee on Banking and Currency, when he was asked specifically whether under the bill the President could limit salaries to $25,000, stated that—

> I do not think so. I think the record will show that such is outside of the legislative intent, and I do not believe that the President of the United States would deliberately go against a clearly disclosed opinion of Congress. I cannot think that. I am not prepared to say that the President is going to do anything under the proposed measure except what he understands Congress intends him to do. This is a mandate and a guide for his action.

The then junior Senator from Michigan, Mr. Brown, speaking in the Senate, did not make so definite a statement as that; but in answer to a question as to the meaning of the words "gross inequities," he said:

> We strove to find a phrase which would enable the President to stick as closely as reasonably possible to the level of September 15, 1942. We wanted to confine him to allowing increases or decreases only for those cases where great injustice would otherwise be done.

That was the statement of Mr. Brown, who was in charge of the bill for the Committee on Banking and Currency.

So I think what Congress intended is perfectly clear. When the bill was before the Senate and the House no Member of either body intended to have the President given any such power.

After the bill was passed the President issued an order limiting salaries—not limiting them to any specific figure, not acting under the power to determine what a man's services were reasonably worth, but purporting to limit the total he could receive. He modified it. To show clearly that the modification does not have any relation to services, he said that in a particular case a man who had large insurance premiums to pay or many debts to pay might be paid a larger salary by the company that was concerned, thereby interpreting some of the provisions which we were considering in the tax law. In other words, the order issued by the President and the Stabilization Director was an attempt to levy a tax. It was an attempt to carry out, so far as there was any possible legal support, any shadow of legal support, the original plan of limiting all incomes to $25,000. Not only that but there was no general stabilization order. The act says, "First, you shall stabilize everyone; then you shall consider particular cases."

In his first order the President, instead of stabilizing, attempted to say that no salaries could be over $25,000. That in itself, I think, voids the order; but it may take years to determine that question in court; and, in the meantime, no one knows what salaries can be paid, and companies which follow a lawyer's advice and pay a larger salary are subject to very high income taxes, and must take

a chance which naturally they should not take.

It seems to me that we can deal with this question by way of taxation. If we think that the rate on the higher salaries ought to be 95 percent, let us make it 95 percent. Today the rate on incomes of more than $200,000 is 93 percent. On the second $100,000 I think it averages about 91 percent.

There is this tremendous difference: If we undertake, as a matter of principle, to say that no one's income shall be more than so many dollars, we depart entirely from the general plan on which our economy is based, of a reward for incentive based upon what a man's services are worth as determined by those who pay for his services. I care not how high the tax goes, but it seems to me that what a man has left should have some relation to what his services are worth in the open market, to what his ability, experience, knowledge, and training entitle him, as determined by those who are seeking that kind of services. If the difference is only a few dollars, still there should be that difference.

There should always be an incentive to a man to work harder, to develop greater ability and gain more experience. The moment we depart from that principle and attempt to impose an arbitrary limit, we depart from the principle on which our economy is based. Under the proposed system I see no reason why the limit should not be $20,000, $15,000, $10,000, or $5,000. It is a system which says that a man who is worth $50,000 shall not receive 1 cent more than a man who is worth $40,000. We might as well make the limitation $5,000, or the average income in the country, which is approximately $2,500.

I think it is right that we should insist that the value of a man's services shall be determined by those who employ him, and that we should insist that the more his employers think he is worth the more he should be entitled to retain.

I think we have done a good job in imposing the 93 percent tax. If we want to go to 95 percent, let us go to 95 percent; but I think it is a fundamentally erroneous principle, a principle which distinguished communism and socialism from a free enterprise system, to undertake to say that there is a limit beyond which the salary or income of no one may go.

Mr. LANGER. Mr. President, I wish to say just a few words in reply to the senior Senator from Ohio.

Possibly what the senior Senator from Ohio says would ordinarily be correct; but we are at war. Millions of our boys are being taken away from their jobs and inducted into the military service, where they receive $50 a month. I do not think it is socialism to say to 2,500 individuals—according to the Senator from Georgia [Mr. GEORGE] only 2,500 individuals would be affected—"You will not be permitted to receive more than $67,200 in salary." I believe that the Senate would be doing its patriotic duty if it should adopt that principle.

So far as concerns the argument of the Senator from Ohio as to departing entirely from the general plan of government, of course we are departing from it. We have been departing from it ever since the 7th of December 1941. Time and time again things have been done in the Senate to aid in the prosecution of the war which we would not do if the country were not at war.

Mr. President, I hope we may have a yea-and-nay vote on this question. Are we to say to the soldier boys, "No matter how much money you were getting before, you must now get along on $50 a month, or $600 a year," and say to the millionaires, "You may make all the money you can. We are going to tax you perhaps 93 or 95 percent, after you have taken advantage of various ways and means of avoiding taxes"? In my opinion, that is the question which is involved.

I ask for the yeas and nays.

Mr. BARKLEY. Mr. President, I had hoped that we might dispose of this measure before now. I have no intention of delaying a vote on it for more than a very few minutes, I hope. I wish to make a few observations in order, if I can, to clear up one or two confusions which may exist in view of the history of the legislation, as well as to clear up my own attitude regarding it.

I happen to be a member of the Committee on Finance, as well as of the Committee on Banking and Currency, both of which considered the question of a limitation on salaries. As I recall, the President had recommended such a limitation to Congress before the last tax bill was enacted, and the Committee on Finance held hearings. Let me say that, in my judgment, the hearings held on the last tax bill by the Committee on Finance were the most constructive and valuable hearings held on any tax bill for a good many years.

During the hearings on the tax bill the question of the $25,000 limitation was discussed in the Committee on Finance. I recall that there was a sharp division among those who testified on the subject as to the wisdom of the policy, in the first place, and its practicable workability in the second place. There was a sharp division among those who testified on behalf of labor. The C. I. O. through its representative, who read to the committee an address which had been prepared by Mr. Murray, the head of that organization advocated the limitation of salaries to $25,000.

Mr. William Green, President of the American Federation of Labor, who as I now recall appeared in person testified against it. He opposed it as a matter of policy as well as a matter of principle.

The committee discussed it in some detail in executive session, as well as during the hearings. The committee took the view—and I shared that view so far as the tax bill was concerned—that the best way to reach high salaries and high incomes was by taxation. The jurisdiction of the Finance Committee over the subject seemed logically to be limited to the question of tax rates in order to reach the higher brackets in fixed salaries as well as compensation from general sources. I think it may be truthfully said without contradiction—and if any member of the Committee on Finance disagrees I hope he will correct me—that so far as the limitation of salaries was concerned, as it was presented to the Committee on Finance, it was felt that the best way to deal with that question was through taxation. As the Senator from Georgia [Mr. GEORGE] and other Senators have said, we tried to deal with it by the rates which we assessed against incomes in the various brackets.

When the matter came before the Committee on Banking and Currency, not in connection with a tax measure, but in connection with the price-control measure which was enacted in the fall of 1942 and signed by the President on the 2nd of October of that year, the same question arose for discussion in that committee. As I recall—and I am subject to correction—the Senate committee struck out certain language in the bill as it had been introduced. I know that the question was raised by the Senator from Connecticut [Mr. DANAHER]. Certain language in the price-control bill as it had been introduced seemed to be sufficiently broad to include the regulation of salaries by fixing a limit or ceiling upon salaries in the higher brackets. The Senate committee struck out that language on the theory that it would authorize what subsequently was actually done by the President.

The bill went to conference. When the conference report was agreed to, and the bill was signed by the President on October 2, 1942, it contained language which undoubtedly could be construed to authorize him to deal with salaries in the same way in which he might deal with wages. In the language of the act there is no difference between the treatment of salaries and wages. Of course, the original bill had for its object the curbing of inflation by authorizing the fixing of price ceilings, or maximum prices, as we call them, on all sorts of commodities in order that such a runaway inflation period as occurred during and following World War No. 1 might not occur again.

So the Price Administrator was authorized to place maximum limits upon salaries and wages. There is no doubt of the fact that under that authority the President, or the Price Administrator, or the Economic Stabilization Administrator, individually, collectively, or separately, could deal with the question of wages and salaries insofar as increases were concerned. I do not suppose anyone would dispute that.

With reference to decreases, either in wages or in salaries, there was not a very clear discussion either in the House or in the Senate, or in the two committees, as to whether there should be any decreases in wages or in salaries. I presume that the word "adjust" would carry with it the necessary interpretation that wages or salaries might be decreased as well as increased. One could hardly conceive of an adjustment which was only upward, and particularly in view of the language of section 4, which I read for the RECORD:

> No action shall be taken under authority of this act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act.

We all know what those acts were. We know that they provided for collective bargaining relative to hours, and all that. So it was provided in section 4:

No action shall be taken under authority of this act with respect to wages or salaries, (1) which is inconsistent with the provisions of the Fair Labor Standards Act of 1938, as amended, or the National Labor Relations Act.

That language is fairly simple.

Then we come to the remainder of the section which reads as follows:

Or (2) for the purpose of reducing wages or salaries for any particular work below the highest wages or salaries paid therefor between January 1, 1942, and September 15, 1942.

If the act had stopped at that point there would be no question that the President was without power to reduce wages or salaries. There is no definition of salaries which would make it apply to a small or a large salary. There would be no authority conferred upon the President to reduce salaries below the figure which they had reached between January 1, 1942, and September 15, 1942. Of course, in interpreting a law the courts and the Congress are under the obligation of reading the whole law and, if possible, ascertaining the intent of the Congress in its enactment.

After saying these things the act went on to provide as follows:

That the President may, without regard to the limitation contained in clause 2—

Which I just read, relating to the National Labor Relations Act, and the Fair Labor Standards Act; notwithstanding that—

The President may adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war.

Therefore the only authority, as I conceive it, which the President had to issue Order No. 9250 was based on this proviso contained in section 4, which gave him authority to adjust wages and salaries to the extent he found it necessary in any case "to correct gross inequities and also to aid in the effective prosecution of the war."

We may debate in our minds, and do so honestly and sincerely, whether the "gross inequities" referred to were individual inequities, whereby some individual, by reason of circumstances, or his employment, was receiving a wage or salary which, by comparison with other salaries and wages in a similar field, constituted a gross inequity as between him and his fellow workers, or between him and the public generally, or as between him and his Government.

I do not deem it necessary to go into that controversy. It is a field for legitimate argument. It is subject to an honest difference of opinion as to whether under that authority the President had a right to take into consideration 1,500, 2,000, or 3,000 men who were drawing more than the amount which he fixed as the limit, thereby creating a gross inequity as compared with all other wage earners, or all other salary drawers in the United States. In his interpretation of section 4 the President undoubtedly thought that the phrase "gross inequities" applied to groups of people as well as to individual wage earners or salary drawers. Based on that interpretation he issued the order.

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

Mr. BARKLEY. I yield.

Mr. VANDENBERG. Conceding for the sake of the argument the point which the able Senator now makes, that the language which he quotes is somewhat equivocal, and that the President might have interpreted it in the fashion he did, is there any doubt in the Senator's mind as to what was the congressional intent and expectation and interpretation of the law when it was passed?

Mr. BARKLEY. I will come to that point in a moment.

Mr. President, I desire to supplement what I said about the President's interpretation by this observation: The President has no means of knowing what transpires within the walls of an executive session of a committee. The President would not necessarily have the means of knowing that in discussing this subject in executive session, the Finance Committee decided that the best way for it to reach the matter and deal with it was in the tax bill which was then being considered. Neither would the President have any way of knowing what had transpired within the walls of an executive session of the Committee on Banking and Currency which, as I now recall, sought to amend and did amend the bill as originally introduced so as to take away from the President the power which the committee thought the original bill gave him to deal with this subject.

My point is that regardless of the intention which the Congress arrived at in two committees in executive session, where no records are kept and where the President is not supposed to know what transpired across the table in give-and-take discussions on any provision, the President had the right when looking at the cold law itself, to interpret the word "salaries" to mean all salaries, and to interpret the phrase "gross inequities" to mean inequities which might include 1,500 or 3,000 men and women, as the case might be.

Answering the inquiry of the Senator from Michigan as to the intention of the two committees; in the first place, I think I ought to say in all frankness that so far as the discussions reveal, and so far as the action of the committees revealed, it was not contemplated by either of them that the action would be taken, which was taken, based on the proviso in section 4 of the act of October 2, 1942. When the bill came before the Senate the question was raised again here as to whether the act of October 2 conferred upon the President the power to reduce, in the language of the Senator from Michigan [Mr. VANDENBERG], all incomes, which was the question propounded to the then Senator from Michigan, Mr. Brown, who was in charge of the bill.

I recognize the validity of the point made by the Senator from Georgia in reply to my interrogatory this morning, that there was no need to ask the question about all incomes, in view of the fact that the bill itself dealt only with salaries and wages; but whether it was necessary to deal with all incomes or not, that was the question propounded by the Senator from Michigan to his colleague in charge of the bill; and, if it was not necessary to inquire about all incomes, because the bill itself mentioned only salaries, the Senator from Michigan evidently did not take that view of it, because he was particular to inquire whether the bill authorized the President to reduce all incomes, and, of course, "all incomes" would mean salaries as well as profits and income received from any source by a man or woman.

I desire, however, to be entirely frank with myself as well as with the Senator and the country. I think it is fair to say that when the bill was enacted into law, in view of the discussion in the other House and in the Senate, and in view of the discussions which occurred in both the House and Senate committees, it was not within the the contemplation of Congress that the action taken would be taken. There was no guaranty to that effect; no one attempted to make a guaranty; and in the administration of a law, not only the one in question but in the administration of the act which we amended a few days ago by the Bankhead proposal with respect to the deduction of Government benefit payments and soil-erosion payments from the ceiling prices of agricultural commodities, the President had the right to make his interpretation of the language which he found in the law, especially in view of the opinion of the Attorney General to the effect that the act which the President contemplated was legal. Undoubtedly it would have been more enlightening and more revealing if the Attorney General had written an opinion giving his reasons instead of simply saying that the act contemplated by the President was legal. Be that as it may, the President, I believe, acted in entire good faith in interpreting the word "salaries" as he did interpret it, and in interpreting the clause "gross inequities" as he did interpret that clause, because the law itself fixed no limitation upon the number of people who might be enjoying or who might be suffering gross inequities as the Administrator might interpret that clause of the law.

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

Mr. BARKLEY. I yield to the Senator from Wisconsin.

Mr. WILEY. In view of the fact that a great deal of what I think might almost be termed misinformation has gone out to the country on this matter, I wonder if the distinguished Senator could give me some information on this question: Assuming that the President's order should remain in effect, in other words, that the pending bill should not pass, would the Treasury of the United States be benefited by that order remaining in effect or would there be a greater income resulting to the Treasury if the bill should be passed?

Mr. BARKLEY. There has been a general estimate—I do not know how accurate it is, because I do not think the representatives of the Treasury gave any figures a few days ago when this matter was before the Committee on Finance—but it has been generally estimated that the issuing of the order resulted in a loss. I think I might say that Mr. Stam, head of the staff of the Joint Committee on Internal Revenue Taxation of the two Houses of Congress, estimated that the loss in revenue to the Government by reason of this order was between $100,000,000 and $110,000,000. That is the most reliable figure I have heard with respect to it.

Mr. WILEY. In other words, then, if we should pass this bill it would operate to put more money into the Treasury than if we simply let the President's order remain in effect?

Mr. BARKLEY. Assuming that Mr. Stam is correct—and I do not vouch for his figures, because they have not been discussed so that we could cross-examine and arrive at the basis of how he established the figures—but assuming that his report or his statement on that subject is accurate, the passage of the pending bill, of course, would automatically result in that much more money going into the Treasury.

I would suggest that it is impossible to arrive at an absolutely definite and correct answer to the question asked for this reason: If all the money above $25,000 provided in the President's order after the deduction of taxes went into the Treasury of the United States and was recaptured by the Government for war purposes it might involve one figure; and simply to deny to a recipient the receipt of the extra amount above the provisions of the President's order on the theory that the part withheld from the recipient would in some way be taxed, either directly or indirectly, because the corporation itself or the employer would withhold from the wage or salary earner that much money which would otherwise be paid in salaries might involve another figure. I suppose it is true that there would be some increase in revenue in the latter case; but how to adjust the balance between what would be collected in the higher brackets out of what is withheld from a man who otherwise would draw more than $25,000 and what the Government would get into the Treasury if it itself recaptured all the excess, it is impossible for me to calculate. I presume that the $110,000,000 is offset in some respects by whatever indirect taxes might go into the Treasury because the corporation would pay a tax upon that part of a salary withheld under the President's order. So I think, by any fair calculation and any fair estimate, we might say that because of the difference between what the Treasury would get by the taxing of the income of a corporation in the higher brackets on what it does not pay in salaries and that which would otherwise go to the Government if the Government itself withheld it, there would be a net loss to the Treasury of the United States.

I think I should make a further statement. I do not make it after any consultation with the President of the United States. I have not talked with him about the pending bill one way or the other. I did have a conversation with him months ago, even before the tax bill became a law, on the subject of the $25,000 limitation, and, of course, I am not at liberty to repeat that conversation. The President has been consistent all the way through. From the beginning I took the position that if any limitation should be imposed in the way of a salary limitation, to be arrived at by a deduction of Federal taxes from the gross amount earned in order to arrive at a net of $25,000, all other taxes likewise should be taken into consideration, and, in my opinion, I have not deviated from that view. In other words, I do not think there is anything any more sacred in a Federal tax, or an obligation to the Federal Government, than there is in an obligation to a State, county, or city, and I have always believed, and I now believe, that if the Federal tax is to be eliminated in order to arrive at the $25,000, State taxes, county taxes, and city taxes, and all other taxes which constitute obligations to any form of government, large or small, should be deducted in the same way in arriving at the net sum.

In the President's order he did not provide for one thing in which I have always believed. There are many people who have property upon which they pay taxes. There are many others who make large incomes who do not have property. They make their investments, not in real estate, but in life insurance. They take out life insurance policies in order that their families may not suffer if death calls them suddenly; in other words, that they may leave an estate to their wives and their children; whereas others invest all their money in real estate, upon which they pay taxes, leave that to their wives and children.

It has been my contention from the beginning that if those who have property, who invest their savings in property, are to be allowed to deduct their taxes upon such property in order to determine the maximum of $25,000 a year net, those who insure their lives in order to leave their families an estate in the form of a life-insurance policy should likewise have the right to deduct the premiums paid upon their policies, in order to create an estate similar to that which would be created by the ownership of real estate by the taxpayer. In his order the President recognized the justice of that contention, I think, by providing that premiums upon life-insurance policies might be deducted in the consideration of the $25,000 limitation.

As I stated a while ago, the President has been consistent about this matter. Before the enactment of the tax bill or the price bill he urged it upon Congress. There was nothing new in it. It has been asserted in the newspapers that this idea of the President was taken from the platform of the Communist Party somewhere, that it was an original C. I. O. proposition, and therefore should be condemned. There is nothing new about the theory. In 1924 the Democratic and Republican Parties made some declarations about this matter, not in the exact form, but they were squinting at the same idea, for in the platform of the Democratic Party in 1924, soon after the soldiers had returned from World War No. 1, the Democratic Convention made this declaration:

> In the event of war in which manpower of the Nation is drafted, all other resources should likewise be drafted. This will tend to discourage war by depriving it of its profits.

That was in 1924, 19 years ago. The Republican platform in the same year went further than did the Democratic platform. This is what the Republican platform said:

> We believe that in time of war the Nation should draft for its defense not only its citizens but also every resource which may contribute to success. The country demands that should the United States ever again be called upon to defend itself by arms the President be empowered to draft such material resources and such services as may be required, and to stabilize the prices of services and essential commodities, whether utilized in actual warfare or private activity.

That was in the platform of the Republican Party in 1924, when it demanded that if we ever got into war again we should not only draft men, not only require them to risk their lives and their limbs and their health for the cause, but that resources and services should likewise be drafted, and that the President of the United States should be authorized by Congress "to draft such material resources and such services as may be required, and to stabilize the prices of services and essential commodities."

Of course, salaries or wages are the price of services, which the two platforms, nearly 20 years ago, soon after the last war, declared in favor of drafting.

Congress has not yet done that specifically by act. Even though we are in war again, Congress has not yet by law drafted all resources and all services. But when the President issued the order which he promulgated, order No. 9250, he was not merely relying upon the interpretation of the word "salary" which he found in the law, he was not relying upon the advocacy of that policy by any particular organization, but he had the right to rely upon the fact that both political parties meant what they said when they declared in 1924 that the President should be authorized not only to draft resources and services, but to fix the prices of services during the war.

Mr. President, I call attention to these points in order that the record itself may be established and clear. Not only the present President of the United States, but the men who two decades ago ran upon the platforms from which I have quoted, declared themselves before the people of the Nation as being in favor of a principle advocated then by the returned soldiers, advocated then and since by the American Legion, as the representative of the returned soldiers who

fought in World War No. 1, that if we should ever again engage in warfare, we should not satisfy ourselves with drafting and commandeering the limbs and the bodies and the lives of men, but that we should also draft resources and services, including salaries and wages, and stabilize the prices of commodities, that we should treat these things in the same way at least in which we treat the life, blood, flesh, and bone of human beings.

There was therefore nothing inconsistent in the President's attitude, not only so far as the individual was concerned, but there was nothing inconsistent as between him and the declarations of the two great political organizations of this country on the subject of utilizing commodities and services, conferring upon the President the power to fix and to stabilize the prices thereof. There is nothing any more sacred about a wage or a salary than there is about the price of cotton, or of wheat, or of tobacco, or of cattle, of commodities which are produced as a result of the activities of human beings. So much for that.

I did not believe the amendment affecting the order of the President should have been attached to a bill increasing the debt limit, and when the Finance Committee met and authorized a report, without amendment, of the original bill introduced by the Senator from Georgia [Mr. GEORGE], which merely provided for increasing the debt limit to $210,000,000,000, I think it was the unanimous view of the Committee on Finance, without regard to party or economic viewpoint, that no amendment should be added to the bill, that it should provide merely for an increase in the debt limit of the United States of America.

He did not make that report because it was recognized, I think, as a matter of propriety, if not as a matter of constitutional right, that the House should act first on the increase of the debt limit, because it was an authorization for the issue of bonds, which has always been regarded as a revenue matter which must originate in the House. If the House Committee on Ways and Means had reported to the House a simple bill increasing the debt limit to $210,000,000,000, the amendment with which we are now dealing would not have been in order on the floor of the House, because it was not germane to the bill increasing the debt limit, and no doubt would have been declared out of order if a point of order had been raised against it. But it was placed in the bill by the Committee on Ways and Means, reported to the House with that provision in it, passed by the House, and it is here now on our doorstep and we must deal with it.

Mr. President, I think the Senate committee was wise in striking out the so-called Disney provision and substituting the language of the committee amendment. I happened to be out of the city when the committee met and do not know what transpired in the committee, but I myself would be better satisfied with the committee amendment if it had not eliminated the last proviso of section 4 of the Price Control Act of October 2. I still think there may be instances and situations where it would be wise to retain the authority for the Price Administrator, or the Economic Stabilizer, or the President to deal with individual gross inequities which may be found.

Notwithstanding the fact that I would be better satisfied if that provision had not been eliminated, I think the Senate committee amendment as a whole is a vast improvement over the House provision in the bill, and it is my purpose to vote for the committee amendment as a substitute, because I believe it is an improvement, and because I believe that the dates fixed in the committee amendment harmonize with the general theory of the bill as it passed the House with respect to the dates January 1 and September 15, 1942.

Mr. President, I realize that when the committee amendment is adopted, if it shall be adopted, and I presume it will be, there will be presented to the Senate the question whether, with the committee amendment, dealing with the question of the President's order in the bill it would be our duty to vote against the bill increasing the debt limit with that provision in the bill, or whether it would be our duty to vote for the bill extending the debt limit notwithstanding the fact that the bill contains the amendment dealing with the $25,000 salary limitation order of the President.

I shall vote for the committee amendment, much as I regret the injection of this question into the bill, and much as I feel that the Congress ought to have been fair enough to have dealt with it on its own merits and not tied it up with essential and emergency legislation, so that the President could have passed upon it on its merits. That, by the way, confirms me somewhat in my growing advocacy of the suggestion of the Senator from Michigan [Mr. VANDENBERG] and other Senators that the President ought to have the right to veto items in a bill, not simply in an appropriation bill, but in other bills, so that he might pick out an undesirable provision of a bill and veto it, with the provision, of course, that the Congress could still pass upon the item after the exercise of the veto. I think it would have been fairer to the President and to the country not to have taken advantage of a legislative situation which existed, and still exists, to tack this extraneous thing onto a bill which must be passed, and without much delay, simply in order to embarrass or compel the President either to sign the bill with, so far as he is concerned, an objectionable provision in it, or to veto the entire bill, and thus defeat the obvious needs of the Treasury in increasing the debt limit so it may go forward with its war financing.

I am going to vote for the committee amendment because I think it is an improvement over the House language. Notwithstanding the objectionable legislative situation to which I have referred, I feel it to be my duty to vote for the bill, because I think the objectives of the increase in the debt limit are more important for the time being than the controversy over the language of the two bills regarding the exercise of Presidential authority in limiting of salaries.

Mr. President, I do not look upon this subject from a political standpoint, certainly not from a partisan standpoint. Senators on both sides of the aisle, and persons throughout the country have honest differences of opinion about it. I do not want to inject any political equation into it more than I have by quoting from both political parties, which makes it nonpolitical in the narrow sense. But it is not going to be so very easy, I should say, to convince eight or ten million American soldiers who are required to serve their country for $600 a year, that the President has done any very great injustice in limiting salaries to $25,000 a year. It does not affect me one way or the other. So far as I know, it does not affect anyone who is kin to me even remotely, so I have no personal interest in the matter one way or the other. But there are many attitudes, there are many positions, there are many conceptions which are going to come out of this war which most of us have not thought very much about, and most of us have not thought through. Notwithstanding the furor raised about this matter, about the questionable policy involved, as it is said, in the President's issuing an order of this kind under language which he himself had a right to interpret, I am not so certain that the furor which has been raised about it will find universal response in the hearts of all the American people when they come to pass upon it in their own good way and in their good day.

Notwithstanding these doubts which I myself entertain about these questions, I feel it my duty to vote for the Senate committee amendment, and to vote for the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD as part of my remarks at this point the letter written by the President of the United States on this subject addressed to the chairman of the House Committee on Ways and Means, Representative DOUGHTON.

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

FEBRUARY 15, 1943.

HON. ROBERT L. DOUGHTON,
Chairman, Ways and Means Committee,
House of Representatives,
Washington, D. C.

DEAR MR. CHAIRMAN: Some days ago you wrote me that there was a proposal before your committee to amend the public debt bill by adding a provision nullifying the Executive order issued by me under the act of October 2, 1942, limiting salaries to $25,000 after taxes, and asked if I cared to submit any views with reference to the proposal. In reply, I told you that I hoped the public debt bill could be passed without adding amendments not related to the subject, but that if the committee thought otherwise I would later write you my views.

In a message to the Congress on April 27, 1942, I stated, "* * * discrepancies between low personal incomes and very high personal incomes should be lessened; and I therefore believe that in time of this grave

national danger, when all excess income should go to win the war, no American citizen ought to have a net income, after he has paid his taxes, of more than $25,000 a year." Thereafter the Treasury advised the committee "to implement the President's proposal, the Treasury now recommends the enactment of a 100 percent war supertax on that part of the net income after regular income tax which exceeds a personal exemption of $25,000. * * * It is recommended that for the purpose of the supertax joint returns be made mandatory and that a personal exemption of $25,000 for each spouse be allowed, or in effect $50,000 for the married couple."

So far as I know, neither House of the Congress acted upon the recommendation.

When the act of October 2, 1942, was passed it authorized me to adjust wages or salaries whenever I found it necessary "to correct gross inequities and also aid in the effective prosecution of the war." Pursuant to this authority, I issued an Executive order in which, among other things, it was provided that in order to correct gross inequities and to provide for greater equality in contributing to the war effort, no salary should be authorized to the extent that it exceeds $25,000 net after the payment of taxes. Provision was made for certain allowances in order to prevent undue hardships.

The legality of the Executive order was attested by the Attorney General prior to its issuance. No Executive order is issued without such approval.

The regulation issued under this order, with my approval, was so worded that it affected only gross salaries in excess of $67,200, the amount of taxes due upon such salaries reducing them to approximately $25,000 net. I could not exercise the discretion vested in me by the Congress to adjust salaries without finding that it is a gross inequity in wartime to permit one man to receive a salary in excess of $67,200 a year while the Government is drafting another man and requiring him to serve with the armed forces for $600 per year. I believed it a gross inequity for the president of a corporation engaged in the production of materials for the Government to receive a salary and bonus of $500,000 a year while the workers in the corporation were denied an increase in wages under the provisions of the law and my Executive order. The correction of such inequities, I believed, would aid in the effective prosecution of the war.

I call your attention to the fact that the limitation of salaries was, by the language of the order, limited to the war period; and that the law upon which the order was based expires June 30, 1944, and can be continued only by the affirmative action of the Congress. Therefore, no fair argument can be made that the limitation was intended either by the Congress or by the Executive to become permanent law. The intention was made plain in my original message. I then and there affirmed my belief that this limitation should be made "in time of this grave national danger when all excess income should go to win the war."

This desire to limit personal profits during wartime is no new thought. Its origin is neither alien nor obscure. It is in accord with the solemn pledges of the Republican Party and the Democratic Party.

In 1924, just after our soldiers had returned from the first World War and the leaders of both parties were conscious of the views of the returning soldiers as to war profiteering, the Republican Party declared in its platform:

"We believe that in time of war the Nation should draft for its defense not only its citizens but also every resource which may contribute to success. The country demands that should the United States ever again be called upon to defend itself by arms, the President be empowered to draft such material resources and such services as may be required, and to stabilize the prices of services and essential commodities, whether utilized in actual warfare or private activity."

The Democratic Party platform, the same year, solemnly pledged:

"In the event of war in which the manpower of the Nation is drafted, all other resources should likewise be drafted. This will tend to discourage war by depriving it of its profits."

I repeat, this was in 1924, not 1928, and that these were the platforms of the Republican and Democratic Parties.

I agree with those who say that the limitation of salaries does not deal adequately with the problem of excessive personal profits and that the limitation should extend to all income. My Executive order endeavored to correct the inequity to the extent of the power granted me. The Congress can, however, make the limitation adequate by extending it to the coupon clipper as well as the man who earns the salary.

Therefore, I urge the Congress to levy a special war supertax on net income from whatever source derived (including income from tax exempt securities) which, after payment of regular income taxes, exceeds $25,000 in the case of a single person, and $50,000 in the case of a married couple. If the Congress does not approve the recommendation submitted by the Treasury last June that a flat 100-percent supertax be imposed on such excess incomes, then I hope the Congress will provide a minimum tax of 50 percent with steeply graduated rates as high as 90 percent. The exact amount of the exemptions to be allowed and the exact rate of taxation to be applied are necessarily arbitrary and these are matters the Congress must decide.

If taxes are levied, which substantially accomplish the purpose I have indicated, either in a separate bill or in the general revenue bill you are considering, I shall immediately rescind the section of the Executive order in question. The Congress may appropriately provide that such taxes should take the place of the $25,000 limitation imposed by Executive Order.

I trust however that without such tax levies, the Congress will not rescind the limitation and permit the existence of inequities that seriously affect the morale of soldiers and sailors, farmers and workers, imperiling efforts to stabilize wages and prices, and thereby impairing the effective prosecution of the war.

Very truly yours.

ADMINISTRATIVE BUNGLING DESTROYS CONFIDENCE

Mr. MOORE. Mr. President, appearing in the newspapers today are various advertisements by the Treasury Department which urge the people throughout the country to buy War bonds. These advertisements are of various types and character; they are persuasive; and they are intended to be persuasive because of the need by the Treasury of the money for all the costs of war. These efforts on the part of the Treasury are commendable, and the need for the purchase of War bonds exists; also the very great need for extending unlimited credit to the Government exists. Of course, it is generally understood that the proceeds from the sale of War bonds are to be applied to the war needs. There appears frequently the evidence of willingness on the part of the people to buy War bonds to the full extent of their capacity. Everyone recognizes that it is the duty of all good Americans to extend to their Government full faith and credit in its honest effort to win this war. All men and women recognize, and willingly consent, that their Government must be supported in this war effort.

Everyone recognizes the need for placing in the hands of the Government every needed resource of the people for this purpose. Almost all people realize that the proceeds from the sale of War bonds should be applied to the war needs, and most people believe that nonessential spending should cease while this great war burden exists. I want to call attention to the following advertisement of the Treasury Department:

WHAT WILL YOU BUY WITH WAR BONDS?

Rural electrification has made great strides during the past 10 years, bringing to thousands of farm homes the conveniences of heir city brothers. Today, however, copper wiring, fixtures—all the materials which are required for rural electrification—are out for the duration. The farmers of the Nation, however, can start now buying rural electrification and all the equipment which goes with it through purchase of War bonds. Your War bonds today will buy rural electrification tomorrow and give you back $4 for every $3 you invest.

The above advertisement emphasizes that all the materials which are required for rural electrification are "out for the duration" of the war. It also emphasizes that money now invested in War bonds will buy rural electrification tomorrow and will give back $4 for every $3 invested.

We understand that the rural electrification activity is conducted by a Government-sponsored corporation, that it is engaged in the building of transmission lines and the distribution of electricity for the rural communities of the country, that its capital is contributed by the Government, and that its operation is under the supervision of a corporation created for that purpose. Money is expended from the United States Treasury only by appropriations made by Congress. The Treasury of the United States is without authority to represent to the purchasers of War bonds that the proceeds of the War bonds will be used for rural electrification. The statement made in the advertisement referred to—"your War bonds today will buy rural electrification tomorrow and give you back $4 for every $3 you invest"—is not true. Such a statement made on the part of those in private industry to induce the purchase of stocks, bonds, or other securities would constitute a fraud under the laws of the country. It will take years for $3 invested in War bonds to yield $4, and the Treasury is going beyond its authority and power in stating to the farmers that the proceeds, or any part of them, can be applied to the purchase of rural electrification.

A representation of the same character made by individuals would be, under most of the State laws, in violation of the blue-sky laws governing the sale of securities in private enterprise. It would be in violation of the conduct exacted by the S. E. C. on the part of corporations and individuals. Does not such persuasive effort as that indicated in the advertisement create a distrust in the Government on the part of investors? Would not there likely be more unity of purpose if the prospective pur-

chasers were told that the money was needed directly for war purposes? Cannot the people of the country be depended upon to respond to the appeal of the Government if told the plain, unvarnished truth? Will not such representations, which are literally untrue, tend to build up a lack of confidence on the part of the people in their Government? When the people lose confidence in their Government, disunity follows. Disunity on the part of the American people today, during this country's crisis, would be deplorable. It was disunity between the Government of France and the people of France that caused its enslavement. Disunity in our country might lose us the war.

A great deal has been said about the smugness and complacency of the people of the country. There is not, and never has been, smugness and complacency on the part of the American people with reference to this war. The smugness and complacency lie with official Washington. Probably a million homes in the country will be saddened and bereaved before this war is won. Today the first and uppermost thing in every good American's mind is the winning of the war with a minimum loss of life. We have to pay the price in the defense of all we cherish. We will give—and we will give willingly—of everything we possess, to the winning of this war in the shortest possible time. We will give all our treasure, to the point of complete exhaustion, and will give it willingly.

We will give every necessary directive of our lives to that end; we will give to the Government, through its officers, every needed thing we possess; but we exact from this Government of ours a fidelity of purpose on its part. We exact from the Government the requirement that every patriotic man and woman in the country be given an opportunity to make his or her contribution to the winning of the war; but the inefficient, political prosecution of the war has caused the people to have a lack of confidence in the Government. Lack of confidence in the Government will produce a disunity of purpose which will result in prolonging the war and in the unnecessary sacrifice of lives and treasure. Under the emergency of war there has been created in the country an unwieldy, inefficient mass of bureaus which work at cross purposes with one another and produce confusion and frustration among the people. Even the President and those directly responsible under him for the conduct of the war produce daily evidences of a lack of cooperation. They issue conflicting statements to such an extent that the people are unable to determine who is right.

There has been discussed in the present Congress legislation for the modification of the Selective Service Act; there are pending now such legislation and such intents upon the part of Congress. There are pending now in Congress efforts to solve the many problems confronting the farmers of the country. There is a conflict between the Office of Price Administration and the agricultural branch of the Government that has produced nothing but confusion, frustration, and discouragement on the part of the producers on the farms. The administration of the Selective Service Act has made a large contribution to the depletion of the needed manpower on the farms. The exercise of the powers of the War Production Board has resulted in the scarcity of machinery and tools for the operation of the farms. The demand for products from the farms is greater than it has ever been in the history of the country. The demand for men on the part of the armed forces of the country is thought to be greater than the country can sustain. It is thought that granting the demands by the Army will cause a break-down of production both in the factory and on the farm. The manpower of the farm has been depleted both by the induction of its men into the Army and because of the disparity as to wages between the farm and the factory. The orderly process that makes possible production from the farms is so dislocated as to produce a frightful apprehension of a scarcity of food for the armed forces, both our own and our allies.

Right now, in the midst of all this confusion and frustration and distraction, the country is being treated to political maneuvering for what is called the fourth term. An effort is being made by every means, fair or foul, to create in the minds of the people a belief that we depend upon one man, and one man only for the effective administration of the war effort, the securing of the peace, and the maintenance of our domestic economy. That is contrary to American concepts; it is destructive of constitutional government.

By every means available, there is an attempt to concentrate all power in a central government, to the total destruction of the States and their reserved powers under the Constitution. Today there have been created in the country units that conflict with constitutional concepts. They are called regions. State governments are ignored; the governors and their functions have been supplanted by bureaus created in Washington. Today every contributory enterprise is forced to maintain numerous representatives in Washington, supplicating the bureaucrats, in order to have an opportunity to make its contribution to the war effort. In place of appealing to the patriotism of the people, directives are constantly being issued. Those directives, orders, and edicts do not find a ready lodgment in the minds of the people. They feel that an appeal to their patriotism and love of country would be met with effective response.

Quoting from the language of resolutions adopted by State legislatures, we find that they favor "the removal of all restrictions on production of essential war products," and urge that each farmer be permitted to plant an unlimited amount of any crop, without any interference from any person or bureau, or bureau representative, so that his production will be limited only by his inability to obtain labor; that the farmers are 100-percent patriotic and will produce to the limit of their ability, if permitted to do so; and that the rationing of gasoline and other motor fuels for farm tractors and trucks be confined to the O. P. A., so that it will not be necessary for anyone to obtain permission from more than one agency in order to get the needed fuel, and thus save duplication of effort. No such liberty of action is permitted the farmer. He is hindered daily by senseless, conflicting directives from a multiplicity of bureaus and bureaucrats. Uncertainty of every kind and character stalks his every effort. The price fixing and the price ceilings on the products of the farm, established on foods and livestock, are so dislocating as to render indefinite the results of the operations of the activities necessary to produce food for the country.

In addition to these conflictions, hindrances, and distractions from bureaus created under the administration under the cloak of the war effort, there is another great hindrance to which we generally refer as labor racketeers or labor managers. There has just been published for the public to read an article entitled "Democratic Party Forgets How Hungry It Used to Be," by Daniel J. Tobin. It appears in the April issue of the International Teamster, official publication of the Teamsters' Union. It is being mailed in advance to all Senators and Representatives in Congress, international unions, central labor bodies, and many labor leaders, and public officials. Mr. Tobin asserts dissatisfaction with both the Democratic and Republican Parties. He says that the Democratic Party should recognize the fact that it owes its majority to the workingmen's vote, which has been directed and substantially influenced by the trade-union movement of America; that the southern Democrats do not care much about labor, but that if the Democratic Party should lose its majority, the southern Democrats now holding the most important positions, both in the House and the Senate, would lose their majority influence on very important committees; and that the southern Democrats are crucifying labor. He asks us to remember that their power and influence is due to the fact that their party is in control and was placed in control by the labor vote of the United States.

Mr. Tobin claims to have been successful in cementing every element of organized labor in behalf of Democratic candidates in 1932, 1936, and 1940. He also warns that unless the Republicans govern themselves by progressive expressions they will never get back the control of the political machinery of the United States. Then Mr. Tobin's article goes on to criticize quite vehemently the War Labor Board, and to warn that the farmers of the country do not control elections, but that elections are controlled by union labor. He admonishes Congress to cease its efforts to convince itself that it is now stylish to attack labor, and that if it does not desist—

> You will find yourselves on the outside looking in as you were from March 4, 1931, until March 4, 1933.

He also says—

Then you won't have much to say about political jobs for your friends.

If we persist, says Mr. Tobin, in driving labor too far, labor, being human, will retaliate and resent our actions. He suggests that labor may take the position that if it is to be crucified, it would rather be crucified by those who do not claim to be its friends.

Congress is also warned that labor leaders still have considerable influence over labor itself, and that we can depend upon the labor vote being cast under the direction of the labor leaders. Many of us think that organized labor, though it is only a small minority of labor as a whole, did dominate the elections referred to, and many of us think that today union labor, though it is a minority of labor throughout the country, has the present administration literally by the throat. Labor constitutes millions of men and women throughout the country who do not belong to labor unions. Millions of laborers outside the unions, and millions of farmers and workers in all the other industries and activities outside the so-called labor unions are governed by the minority of which Mr. Tobin speaks. He threatens that if we do not continue to favor and take dictation from union labor, it will turn against us and submit to crucifixion at the hands of those who do not even claim to be its friends.

This brings us to the fear that the New Deal administration has made such a Frankenstein out of union racketeers that it now fears its very creation. It seems that there is justification for the fear that we may have a government within a government that is greater than the Government itself. Some of us think that this is destructive of constitutional government. Some of us are convinced that the present administration has brought about a condition that prevents unity because of the inequities resulting from special privileges to union labor exacted by their dominant labor leaders and others who are not organized as the unions claim to be organized.

The fact is that labor unions themselves are victims of profiteering labor racketeers, and those profiteering labor racketeers are the product of the New Deal administration. The New Deal administration has made the so-called labor oligarchy so strong that it fears to cross swords with it. No right-thinking persons have any fault to find with the organization of labor to the end that it may be treated fairly. Few employers have any objection to the organization of labor; but employers cannot function efficiently and effectively under the present domineering practices of the labor tyrants. Labor will suffer—as labor well knows—in the continuance of this practice. Employers and employees may well know that if the present practice continues, free and private enterprise will cease to exist and will give way to whatever politicians may happen to be in power.

We no longer have the relationship of employer and employee. Labor itself has become a pawn between managers of enterprise and managers of labor. Labor can be forced to strike or sit down and cease production by the dictates of the labor overlords; and Government can do nothing except to take over from the employers the management of their enterprises. This, followed to its last degree, will result in an enterprise being controlled and managed by Government; and then will follow complete dictatorship over everything, labor included. This is the pattern always followed by totalitarian governments; and this pattern, followed as it is now being followed, would lead precisely to governmental tyranny and dictatorship.

Today this country is treated to propaganda for the necessity of the continuation of the party in power. Multiplied millions of dollars are being spent for that purpose, and there is an attempt to create in the minds of the people the impression that a fourth term is necessary for winning the war and winning the peace after the war. This is being done in the midst of a crisis in our country; and anyone who appears to take issue with this propaganda is immediately branded as an isolationist or a traitor. Millions of us, however, believe that the continuance of dishonesty and deceit in Government is the contribution on the part of this administration, which is producing, and will continue to produce, a lack of necessary cooperation on the part of the people in all their enterprises looking to the expeditious winning of this war and the writing of a just and lasting peace at its close.

All this drain of vast expenditures, under the cloak of war, may produce total bankruptcy, which is always followed by such distress and distraction that dictatorship logically follows. Great numbers of examples of excessively vast and unnecessary expenditures of public funds could be cited which, if continued, will become so burdensome that the destruction of our capitalistic system will result. Quoting from a contemporary patriot and statesman—

The free enterprise system can have its blood sucked out of it by the vampire of taxation with the same result as if it faced a firing squad.

It is to be hoped that the people are becoming conscious of that fact. Evidences of this consciousness, we think, were manifested at the recent elections. It is to be hoped that the people have come to realize that the Congress is the last great bulwark of the people's liberties and freedom.

The people's vote in the last election indicated that they had lost faith in the Congress. They sent a great many untried and inexperienced Members to both branches of the Congress to supplant stalwarts of the prior Congress. Of course, many of us have a feeling of diffidence and a consciousness of our lack of experience, of which we have been reminded and expect to continue to be reminded; but out of the expressed and ardent hope that we feel the people believe in our good intent and fidelity of purpose, we will be emboldened to move for the preservation of the greatest government of all time.

We are mindful of the momentous problems confronting us. We will strive for a right solution of those problems as God gives us the light to see them. Having made these promises, we shall hope that when error comes into our acts we shall have the courage and strength to admit the errors and repair the damage at the earliest possible moment. We shall go about our work humbly and determinedly, with gratitude in our hearts for the opportunity which we have had to live in this country, and hope that our reward will be the consciousness of having done our best. We pledge ourselves now to a devotion to reparation of the greatest damage that was ever done to any country, any time, anywhere, by this administration, both in peace and in war.

Mr. REED. Mr. President, as one of the older Senators—but not very old—I have joined my colleagues in recognizing the great ability, high class, and fine character of the new Senators to whom the Senator from Oklahoma [Mr. MOORE] has made reference. I should like to ask the Senator from Oklahoma when they expect to display those qualities of shrinking modesty and self-effacement to which the Senator has adverted? [Laughter.]

INCREASE IN THE PUBLIC-DEBT LIMIT—LIMITATION OF SALARIES

The Senate resumed the consideration of the bill (H. R. 1780) to increase the debt limit of the United States, and for other purposes.

Mr. LANGER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

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

Aiken	Gurney	Pepper
Austin	Hatch	Radcliffe
Bailey	Hawkes	Reed
Ball	Hayden	Revercomb
Bankhead	Hill	Reynolds
Barkley	Holman	Russell
Bone	Johnson, Calif.	Scrugham
Brewster	Johnson, Colo.	Shipstead
Brooks	La Follette	Smith
Buck	Langer	Stewart
Burton	Lodge	Taft
Bushfield	Lucas	Thomas, Idaho
Butler	McCarran	Thomas, Okla.
Byrd	McClellan	Thomas, Utah
Capper	McFarland	Tobey
Caraway	McKellar	Tunnell
Chavez	McNary	Tydings
Clark, Mo.	Maloney	Vandenberg
Connally	Maybank	Van Nuys
Danaher	Mead	Wagner
Downey	Millikin	Walsh
Ellender	Moore	Wherry
Ferguson	Murray	White
George	Nye	Wiley
Gerry	O'Daniel	Willis
Gillette	O'Mahoney	Wilson
Green	Overton	

The ACTING PRESIDENT pro tempore. Eighty Senators having answered to their names, a quorum is present.

Mr. LANGER. Mr. President, I offer the following amendment to the committee amendment: On page 4, after line 10, insert the following:

Provided, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war.

Mr. President, this would leave section 4 exactly as it was before the last four

lines were eliminated by the Committee on Finance.

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

Mr. LANGER. I yield.

Mr. TAFT. Am I correct in understanding that the Senator has no objection to the last part of the committee amendment, which would nullify the President's order?

Mr. LANGER. No; I am in favor of the President's order.

Mr. TAFT. As I understand, the Senator's amendment would not change the express provision of the committee amendment, which would nullify the order.

Mr. LANGER. It would not nullify the President's order, because my amendment is proposed as an addition, and it would leave the law exactly the way as it is at the present time.

Mr. TAFT. The next paragraph of the committee amendment would nullify the President's order.

Mr. LANGER. My amendment proposes to strike out everything thereafter.

The ACTING PRESIDENT pro tempore. The amendment offered by the Senator from North Dakota to the amendment reported by the committee will be stated.

The CHIEF CLERK. On page 4, after line 10, in the committee amendment, it is proposed to insert "*Provided*, That the President may, without regard to the limitation contained in clause (2), adjust wages or salaries to the extent that he finds necessary in any case to correct gross inequities and also aid in the effective prosecution of the war" and to strike out lines 11 to 20, inclusive, as follows:

(b) (1) Section 7 of title II, and all other provisions of Executive Order No. 9250, "Providing for the stabilization of the national economy" issued October 3, 1942, and all provisions of Regulation No. 4001.9, promulgated by the Economic Stabilization Director on October 27, 1942, which are in conflict with this section are hereby rescinded; and (2) all orders, regulations, and other directives, and all decisions, promulgated or made by virtue of the said Executive order or regulation which are in conflict with this section are hereby rescinded.

Mr. GEORGE. Mr. President, all the Senator is doing is opposing the committee substitute. He could accomplish identically the same object if the substitute were rejected. He could then offer any amendment he wished to the House text. I have no objection to a vote on the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from North Dakota [Mr. LANGER] to the amendment reported by the committee.

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

The yeas and nays were not ordered.

The amendment to the amendment was rejected.

The ACTING PRESIDENT pro tempore. The question now recurs on agreeing to the committee amendment on page 3, after line 7.

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

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. McNARY (when his name was called). I have a pair with the junior Senator from Pennsylvania [Mr. GUFFEY]. If he were present, he would vote "nay." If I were permitted to vote, I should vote "yea."

Mr. THOMAS of Utah (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. BRIDGES], who is necessarily absent. I transfer that pair to the junior Senator from Mississippi [Mr. EASTLAND] who, I am advised, if present and voting, would vote "yea." I am therefore at liberty to vote. I vote "yea."

The roll call was concluded.

Mr. CLARK of Missouri. I desire to announce that my colleague [Mr. TRUMAN] is absent on official business for the Special Committee to Investigate the National Defense Program. If present, he would vote "yea."

Mr. BARKLEY. I announce that my colleague [Mr. CHANDLER] is absent on official business. If present, he would vote "yea."

Mr. HILL. I announce that the Senator from Florida [Mr. ANDREWS] and the Senator from Virginia [Mr. GLASS] are absent from the Senate because of illness.

The Senator from West Virginia [Mr. KILGORE] and the Senator from Washington [Mr. WALLGREN] are absent on official business for the Special Committee to Investigate the National Defense Program.

The Senators from Mississippi [Mr. BILBO and Mr. EASTLAND], the Senator from Idaho [Mr. CLARK], the Senator from Pennsylvania [Mr. GUFFEY], and the Senator from Utah [Mr. MURDOCK] are detained on important public business.

The Senator from Montana [Mr. WHEELER] is necessarily absent.

Mr. McNARY. The Senator from Pennsylvania [Mr. DAVIS] is necessarily absent on important public business.

The Senator from New Jersey [Mr. BARBOUR] and the Senator from Wyoming [Mr. ROBERTSON] are necessarily absent.

The Senator from Michigan [Mr. FERGUSON] and the Senator from Maine [Mr. BREWSTER] are detained in a meeting of the Truman committee.

I am advised that, if present, all the Senators mentioned would vote "yea."

The result was announced—yeas 74, nays 3, as follows:

YEAS—74

Aiken	Ellender	McFarland
Austin	George	McKellar
Bailey	Gerry	Maloney
Ball	Gillette	Maybank
Bankhead	Green	Mead
Barkley	Gurney	Millikin
Brooks	Hatch	Moore
Buck	Hawkes	Murray
Burton	Hayden	Nye
Bushfield	Hill	O'Daniel
Butler	Holman	O'Mahoney
Byrd	Johnson, Calif.	Overton
Capper	Johnson, Colo.	Pepper
Caraway	La Follette	Radcliffe
Chavez	Lodge	Reed
Clark, Mo.	Lucas	Revercomb
Connally	McCarran	Reynolds
Danaher	McClellan	Russell
Scrugham	Thomas, Utah	Walsh
Shipstead	Tobey	Wherry
Smith	Tunnell	White
Stewart	Tydings	Wiley
Taft	Vandenberg	Willis
Thomas, Idaho	Van Nuys	Wilson
Thomas, Okla.	Wagner	

NAYS—3

Bone	Downey	Langer

NOT VOTING—19

Andrews	Davis	Murdock
Barbour	Eastland	Robertson
Bilbo	Ferguson	Truman
Brewster	Glass	Wallgren
Bridges	Guffey	Wheeler
Chandler	Kilgore	
Clark, Idaho	McNary	

So the amendment of the committee was agreed to.

The ACTING PRESIDENT pro tempore. The bill is before the Senate and open for further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill H. R. 1780 was read the third time and passed.

Mr. GEORGE. I move that the Senate insist upon its amendment, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. GEORGE, Mr. WALSH, Mr. BARKLEY, Mr. LA FOLLETTE, and Mr. VANDENBERG conferees on the part of the Senate.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Swanson, one of its clerks, announced that the Speaker pro tempore of the House had affixed his signature to the enrolled bill (S. 677) to amend the National Housing Act, as amended, and it was signed by the Acting President pro tempore.

TREASURY AND POST OFFICE APPROPRIATIONS

Mr. TYDINGS. Mr. President, I move that the Senate proceed to the consideration of House bill 1648, making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1944, and for other purposes.

Mr. McNARY. Mr. President, I observe that it is now 10 minutes after 4 o'clock, and we would have to give hurried consideration to the bill if we were to conclude its consideration today. I should like to have a little time to read the report. Indeed, I did not know that it was contemplated the bill would be brought up today. I have no objection to making it the unfinished business, provided we can proceed to its consideration at the next session of the Senate, which I think will be on Thursday. That will give us all ample time to study it. Frankly, as I have said, I did not know that it was in contemplation to bring the bill up today, or that a motion would be made to that effect. I should like to have a little time to go through

the bill and the report of the hearings. This is one of the annual appropriation bills. Certainly a bill carrying an appropriation of a billion dollars might well be studied and considered for 48 hours. I appeal to the very able and accommodating Senator from Maryland that the bill be made the unfinished business. I have no objection to that being done, if the bill may go over until Thursday.

Mr. TYDINGS. Mr. President, I have no desire to take advantage of the situation by asking that the bill be disposed of this evening, if Senators would like to have time to consider its provisions. However, I should like to get it before the Senate, and have it understood that the committee amendments may be acted on first, and then, if it pleases the majority and minority leaders, if they desire to have some other business taken up, and the appropriation bill may be the unfinished business when the Senate next meets, I have no disposition to insist upon the consideration of the bill at the present time.

Mr. BARKLEY. Mr. President, I think the arrangement suggested will be entirely agreeable.

Mr. TYDINGS. With that understanding, I ask that my motion be put.

Mr. McNARY. I understand, then, that if the bill shall be made the unfinished business, it will go over until the meeting of the Senate on Thursday.

Mr. BARKLEY. That is correct.

Mr. McNARY. I have no objection.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maryland.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 1648), making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1944, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. TYDINGS. I ask unanimous consent that the formal reading of the bill be dispensed with, that it be read for amendment, and that committee amendments be first considered, including two amendments which the chairman is authorized to offer on the floor of the Senate on behalf of the committee before other amendments are considered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROFIT FROM CONSTRUCTION AND OPERATION OF SHIPS—REAR ADMIRAL LAND

Mr. BAILEY. Mr. President, with respect to the discussion had in the Senate several days ago on the subject of the Maritime Commission, and somewhat relative to the subject of the confirmation of the reappointment of Rear Admiral Land to be a member of the Commission, I rise for the purpose of asking leave to place in the CONGRESSIONAL RECORD, as a part of my remarks, a series of exhibits and statements, at considerable length it is true. The object, however, is fully to inform the Senate as to every aspect of every matter concerning which there has been complaint or criticism. I should like to make the presentation briefer, but if we are to go into a matter of this sort we must go into it thoroughly and at some length. I hope the Senate will grant my request.

Mr. McNARY. Mr. President, the suggestion has been made that in order to prevent an extraordinary amount of matter appearing in the RECORD, that it be printed as a Senate document.

Mr. BAILEY. That, Mr. President, is perfectly agreeable to me, if I can obtain unanimous consent.

Mr. BARKLEY. Mr. President, the difficulty about printing it as a Senate document is that in all likelihood the document will not be printed and available to Members of the Senate before the question of the confirmation is taken up and disposed of.

Mr. McNARY. Of course, there may be a few days' delay in the matter of printing, but it would result in avoiding an enormous and voluminous load being carried in the CONGRESSIONAL RECORD, and if it were printed in the form of a document it would serve the same purpose.

Mr. BARKLEY. Ordinarily that may be true, but I understood the Senator from North Carolina wanted the matter to be placed in the RECORD in connection with the confirmation of the appointment of Admiral Land, which is now pending before the Senate, and in my judgment, there would be quite a delay in having the matter referred to printed as a Senate document.

Mr. BAILEY. Let me say further to the Senator from Oregon that accusations of rather a serious character were made on the floor of the Senate, and they appear in the RECORD. In view of those accusations, and since the CONGRESSIONAL RECORD is circulated throughout the country—I do not know how widely read it is, but it is widely circulated—I feel that as a matter of justice the document about which I am now speaking should be placed in the RECORD.

Mr. McNARY. Mr. President, I am not trying to dictate a course different from that which the able Senator from North Carolina desires to pursue. I was thinking only about keeping the RECORD in ordinary normal bounds. If the Senator feels that it would serve the purpose better to have the matter printed in the RECORD, I shall not continue my remarks.

Mr. BAILEY. Mr. President, I am in full sympathy with efforts to keep the RECORD within ordinary and normal bounds.

Mr. JOHNSON of California. Mr. President, I inquire what is the matter under discussion?

Mr. BAILEY. Considerable complaint and criticism has been made concerning the administration of the United States Maritime Commission. In previous debates we could not tell——

Mr. JOHNSON of California. Mr. President, I simply wanted to know the subject matter under consideration. I do not know to what the Senator is referring. I do not know whether he is referring to the policing of the Hottentots, or whether he is referring to the policing of some other people.

Mr. BAILEY. No, the matter referred to does not concern the policing of Hottentots or any others. The matter I request to have placed in the RECORD is for the information of the Senate and the people of the country. A thoroughly domestic question is involved. I do not care to make a speech, but I shall read a letter received from Admiral Land under date of March 22 addressed to me, which I think contains some very important information. I ask the Senate to hear it as I read it:

MARCH 22, 1943.

Hon. JOSIAH W. BAILEY,
United States Senate.

DEAR SENATOR BAILEY: A review of the discussion on the floor of the Senate on Friday, March 12, 1943, with regard to various matters relating to the Maritime Commission or the War Shipping Administration suggests the desirability of amplifying the record in certain particulars.

(1) May I state categorically at the outset that neither the Maritime Commission nor the War Shipping Administration has at any time tried to suppress any report from the General Accounting Office or to avoid a full disclosure or investigation of any of the activities of either organization.

Mr. President, I can corroborate that so far as I am concerned. The administration has given me information promptly whenever I have called for it.

The House Committee on the Merchant Marine and Fisheries has been conducting prompt and complete investigations of all of the items upon which the Comptroller General has commented. Hearings have already been held in connection with the Waterman and Tampa controversies, at which representatives of the General Accounting Office were heard, and reports are expected shortly.

Hearings on the other matters are scheduled for the near future.

Mr. AIKEN. Mr. President, I did not understand the Senator from North Carolina. Did the letter state that hearings had been held by the House committee, and reports made?

Mr. BAILEY. The letter states:

The House Committee on the Merchant Marine and Fisheries has been conducting prompt and complete investigations of all of the items upon which the Comptroller General has commented.

Mr. AIKEN. Have reports been made?

Mr. BAILEY. The statement is that—

Hearings have already been held in connection with the Waterman and Tampa controversies, at which representatives of the General Accounting Office were heard, and reports are expected shortly.

Mr. AIKEN. Yes; but, if the Senator will recall, one of my principal objections was that action should not be taken until the reports are made. I know that hearings have been held; in fact, I have copies of the hearings, but I had no copy of the report as to whether the Comptroller General's reports are justified.

Mr. BAILEY. What the Senator refers to would be a report of the House committee.

Mr. AIKEN. And I have received no report as to whether the members of the House committee are unanimous in their position regarding the matter.

Mr. BAILEY. I do not know a thing about the House reports. I am reading

a letter which makes certain statements of fact.

Mr. AIKEN. I am sorry to interrupt the Senator, but I wanted to make the matter clear.

Mr. BAILEY. If the Senator had wanted to make the matter clear the other day in making his argument, he would have read Admiral Land's letter when he sent it to the desk. I am reading the letter, and I hope I shall be allowed to read it without being interrupted:

Full statements of our position in connection with all these matters have also been furnished by us to the Senate Committee on Commerce.

I have those statements, and I am going to have them placed in the RECORD now.

The letter continues:

I wish to assure you that we would be happy to appear before your committee at any time to explain any item upon which the committee desires further information or explanation.

(2) In connection with the question of valuation and rate-fixing for vessels there seems to be some misunderstanding as to the exact situation in this regard. The Comptroller General's ruling on November 28, 1942, is not in the nature of a report to the Congress. It was solicited by me—

That is, by Admiral Land—

as soon as I ascertained that some members of his staff were of the opinion that methods used by us in fixing rates and values were incorrect. The original opinion of the Comptroller General was based on the assumption (a) that the enhancement clause in section 902 of the Merchant Marine Act, 1936, became effective simultaneously with the effective date of section 902, and (b) that section 902 became effective upon the President's declaration of a limited emergency on September 8, 1939. We replied in full to the Comptroller General on December 31, 1942, calling his attention to the fact that section 902 did not become effective until May 27, 1941, when the President declared an unlimited emergency and supported our views with references to statements made and action taken by various Members of Congress, the Congress itself and the Chief Executive. The Comptroller General replied on January 7, 1943. He shifted the basis of his reasoning and held that even if section 902 did not become effective until May 27, 1941, the enhancement clause was retroactive in application and should, as a matter of administrative practice, be made applicable from September 8, 1939. However, even the Comptroller General, in recommending that values be fixed as of that date, further conceded that subsequent increases in values could be allowed unless "such excess be deemed as due to economic conditions directly caused by the national emergency."

After consultation with the chairman of the Senate Committee on Commerce, the chairman of the House Merchant Marine and Fisheries Committee, and the Comptroller General's office, I transmitted to all shipowners whose vessels were involved in this controversy a communication dated December 17, 1942 (which had previously been cleared with all three officials)—

I confirm that; the communication was submitted to me for approval—

advising that pending a clarification of the problem, all payments would be withheld on total losses, 25 percent would be withheld on time-charter hire and 50 percent on bareboat hire. These arrangements were made so as to avoid any danger of violating the ruling of the Comptroller General. Subsequent analysis indicates that the amount withheld was far too great to meet the requirements of that ruling. At the present time, insurance payments on approximately 162 large vessels are being withheld representing claims of over $85,000,000. Payments for approximately 100 large vessels requisitioned for title are being withheld. These cases represent claims of about over $50,000,000. Approximately $12,000,000 a month is being withheld from the time- and bareboat-chartered vessels, and substantial sums are being withheld in connection with the small-craft-procurement program. In all, the amount withheld in accordance with the letter of December 17, 1942, is approaching $200,000,000.

We hope to be able to release a substantial part of the sums withheld in the near future, since it is our feeling that there is at this time a reasonable prospect that rates satisfactory both to the Comptroller General and to this organization can shortly be announced. Conferences with the Comptroller General on this point have been in process for some time.

(3) There seems to be a misunderstanding as to the situation regarding vessels constructed with the aid of construction-differential subsidies. There are approximately 160 vessels in this category. Approximately 35 of these vessels have either been purchased by the Government or lost while under charter to the Government. The remainder are now under charter. In each case, the owners of such vessels are paid only depreciated cost.

That takes section 802 out of the controversy.

The letter continues:

No profit whatsoever is allowed. I wish to repeat that under no circumstances does the owner of a vessel built with the aid of construction subsidy profit by one cent when the Government requisitions title to the vessel, or reimburses him in case the vessel is lost while under charter to the Government. The controversy over valuation relates to vessels built without construction-differential subsidy and includes vessels of all types, including fishing vessels, tugs, barges, harbor craft, freighters, tankers, and passenger ships.

I wish to have the Senate give especial attention to the statistics contained in the fourth paragraph:

(4) It is regrettable that the accomplishments of the Maritime Commission and the War Shipping Administration in achieving reduction in rates and values have been completely overlooked and clouded by disputes on questions of statutory interpretation. We have prepared and submit herewith a memorandum outlining the rates and values established by the War Shipping Administration and comparing the results achieved with the standards established by the Comptroller General. At this point, may I direct attention to the fact that in the first war earnings of freighters and tankers on bareboat charter were fixed at a basic rate of $4.15, which the Court of Claims increased to $6.60 in several cases that the Supreme Court refused to review. Earnings on freighters and tankers under our existing charters are estimated at between $1 and $1.50 per deadweight ton per month, or approximately one-third of the earnings permitted in the first war. The existing rates also represent drastic reductions in the earnings and profits from the peak year of 1941, when vessel owners earned well in excess of $4 per deadweight ton on old freighters and tankers. Our insurance values for old freighters and tankers start at a basic rate of $65 per ton, while the comparable rate in the first war was $160 per ton for freighters and $165 per ton for tankers. In 1941, the values of freighters and tankers had risen to about between $100 and $150 per ton.

We doubt that Congress or the public fully appreciate the significance of the job that has been done in this respect and the enormous savings that have been accomplished by those in charge of administering the law, as compared with the experience in the first war. For that reason, we have included in the enclosed memorandum a more complete comparative analysis of the facts and figures in this respect.

(5) I should also like to make reference to the statements regarding the high earnings of the steamship industry in 1941. It is true that 1941 was a prosperous year for most steamship companies. This prosperity was not based on monies received from the United States Government for we were then at peace and had not requisitioned our merchant fleet, but rather on the great improvement in the steamship business in that year, which was worldwide in scope. The history of the steamship industry indicates that these peak periods occur once in 10 or 20 years. In this case, the boom was rather short-lived, since the Maritime Commission and the War Shipping Administration rates of hire have drastically reduced steamship earnings. We can state with confidence that 1943 earnings in the steamship industry represent a slash of over 66⅔ percent from the 1941 peak, before taxes, and an even greater slash after taxes. It is believed that current earnings in the steamship industry will compare most favorably with the trend of profits in general. The Office of Price Administration has recently reported that railroad earnings have increased over 2,000 percent before taxes since 1938 and that the profits of mining, manufacturing, and trade in general have increased over 300 percent, before taxes in the same period. It may therefore be said that during this war, the historic wartime advantage of the steamship industry as compared with industry generally has largely been destroyed.

Very truly yours,

E. S. LAND,
Administrator.

Mr. President, I send forward the letter which I have just read, together with the exhibits, which are numbered, and ask that they be printed in the RECORD as a part of my remarks.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

JUST COMPENSATION UNDER SECTION 902 OF THE MERCHANT MARINE ACT, 1936

The purpose of this memorandum is to discuss the significance of the Comptroller General's ruling on the question of just compensation for vessels purchased, chartered, or requisitioned by the Maritime Commission or the War Shipping Administration.

I. PRELIMINARY

1. Scope of problem

It is estimated that approximately 30,000 vessels of all types and sizes are subject to requisition under section 902 of the Merchant Marine Act, 1936, and of these nearly 4,000 have heretofore been either requisitioned, chartered, or purchased. Over 90 percent of these vessels were acquired after the outbreak of the war on December 7, 1941. Of these approximately 2,500 are small craft, such as fishing vessels, yachts, tugs, barges, and harbor craft, while approximately 1,500 are large vessels such as freighters, tankers, and passenger ships.

2. Applicable statutes

The power to requisition vessels and the requirements with respect to the valuation of

requisitioned vessels are fully set forth in section 902 of the Merchant Marine Act, 1936, which insofar as is pertinent reads as follows:

"SEC. 902. (a) Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Commission to requisition or purchase any vessels or other watercraft owned by citizens of the United States, or under construction within the United States, or for any period during such emergency, to requisition or charter the use of any such property. The termination of any emergency so declared shall be announced by a further proclamation by the President. When any such property or the use thereof is so requisitioned, the owner thereof shall be paid *just compensation* for the property taken or for the use of such property, *but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use.* * * *

"(b) When any vessel is taken or used under authority of this section, upon which vessel a construction-differential subsidy has been allowed and paid, the value of the vessel at the time of its taking shall be determined as provided in section 802 of this act, * * *."

The italicized provision of section 902 (a) is generally known as the enhancement clause and is the source of the present controversy.

3. Vessels built with construction differential subsidies not involved

At the outset it is necessary to draw a sharp line of distinction between vessels which were built with the aid of construction differential subsidies under the Merchant Marine Act, 1936, and vessels which did not have the benefit of such construction subsidies. Vessels built with construction differential subsidy are covered by section 902 (b) above quoted, and their valuations are determined in accordance with the formula set forth in section 802 of the act which provides that:

"In the event the United States shall, through purchase or requisition, acquire ownership of the vessel or vessels on which a construction-differential subsidy was paid, the owner shall be paid therefor the value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof. * * *"

Accordingly, all vessels for which construction subsidies have been paid are purchased or requisitioned at actual cost to the owner without any resulting profit. No shipowner who acquired his ship with the aid of a construction differential subsidy has been allowed any profit by the Government. We repeat that not 1 cent in profit has been paid to any owner of a vessel built with a construction differential subsidy. There are approximately 160 ships in this class, about 35 of which have been purchased by the Government or lost while under charter to the Government. The remaining 125 vessels of this fleet are now under charter to the United States and in the event of the loss of any such vessels, the owners will be paid only the actual depreciated cost without any profit. At no time has the Maritime Commission or the War Shipping Administration suggested that vessels in this class should receive more favorable treatment. Further, since the right of the Government to acquire these vessels at depreciated cost is clearly set forth in the contract under which the vessels were purchased there can be no question as to the legal power of the Government to insist upon acquiring such vessels without profit. Accordingly, there is no problem as to vessels built with construction differential subsidies. The problem with which we are confronted relates exclusively to vessels for which construction subsidies have not been paid and which therefore are valued in accordance with section 902 (a) of the act.

4. Valuation standard applicable to vessels built without construction differential subsidies

As above pointed out the Maritime Commission and War Shipping Administration have been concerned with the rates and values of nearly 4,000 vessels of which only about 160 were built with the aid of construction differential subsidies. The balance of the fleet must therefore be valued in accordance with section 902 (a) of the Merchant Marine Act, 1936, above quoted, which provides that such vessels shall be paid just compensation "but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking." It should be noted that section 902 (a) provides a uniform system of valuation which is applicable to all unsubsidized vessels, including fishing boats, tugs, barges, freighters and tankers, irrespective of whether they have been purchased from the Government at low prices or purchased in the open market at high prices. Congress did not discriminate between vessels purchased from the Government and other classes of vessels and the Administrator is therefore powerless to make any such distinction.

The Comptroller General has construed section 902 (a) as follows:

"It would appear reasonable to conclude the enhancement clause in said section 902 (a) prohibits the payment of compensation for such vessels to the extent that it may be based upon values in excess of the values existing on September 8, 1939, provided such excess be determined as due to economic conditions, directly caused by the national emergency."

This standard of valuation apparently requires that September 8, 1939, values be taken as a basis upon which subsequent enhancement is allowed, unless caused directly by the emergency. The extent to which increases are allowable thus becomes a question of fact requiring an analysis of price rises and increases in earnings since September 1939. It is believed that with some moderate adjustments most of the existing rates and values can be justified upon such an analysis even under the Comptroller General's ruling and conferences looking toward a practical clarification of the ruling are now in progress.

5. Analysis of rates and values

Whatever differences there may be between the Comptroller General's standard of values and that followed by the War Shipping Administration, there is no fundamental difference in the objective sought to be achieved, since the War Shipping Administration and the Maritime Commission have both sought, as far as possible, to avoid payment of inflated wartime cost for shipping such as that which occurred in the first war. This will become more apparent from a consideration of the specific rates and values now in effect.

(a) Charter Rates, Freighters and Tankers

Earnings of freighters and tankers have been slashed about 66⅔ percent from the earnings of World War No. 1. Equally drastic reductions have been made from 1941 earnings. It is estimated that under existing charters earnings are between $1 to $1.50 per deadweight ton per month on the older vessels. Average earnings of 20-year-old freighters and tankers on September 8, 1939, before overhead, capital charges, and taxes as shown by voyages terminating during the last quarter of 1939 were as follows: $1.25 per deadweight ton per month for unsubsidized freighters; $1.51 per deadweight ton per month for subsidized freighters; $1.62 per deadweight ton per month for tankers.

In 1940, earnings increased about 100 percent, and by 1941 had increased over 300 percent. Moreover, during 1941, a number of vessels were chartered by the Army, Navy, and other charterers on a bare-boat basis at from $3 to $5 per deadweight ton per month, while berth earnings had risen to an average exceeding $4 before taxes, overhead, and capital charges. It was during this peak period that the Red Sea charters were made. This sharp increase in earnings in 1940 and 1941 should be compared with increases in railroad earnings which have increased 300 percent since 1939 and with profits before taxes in the mining and manufacturing industry which have increased over 300 percent since 1939, before taxes.

In 1941 and 1942 the Maritime Commission and the War Shipping Administration progressively reduced earnings to levels permitting estimated profits of between $1 to $1.50 per deadweight ton per month and for the first time in history the earnings of steamship companies declined in wartime.

The achievement in this respect becomes more apparent upon comparison with the profits of World War No. 1. In the First World War the Shipping Board fixed basic bareboat rates of $4.15 per dead-weight ton per month. The Court of Claims increased these rates over 50 percent to $6.60 per deadweight ton per month in several decisions which the Supreme Court refused to review. *Standard Transportation Company* v. *United States* (61 C. Cls. 951, cert. den. 273 U. S. 732); *Atlantic Refining Company* v. *United States* (69 C. Cls. 713, cert. den. 282 U. S. 859); *Atlantic Refining Company* v. *United States* (72 C. Cls. 1, cert. den. 285 U. S. 542). In this war, we have fixed bareboat rates on comparable vessels of from $1 to $1.25 per deadweight ton and time-charter rates of $4 designed to produce a profit of $1 per deadweight ton per month, with allowances for contingencies from which the more efficient vessels are earning up to about $1.50 per dead-weight ton.

Thus, the War Shipping Administration by administrative action has reduced ship profits before taxes to amounts not substantially in excess of September 8, 1939 earnings and about 66⅔ percent below levels established by the courts in World War No. 1 or levels prevailing in 1941, as will be seen from the following table:

World War No. 1 court established basic rate	$6.60
World War No. 1 administratively established basic rate	$4.15
1941 bareboat basic rates and earnings	$3 to $4.00
War Shipping Administration time form basic earnings	$1 to $1.50
War Shipping Administration bareboat basic earnings	$1 to $1.25

The results accomplished by the War Shipping Administration demonstrate more effectively than any legal theory, that the fundamental policy of destroying inflated and strategic war-time earnings in the shipping industry has been accomplished. Therefore, whatever views one may hold about the relatively high berth earnings of 1941, it is now clear that such earnings are a thing of the past, and that present-day steamship industry's profits compare most favorably (in comparison with 1939) with earnings of other transportation industries or of business generally. It is believed that these results are in substantial compliance with the Comptroller General's ruling.

(b) Insurance Values, Freighters and Tankers

Insurance values for chartered freighters and tankers have also been greatly reduced from 1941 levels as well as World War No. 1 standards. The basic War Shipping Administration value is $65 per dead-weight ton. The comparable World War No. 1 value was

$160 per dead-weight ton for freighters and $165 per dead-weight ton for tankers.

By comparing present-day values with actual sales in 1939, it may be contended that there has been a very large enhancement in value since 1939. It is true that in 1939 old freighters were liquidated at around $20 to $25 per dead-weight ton. Old tankers of comparable age and condition brought substantially higher figures. Prior to September 8, 1939, old tankers were sold at prices of between $40 to $50 per ton after taking account of deferred repairs. During the latter part of 1939 sales values had risen to over $60 per dead-weight ton. These 1939 sales represent liquidations of undesirable tonnage by companies who had no need for such vessels or were faced with the problem of surplus tonnage arising from the replacement by new ships. The low sales prices thus reflected the fact that these were surplus and less desirable vessels. The low prices, moreover, reflect the overtonnaged condition which prevailed throughout the world generally, especially as to freighters, and particularly in the United States, a fact of which Congress took official recognition when it adopted legislation in August 1939 authorizing the Maritime Commission to buy up old tonnage and to sterilize it in a pool of laid-up vessels for use in emergencies. The Comptroller General has recognized that depressed 1939 values are not controlling.

We have shown that old vessels were earning about $15 per dead-weight ton per annum before taxes and overhead on September 8, 1939. The War Shipping Administration basic values represent less than five times September 8, 1939, earning capacity.

It is also significant to note that although freighters sold for about $20 to $25 per ton in 1939, the average insurance value for freighters was about $40 per ton, while the average insurance values for tankers was nearly $60 per ton. In 1940 insurance values for freighters had also risen to between $50 and $60 per ton. These facts are especially significant in view of the British practice, since the British Government under a law which prohibits any "appreciation in value" resulting from the British declaration of emergency of September 3, 1939, has allowed insurance values on all chartered vessels based on the actual war-risk insurance carried by the owner as of the date of requisition, except where requisition occurred after March 6, 1940, in which case values were frozen as of May 6, 1940. In other words, May 6, 1940, insurance values control in Britain. In addition, the British have also allowed additional sums up to 25 percent of basic insurance values to all owners participating in the replacement program. Under a law which is much less severe than the British law, the War Shipping Administration has fixed insurance values at levels which are not substantially in excess of those prevailing in 1940 without any replacement allowance.

By comparison with the World War No. 1 values of $160 per dead-weight ton or the 1941 market values of over $100 per dead-weight ton, or the British scale of May 6, 1940, the basic value of $65 per dead-weight ton represents a drastic reduction in shipping valuation successfully accomplished by the War Shipping Administration. We do not yet know the extent to which these insurance values exceed the permissible maximum based on the Comptroller General's ruling. Our tanker values are believed to be in conformity with his ruling and we do not believe that the freighter values are greatly out of line with his formula. In any event, we submit that the scale of values represents a substantial accomplishment as compared with the fantastic values of World War No. 1 or of the high prices of 1941. Comparison with those values rather than original cost would seem to offer the best standard of comparison.

(c) Passenger Ships and Special Type Vessels

With respect to passenger ships nd other special type vessels, the average values fixed by the administration have been less than the average insurance values actually carried by the owners in 1939. If 1939 insurance values are fair standards for 1942 insurance values then there has been no enhancement of value since 1939 in these cases. The earnings allowed on such vessels likewise, on the average, have been below those actually earned in 1939, and therefore are not in conflict with the Comptroller General's ruling. Comparable World War No. 1 earnings per gross ton were about 300 percent greater.

(d) Fishing Vessels

In the case of fishing vessels, values have averaged approximately 33⅓ percent in excess of 1939 values which compares favorably with the general increase in the wholesale commodity index which likewise reflects approximately a 33⅓ percent increase since 1939. Fishing ship values are generally below 1940 values paid by the Navy. While the Comptroller General has not as yet conceded the point, it seems to us that an enhancement in value which does not exceed the average enhancement in wholesale prices is not the type of enhancement condemned by section 902.

(e) Yachts

Yachts have been compensated at 1939 levels with sharp deductions for depreciation and are obviously within the Comptroller General's formula.

Summary of rates and values

The situation regarding rates and values can be summarized as follows:

(1) Earnings of freighters and tankers under existing charters do not result in any substantial enhancement over the actual earnings on voyage terminations in the last quarter of 1939; and produce a profit substantially below 1940 results.

(2) Basic insurance values for tankers are at about levels reached at the end of 1939;

(3) Basic insurance values for freighters are not substantially above 1940 levels;

(4) Earnings on passenger and special type vessels are on the average below 1939 levels. Insurance values of such vessels are on the average actually below 1939 insurance values;

(5) Values of fishing vessels are approximately 33⅓ percent above 1939 values, which represent the approximate increase in the wholesale price index;

(6) Yachts are valued at 1939 levels, less heavy depreciation.

Regardless of technical refinements of the meaning of the statute and differences of opinion in connection therewith, it is submitted that the stabilization of rates and values on the above levels represents solid administrative accomplishment and a fulfillment of the full purpose and intent behind the enhancement clause.

Comparison with other industries

In evaluating the results achieved, it is of interest to contrast steamship earnings with the earnings of other transportation agencies largely dependent upon the Government and the defense effort for revenue, such as the railroads. From the statistical material in War Shipping Administration files, it appears that railroad earnings, before taxes, increased from $68,000,000 in the third quarter in 1939 to $556,000,000 in the third quarter of 1942, a percentage increase of about 800 percent, which reflects an enhancement in railroad earnings vastly greater than that permitted in steamship industry. The Office of Price Administration has recently estimated that railroad earnings are now over 2,000 percent above 1939 levels. Corporate profits generally, before taxes, have increased by over 300 percent between 1939 and 1942 in mining and manufacturing industries, according to Office of Price Administration studies. Unbelievable as it may seem, the 1943 earnings in the steamship industry are greatly below the level of other industrial earnings based on comparisons with September 8, 1939, levels.

1. THE PROVISO CLAUSE IN THE COMPTROLLER GENERAL'S RULING AND ITS APPLICATION TO ENHANCEMENT IN VALUE SINCE 1939

The Comptroller General's ruling is as follows:

"It would appear reasonable to conclude that the enhancement clause in said section 902 (a) prohibits the payment of compensation for such vessels to the extent that it may be based upon values in excess of the values existing on September 8, 1939, provided such excess be determined as due to economic conditions, directly caused by the national emergency."

The latter portion of this quotation is hereinafter referred to as the "proviso clause." What the Comptroller means by "economic conditions directly caused by the national emergency" is not disclosed by him, but the inference is that indirect enhancement may be allowed even though such enhancement may be traceable to the economic conditions resulting from the World War. Support for this interpretation of this proviso clause is found in the Comptroller General's recognition of the need for allowing enhancement in 1939 values in the case of vessels that were built after September 8, 1939, or substantially reconstructed after that date. More specific recognition of the soundness of this broad interpretation is found in the Comptroller General's reply to question number 12 indicating that increase may be allowed for enhancement since September 8, 1939, where market conditions as of that date were abnormally depressed.

If the Comptroller General intended that the proviso clause should be so construed, then there is no important difference in his position and that taken by the War Shipping Administration, although there may be some differences in the application of that principle and some further reductions may be justified. Fixing values as of September 8, 1939, and allowing subsequent enhancement which is not directly caused by the emergency should produce a result no different in principle than the formula which would fix valuation as of the date of taking, and then disallow previous enhancement directly caused by the emergency although there may be differences as to actual amounts to be allowed. Thus, whether the calculation starts with September 8 and works forward or starts with the date of taking and works backward, the final results should not vary considerably, since in both cases the basic problem is to the degree to which increase in values resulted from "causes necessitating the taking," as required by the statute, or "economic conditions directly caused by the national emergency," as construed by the Comptroller General.

We have previously pointed out that the War Shipping Administration has succeeded in chartering vessels at rates approximating September 8, 1939, earnings and substantially below those prevailing in 1940, whereas the values are not substantially in excess of 1940 values. The issue, therefore, can be boiled down to the relatively simple question as to whether enhancement in values in shipping which occurred in 1940 may be allowed without violating section 902, even as construed by the Comptroller General. In our opinion this can be done.

1. Causes of 1940 enhancement: What factors enhanced values in the fourth quarter of 1939 and the first half of 1940, but were not among the causes necessitating the taking? At the risk of some repetition, let us review these factors again to determine if they were directly caused by the national emergency. It is a well-known fact that the

domestic trades were overtonnaged in 1939, and were suffering from competition with the railroads. The need for relief in this connection was recognized by Congress in August of 1939, just prior to the outbreak of the World War, when it adopted the act of August 4, 1939. That law permitted the Commission to purchase old tonnage, particularly from the domestic trades and prohibited the resale of such vessels. This provision was adopted upon recommendation of the Commission in order to help to cure the depression prevailing in the domestic trades because of the overtonnaged conditions. Upon the outbreak of war in 1939, the belligerent powers withdrew some of the ships theretofore engaged in neutral trades, thereby making room for the operation of a larger quota of American tonnage in such trades, providing vessels with better cargoes in both directions, and reducing the competitive practices such as rate cutting. In addition, the sale of over 100 vessels by American shipowners to British, French, and other governments further reduced the excess of tonnage in existing domestic trades. The remaining vessels then benefited from the increase in earnings and the elimination of excessive competition.

At the same time, shipping benefited from the general improvement in business which occurred in 1940. This is borne out by statistical results of economic conditions taken from Government publications. The Department of Commerce "Survey of Current Business" for June 1942 (page 14) reveals that corporate profits generally rose over 40 percent in the first 6 months of 1940, as compared with the first 6 months of 1939, and over 30 percent for the full year 1940, as compared with 1939, after taxes and other charges. The increase was of course much higher before tax deductions. The United States Treasury Department, "Statistics of Income for 1940," part 2, page 13, shows that net income for 1940 reported in corporate income-tax returns increased 33 percent over 1940—from approximately $6,700,000,000 in 1939 to approximately $8,900,000,000 in 1940. The figures for transportation companies generally are even more impressive. The compilation of statistical data submitted herewith shows an increase in net operating income from $166,000,000 in the first 6 months of 1939, to $246,000,000 in the first 6 months of 1940, a net gain of approximately 50 percent. The same schedule shows that the net profit of railroads after taxes rose from $94,000,000 in 1939 to $189,000,000 in 1940, a gain of approximately 100 percent. An analysis of the Treasury Department's statistics of income for 1939 (page 10, part 2, with the same compilation for 1940, pages 9 and 10, part 2), will demonstrate that for all transportation companies net income rose from approximately $178,000,000 in 1939 to approximately $330,404,000 in 1940 or a net gain of nearly 90 percent. The Office of Price Administration has prepared calculations showing that the improvement in 1940 earnings over 1939 before taxes was approximately 100 percent for class one railroads, approximately 50 percent for mining and manufacturing industries, and about 40 percent for trade and service.

These statistics demonstrate very clearly the great economic improvement through the business world in 1940 which accounted for a general increase in corporate profits ranging from 30 to 100 percent. They further demonstrate the recognized economic fact that transportation, as a service industry, tends to benefit more sharply and suffer more severely from the rise and fall of the business cycle. In the case of railroads the rise of profits for transportation aggregated between 90 to 100 percent over 1939 results.

Obviously, sharp increases in general business conditions materially affected that phase of the transportation industry represented by shipping. Coupled with the elimination of the surplus of old tonnage in the domestic trades, and other favorable developments, such improvement caused a substantial rise in net earnings before taxes which rose to over $2.50 per deadweight ton per month in 1940. These increases are not out of line percentagewise with the general results of transportation industries and were due to improved business conditions rather than "enhancement resulting from the causes necessitating the taking." We emphasize the 1940 figures because the existing War Shipping Administration scale of rates is greatly below 1940 earnings, while the War Shipping Administration scale of values is not substantially in excess of 1940 values. Nineteen hundred and forty ship rates and values cannot be disallowed as having been "enhanced by the causes necessitating the taking" unless increased profits of business generally are classed in the same category.

The improvement in general economic conditions as reflected in shipping created a sales market for ships in 1940 which averaged between $50 to $60 per deadweight ton for vessels in good operating condition, and these values then approximately coincided with insurance values which were also fixed at about that level, thus creating a normal relationship between sales and insurance values, which in itself is an indication of a restoration of ships sales values to normal conditions.

We do not see how the improved condition of 1940 can reasonably be attributed to "economic condition directly caused by the national emergency."

2. British rule: Support for allowing the 1940 enhancement under the Comptroller General's ruling is also found in the British practice. In September of 1939, Parliament passed a law known as the Compensation Defense Act, 1939 (2 and 3, sec. 6, ch. 25) pursuant to which property of all kinds was made subject to requisition. Under the law reasonable values were required, "no account being taken of any appreciation in the value thereof due to the emergency." Since Great Britain was at war when the law was passed, there was no doubt as to the effective date of this provision. It was effective from September 3, 1939. Thereafter, Great Britain gradually requisitioned the use of her merchant fleet on a time-charter basis which is approximately the same procedure that we followed after we entered the war. In fixing insurance values for loss of such requisitioned vessels, the British Government administratively allowed the actual war-risk insurance value at the time of requisition, except that if requisition was after May 8, 1940, the May 8 values applied. (See form T774 schedule in the compilation of general valuation data submitted herewith.) In addition, the British Government created a replacement scheme and allowed up to 25 percent additional value to those who participated. Thus the British Government, although actually at war and operating under a statute "denying any appreciation in value due to the emergency," has allowed an appreciation in insurance values up to May 8, 1940, and in addition has allowed a 25-percent increase for replacement. Apparently, these allowances were made in recognition of the fact that enhancement between September 8, 1939, and May 1940 was not "due to the emergency," and that increase in replacement costs, which justifies the 25-percent allowance, likewise did not represent "any appreciation due to the emergency."

3. Congressional intent: Congress has at no time indicated that the increase in ship earnings and values during 1940 represented prohibited enhancement in values. In fact, it may be said that Congress indirectly sanctioned the 1940 levels. Two laws were passed in 1940 and two more laws in 1941 which in purpose and spirit appeared to be inconsistent with the disallowance of enhancement between 1939 and 1940. In 1940 Congress passed the so-called O'Leary bill (Public, 840, 76th Cong.) and the so-called laid-up fleet bill (Public Res. 74, 76th Cong.). The O'Leary bill permitted shipowners to deposit profits on ship sales in construction funds and provided that such funds would not be taxable. It was pointed out to Congress that many shipowners had sold their vessels to foreign buyers at greatly enhanced values as compared with 1939 sales values. There was no indication that 1940 "enhanced values" of $50 per deadweight ton or more were considered excessive. The laid-up fleet bill permitted the Maritime Commission to sell vessels in its laid-up fleet "upon such terms and conditions and subject to such restrictions as the Commission may deem necessary or desirable for protection of the public interest." Congress presumably intended that vessels sold under this bill would be sold at 1940, not 1939, prices.

In 1941 Congress passed the so-called Ship Warrant Act at the request of the Maritime Commission, to permit the Maritime Commission to control freight rates in the foreign trades, Public 173, Seventy-seventh Congress. Over the objection of the Commission, Congress inserted a provision that maximum rates fixed by the Commission under that law should be "fair and reasonable." This was done notwithstanding the protests of the Commission which pointed out that rates had reached excessively high levels. Finally, in June 1941 Congress authorized the Commission, in Public 101, Seventy-seventh Congress, to purchase or charter vessels "at such prices and upon such terms and conditions as it may deem fair and reasonable and in the public interest * * * nothwithstanding any other provision of law." At the time of that enactment, rates and values had reached their all-time peak and were from 50 to 300 percent higher than those now prevailing, yet there was no effort made in Congress to force rates and values back to 1939 levels.

It is believed that courts would find in this record of action for the years 1940 and 1941 (1) a strong inference against the contention that Congress believed 1939 values to represent maximum rates and values for shipping services and (2) an indirect sanction for the payment of 1940 values, since the history of legislative action during that period is inconsistent with the view that Congress expected a return to September 8, 1939, values by a sweeping edict applicable to ships of all categories or other property.

In view of the foregoing, it is not believed that the courts would find that the improvement in ship values resulting in 1940 was the consequence of causes necessitating the taking, even as construed by the Comptroller General to mean economic conditions directly caused by the national emergency.

4. Intent of Congress as shown by Moran interpretation: Strong support for the conclusion herein reached is found in the debates in Congress during 1935, prior to the enactment of the Merchant Marine Act, 1936.

In 1935 the President requested Congress to pass legislation dealing with the merchant marine. Congressman BLAND on April 15, 1935, following the President's message introduced H. R. 7521, section 1004 of which dealt with the requisitioning of vessels. The section follows:

"REQUISITION OF VESSELS

"SEC. 1004. Section 702 of the Merchant Marine Act, 1928, is hereby amended to read as follows:

" 'REQUISITION OF VESSELS

" 'SEC. 702. (a) The following vessels may be taken over and purchased or used by the United States for national defense or during any national emergency declared by proclamation of the President:

" '(1) Any vessel in respect of which, under a contract heretofore or hereafter entered into, a loan is made from the construction-loan fund created by section II of the Mer-

chant Marine Act, 1930, as amended, at any time until the principal and interest of the loan have been paid; and

"'(2) Any vessel in respect of which an ocean-mail contract has been heretofore or is hereafter entered into—at any time during the period for which the contract is in effect.

"'(3) Any vessel in respect of which a construction or operating subsidy or shipping trade promotion aid is granted pursuant to the Merchant Marine Act, 1935, and any vessel which the Government of the United States has the right to acquire or take over pursuant to such act.

"'(b) In such event the owner shall be paid the fair actual value of the vessel at the time of taking, or paid the fair compensation for its use based upon such fair actual value; but in neither case shall such fair actual value be enhanced by the causes necessitating the taking. In the case of a vessel taken over and used, but not purchased, the vessel shall be restored to the owner in a condition at least as good as when taken, less reasonable wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the vessel in such condition. The owner shall not be paid for any consequential damages arising from such taking over and purchase or use.'"

It will be noted that the proposed legislation related only to subsidized vessels and did not fix requisition prices at cost less depreciation for subsidized vessels but rather provided for fair value not "enhanced by the causes necessitating the taking."

The failure of the bill to provide for a depreciated cost basis for the acquisition of subsidized vessels led to a successful attack upon this defect by Congressman Moran, a Government ownership advocate, who led the fight against the payment of excessive prices during wartime for requisitioning vessels. He offered an amendment as indicated by the following excerpt from the CONGRESSIONAL RECORD (vol. 79, pt. 9, p. 10200):

"Amendment offered by Mr. Moran: On page 65, line 8, after the word 'Taking', insert 'not, however, to exceed the cost of such vessels to the owner less depreciation based on a 20-year life of the vessel.'

"'Mr. MORAN. Mr. Chairman, this section deals with taking over ships in the event of war, and therefore it is most important for our consideration. We have managed by legislation since the war to do some things that have obviated the condition that existed during the World War, when we had such things as consequently damage to pay for. We have made an improvement in this respect.

"'However, in this case we find two instances in this particular section to which we should give consideration. One is that the owner shall be paid the fair actual value of the vessel. The determination of that is a difficult thing at best. It seems to me in the event of an emergency, where the cost of taking over the ship is enhanced sometimes, as we found in the World War, that a different rule should apply. We did not get into the World War until 1917, but the World War began in 1914. The price of the vessels had enhanced from 1914 to 1917. We needed them, but that was not the cause of the enhancement, nevertheless, we have to pay a higher price on that account. This particular amendment states the limit that we shall pay, and that is the actual cost of the vessel to the owner less depreciation, based on a reasonable 20-year life.

"'The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine.

"'The amendment was agreed to.'"

The bill then passed the House as amended.

Mr. Moran's observations are of great significance. In the first place, he seems to have been the only person who predicted on the floor of the Congress at any time during the legislative proceeding relating to the 1936 act that the next war might represent a recurrence of the first war, which the United States did not enter for about 2 years after it first broke out as a European war. His remarks, based on such foresight, are aimed at the crux of the controversy, namely, whether the enhancement clause was intended to and would operate so as to exclude enhancement occurring during the 2 years prior to our entrance into the war and prior to the date when our need for vessels developed. His view that such pre-war enhancement would not be excluded because it was limited to enhancement caused by the "need" for vessels apparently was shared by the House of Representatives, for the House voted to accept his amendment, which would make subsidized vessels available to the Government at cost less depreciation. Further, Mr. Moran did not attempt to make this limitation a general rule applicable to all vessels, but was content to have the provision apply only to subsidized vessels, as now reflected in section 802 of the act.

It is important to note in this connection that after the 1936 act had been adopted, Mr. Moran was appointed by the President as one of the five members of the Maritime Commission, which was charged with the responsibility of administering the enhancement clause then found in section 902 of the 1936 act. The views which he had expressed in Congress in 1935 as to the proper meaning of the enhancement clause were still maintained by him in 1940 (after a limited emergency had been declared) when he was a member of the Maritime Commission. On March 27, 1940 (after that declaration and after ship values had risen substantially from 1939 levels) he made the following observations in a memorandum to the Commission:

"Under section 902 the market conditions existing at time of requisition, govern the price to be paid by the Government if a privately owned vessel is requisitioned by the Government in time of emergency. There is the saving clause (section 902 (a) 'but in no case shall the value of the property taken or used be deemed enhanced by the clauses necessitating the taking or use,' but this does not protect against price rises caused by the general conditions leading to an emergency before the actual emergency arises, as experienced in the years 1914–17. Section 902 (b) however, provides that if a construction differential has been paid, the value of the vessel shall be determined as provided in section 802; in other words, different treatment for a vessel constructed by aid of a construction subsidy."

Here is a clear expression by a highly qualified official to the effect that 1940 price adjustments were not excluded by the enhancement clause.

The War Shipping Administration has established rates and values well below those permissible under the above interpretation placed on the law by a former member of the United States Maritime Commission who had been a leading figure in and intimately associated with the legislative proceedings resulting in the enactment of the Merchant Marine Act, 1936, and whose special qualifications were attested by his appointment as a member of the Maritime Commission immediately after the Merchant Marine Act, 1936, had been adopted.

CONCLUSION

The War Shipping Adminnistration and the Maritime Commission do not wish to be placed in the position of defending high values for ships of any kind. The policy of the organizations has been to reduce such values to the lowest level consistent with sound administrative practice. It is believed that very substantial results have been achieved in comparison with 1941 values, and even more so by comparison with World War No. 1 values. The program contemplated a series of reductions, strategically effected, so as to avoid judicial defeat and other mistakes of the first war. It is believed that any effort to return rates and values to 1939 levels in all cases without regard to the problems herein stated would be unsuccessful and would ultimately cost the Government considerably more than the existing policy under which rates have been reduced below 1940 levels and values are not substantially in excess of 1940 levels. Such action does not seem to be required by the Comptroller General's ruling.

It is the desire of the Administrator to fix rates and values at the lowest reasonable levels. By this is meant the lowest levels consistent with equity which can be sustained in the event of judicial attack. The Administrator does not have dictatorial powers to fix values by edict, and any attempt by him to fix rates and values at levels which will force all shipowners into the courts can be justified only if there is reasonable probability that the courts would sustain such reduced rates and values. Forcing the valuation into the court in the absence of such reasonable probability would merely result in the payment of higher rates and values plus interest during the interval. Wise administrative action therefore calls for fixing rates and values at the lowest reasonable levels that can be sustained in the courts. Without contending that the existing rates and values may not now be successfully further reduced (it was the intention of the Administrator to reduce values progressively), it does not seem to the Administrator that a drastic effort to return rates and values to 1939 levels will meet with success, for reasons hereinafter indicated. The choice is between a gamble on 1939 values and a stabilization of rates and values at or below 1940 levels. In this connection it should be noted that the courts invariably increased the World War No. 1 determinations of the Shipping Board by almost 50 percent, even though World War No. 1 rates and values were from 150 to 400 percent higher than those now prevailing. A review of the judicial decisions arising out of the various problems relating to the first war indicates the danger of inviting litigation so long as high market values exist, and the advisability of reducing or otherwise destroying such high market values. One effective method of accomplishing this objective is to secure concurrence from the majority of the industry to greatly reduced values as noted in the Vogelstein case, a line of strategy which the War Shipping Administrator has been pursuing.

It should also be noted that the enhancement clause may not apply in the event of litigation, since judicial proceedings would be instituted in accordance with section 902 (d), which reads as follows:

"(d) In all cases, the just compensation authorized by this section shall be determined and paid by the Commission as soon as practicable, but if the amount of just compensation determined by the Commission is unsatisfactory to the person entitled thereto, such person shall be paid 75 percent of the amount so determined and shall be entitled to sue the United States to recover such further sum as, added to said 75 percent will make up such amount as will be just compensation therefor, in the manner provided for by section 24, paragraph 20, and section 145 of the Judicial Code (U. S. C., 1934 ed., title 28, secs. 41, 250)."

This provision does not contain any enhancement clause. The courts might therefore hold that the enhancement clause was not intended to be a limitation upon the judicial branch of the Government, particularly in view of the change in language from the original 1936 act which limited the courts

to the payment of "such" just compensation—the reference being to 902 (a). The cross reference was not carried into the 1939 amendment.

The absence of the enhancement clause from the above provisions would appear to be of substantial significance. All these factors indicate the wisdom of not relying too heavily upon the courts on this question, and the desirability of an administrative solution of these difficulties if one can be found. To that end, the Administrator has been conferring with the Comptroller General's office. If no solution develops from such conferences, a prompt report will be made to the Senate Committee on Commerce and the House Committee on Merchant Marine and Fisheries. At the present time, it is not believed that the differences between the General Accounting Office and the War Shipping Administration as to legal theories necessarily preclude agreement as to appropriate rates and values for the majority of the 4,000 vessels with which we are concerned.

UNITED STATES MARITIME COMMISSION,
Washington, March 22, 1943.

Hon. JOSIAH W. BAILEY,
United States Senate.

MY DEAR SENATOR BAILEY: This communication is in response to your request that there be supplied to you a brief statement on my part with reference to the matter of the profits of steamship companies holding operating-differenial subsidy contracts with the Commission, the deposits made by such operators in the reserve funds provided for under title VI of the Merchant Marine Act, 1936, as amended, the tax benefits accorded to such operators under that title, and the tax benefits accorded to operators who do not hold operating-differential subsidy contracts. The following summarizes very briefly the general situation:

1. The question of reserve funds of the subsidized operators and the tax benefits which are given to deposits therein and the tax benefits which are given to the nonsubsidized operators, are all matters of legislative policy which has been embodied in the various applicable statutory provisions which the Commission is called upon to administer.

2. Of the total deposits of $173,000,000 made in the reserve funds during the years 1938 to 1941, inclusive (of which, it is estimated, about $141,000,000 consists of operating earnings and of gains on sales and losses of vessels, $22,000,000 accrued depreciation on the subsidized vessels, and about an estimated $10,000,000 return of the original capital investment of the operators less accrued depreciation), there has been used $96,000,000 for down payments on new vessels and payment of mortgage indebtedness on subsidized vessels. Out of the balance of $79,000,000 there is reserved for ultimate recapture of subsidy by the Government about $28,500,000. This leaves about $50,000,000 which is available for future use in carrying out the replacement programs of the operators and to meet possible future operating losses. To this figure of $50,000,000 we may add $5,000,000 representing amounts accumulated in the reserve funds under temporary agreements of certain operators entered into for the most part, in 1937, or a total of $55,000,000 available for the purposes just mentioned.

3. About $42,700,000 has been paid in operating subsidies under the 1936 act, up to and including 1941, of which, as stated above, $28,500,000 has been earmarked for eventual recapture. Therefore, the net expenditure, after allowing for accrued recapture, to the Government for operating-differential subsidies is $14,000,000, or approximately $3,500,000 per year. This amount is very small as compared to what the Government paid out in ocean-mail pay in the years prior to the enactment of the 1936 act. In this connection, the report of the Postmaster General, under date of April 19, 1935, shows the substantial amount which the Government paid in the form of ocean-mail pay:

"Mail pay has constantly increased since the enactment of the 1928 act. The mail contracts for the fiscal year 1929 amounted to approximately $9,000,000; in 1930 they were $13,000,000; in 1931 they were $18,000,000; in 1932 they amounted to $22,000,000; in 1933, $26,000,000; and in 1934 they were $29,600,000. For 1935, they are estimated at $28,850,000. For 1936 the amount would have been $32,851,954 if the contractors were to receive the amounts due by reason of reclassification of ships, new ships, and full performance of the service, but the Budget Director disapproved of the increased allowance and recommended that the appropriation be continued as for the fiscal year 1935."

4. The tax-exemption benefits accorded to the holders of operating-differential subsidy agreements was a major inducement offered by Congress to the steamship companies for entering into the subsidy agreement, whereby such operators agreed to devote all of their earnings and all the proceeds which might be derived from the disposition of their vessels over long periods of time, for the purpose of maintaining and building up the American merchant marine, agreed to the recapture of operating subsidies, and submitted to various other restrictions too numerous to detail.

The Commission has recommended, in connection with the hearings before the House Committee on the Merchant Marine and Fisheries, suspending the tax-exemption provisions for the war years, beginning with 1942. The bill just mentioned is now being studied by such committee and will no doubt receive further study by your committee and be the subject of debate on the floor of both Houses. Accordingly, I will content myself with saying that during the war period the Commission believes that the suspension of these tax benefits, together with suspension of all subsidy payments, can be accomplished without serious harm to the merchant marine policy of the United States and is desirable in the light of the fiscal needs of the Government.

5. The tax benefits which are afforded to owners of vessels with respect to which no operating differential subsidy is paid, do not constitute tax exemptions, but simply permit tax deferment where the proceeds of sold or lost vessels of such operators are not, to the extent that they constitute capital gains, taxed at the time of the transaction giving rise to such proceeds, but, in lieu thereof, the tax is recovered through reduced depreciation allowances with respect to the new vessel which is acquired in replacement of the sold or lost vessel. These tax-deferment provisions are similar to the provisions obtaining for many years in the internal revenue laws with respect to other forms of business property but which were not wholly adaptable to shipping in the absence of modifications therein contained in section 511 of the Merchant Marine Act, 1936, as amended. There is no tax exemption or tax deferment with regard to operating earnings—simply relief from tax on undistributed earnings for a sufficient length of time to facilitate the acquisition of new vessels. Even without section 511, it is not likely that these quasi-penal taxes would be asserted by the Treasury Department against steamship owners who held the proceeds for new construction, and the only effect of the statute is to furnish a certain amount of legislative justification for this practice.

If you desire amplification with respect to any of the matters mentioned in this letter, I shall be glad, of course, to furnish further particulars in accordance with your wishes.

Sincerely yours,

E. S. LAND,
Chairman.

RESERVE FUNDS AND TAX EXEMPTIONS UNDER THE MERCHANT MARINE ACT, 1936, AS AMENDED

In the course of the debate before the Senate last Friday, March 19, 1943, a number of compilations of figures were introduced and certain statements made involving the activities of the Maritime Commission in the granting of operating-differential subsidies under title VI of the Merchant Marine Act, 1936, as amended, with particular reference to the deposit of profits in the reserve funds provided for in that title and the tax exemptions granted by the statute with respect to such deposits. There was also discussion of the distinct question of the reserve funds of operators not receiving operating-differential subsidies but who, under the provisions of section 511 of the act, were entiled to establish a so-called construction reserve fund and obtain certain tax benefits thereunder. It is to be kept in mind, of course, that in these matters the Maritime Commission was simply following out the policies and purposes which Congress adopted at the time of the enactment of these statutory provisions. However, it seems desirable, in the interest of clarification, to comment, in the simplest possible terms, upon these provisions, which are, it must be admitted, of a complicated and technical nature, and also to show in brief how certain of them have operated in practice.

I. PROFITS AND RESERVE FUNDS OF STEAMSHIP COMPANIES HOLDING OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS

In the table which was introduced into the record in the course of Friday's debate, it is stated that the "earnings and profits deposited in the reserve funds free of all Federal taxes" by the 12 subsidized operators were $173,154,460. The figure is an overstatement of the tax-free deposits in the reserve funds. Over $22,000,000 of the amount represents depreciation on the vessels, which, of course, is not taxable income of the operator. Furthermore, there is included in the $173,000,000 some $41,000,000 representing proceeds of sold or lost vessels. To the extent only that such proceeds exceed the book value of the sold or lost vessels can the deposits be considered taxable income. Assuming only $10,000,000 of the $41,000,000 represents the book value of the vessels which were sold or lost, which is a most conservative estimate, this represents an additional overstatement of some $10,000,000.

However, if an adjustment is made to reflect that the figure of $173,000,000 should properly be about $141,000,000, it is possible to give a reasonably true picture of how this money has been used or will be used for the purpose of carrying out the purposes and policy of the Merchant Marine Act of 1936.

The amount shown in the table as having been expended for down payments on vessels and the payment of mortgage indebtedness on subsidized vessels is stated to be approximately $96,000,000. If we deduct from this figure the $32,000,000 which does not represent taxable income at all, this leaves the figure of $61,000,000 of presumably tax-free money which was used for the acquisition of new vessels or for the liquidation of mortgage indebtedness on subsidized vessels.

The balance of $79,000,000, which is the figure shown in the last column of the table, represents unexpended balances in the reserve funds resulting from deposits and withdrawals during the years 1938 to 1941. This figure does not represent the actual balances in the funds as of January 1, 1942, because there have been omitted the deposits required under certain temporary agreements which were in force, in the case of some of the companies, prior to entering into of the long-range agreements mostly in 1938. These additional deposits amount to some $5,000,000. So actually we have about $84,000,000 unexpended money, but out of this $84,000,000

the Commission has earmarked approximately $28,500,000 as representing recapturable subsidy due to the Commission, for which the companies will become liable at the end of the 10-year accounting period provided for in the statute and the subsidy agreement. This amount represents over two-thirds of all the operating-differential subsidy which was paid by the Maritime Commission. Whether or not the Commission will recover this amount of $28,500,000, or more or less, depends upon future operations, since, under the law, the amount of recapturable subsidy is limited to 50 percent of the net earnings of the operator in excess of the 10 percent on his capital necessarily employed allowed by the statute averaged over a 10-year period. But as matters presently stand, it is sufficient to say that the Commission has the security of the reserve funds for such recapture, and it is its policy not to permit the operators to make any payments out of the reserve funds for replacement purposes, which would reduce the amount thereof below the accrued contingent liability of the operators for recapturable subsidy. Accordingly, there is left only some $55,000,000 which is still unexpended, and therefore available for the purpose of carrying out the post-war replacement programs of the operators. If such funds are not used for replacements or not used to meet future operating losses, they will become taxable in the year they become part of the general funds of the operator.

It should be noted that the 12 subsidized operators have, during the 4 years from 1938 to 1941, inclusive, withdrawn only $17,000,000 for their own use, on which amount, of course, they have to pay taxes. Everything else has been put into its reserves for replacement of their fleets, payment of their mortgage indebtedness to the Government on the fleet, by way of provision for possible operating losses in future years, and provision for recapturable subsidy.

As previously shown, over the 4-year period from 1938 to 1941 the Government paid about $42,700,000 in subsidy to the 12 subsidized operators. The greater part of the subsidy so paid was for the two items of wages and repairs, or, in other words, to foster the employment of American citizens as seamen in our merchant marine, to keep alive our American repair facilities and to maintain employment for the skilled labor which is used in such repair work. The value of these features of the subsidy program, in the light of our all-out war effort, is obvious.

When it is realized that $28,500,000 of the $42,700,000 is recapturable and that the net cost of the operating differential subsidy program as it now stands is only $14,000,000, the conclusion is inescapable that this program was one of the best investments for national prosperity and national security that this Government has ever made. Furthermore, although the profits for the years 1940 and 1941 were substantial, it must be remembered that they were not peculiar to the subsidized operators but were due to the general shipping situation and that both these 12 subsidized operators and the nonsubsidized operators were the beneficiaries of a general improvement in shipping conditions. So, for that matter, did our railroads, our manufacturers, and other industries enjoy similar increases in earnings.

Finally, it must be remembered that most of the $28,500,000 which has been built up to be available for recapture by the Government came out of these 1940 and 1941 profits and, in addition, the schedules submitted in the record show that the Government received, by reason of these profits, another $10,000,000, approximately, by way of increased charter hire paid by the subsidized operators. If anyone had stated to Congress that at the end of 5 years from the institution of the operating-differential subsidy agreement, the amount of subsidy paid in excess of that subject to recapture would be only $14,000,000 and that, in addition, the Government would make a profit of $10,000,000, approximately, through the receipt of excess charter hire on its own vessels, the statement would have been unbelievable. Yet this is exactly what has happened and, in addition thereto, when the war is over and we are again in a position to sail American vessels in peaceful trades over the seven seas, we will have available, thanks to this program, the operators, the seamen, the vessels, and the money to do so.

II. TAX BENEFITS ACCORDED TO HOLDERS OF OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS

The subsidized operators obtain tax exemption with regard to the earnings and capital gains deposited in their reserve funds to the extent that they use these moneys for the acquisition of replacement vessels or in payment of mortgage indebtedness on the subsidized vessels, and to meet operating losses of other years. The balance which may, under certain conditions, become part of the general funds of the operator, is taxable at the time of withdrawal. In return for these tax benefits, the operator agrees to carry out a replacement program prescribed by the Commission, agrees to maintain and operate an essential service, agrees to recapture of the subsidy, and agrees to tie up all of the moneys he receives from operations in excess of an annual return of 10 percent on his capital necessarily employed, for 10 years in the case of moneys in the special reserve and for the life of the subsidy agreement, which may be as much as 20 years, in the case of deposits in the capital reserve. The operator is restricted as to foreign-flag operations, employment of affiliates, engaging in the intercoastal trade, and is subject to other restrictions too numerous to set forth in detail. The tax benefits are therefore in no sense a gratuity, but represent a large part of the consideration which the Government pays in return for the obligations assumed by the steamship company under the operating-differential subsidy program.

By no means all of the steamship companies conducting our foreign trade have been willing to submit to the disadvantages under the operating-differential subsidy program, despite the subsidy and other benefits offered thereunder.

The tax benefits were, and will continue to be, a major factor in inducing American-flag operators to continue in this important program. In this connection, the following quotation from an opinion of the United States Tax Court in the case of *Seas Shipping Company, Inc., petitioner*, v. *The Commissioner of Internal Revenue, respondent* (Docket No. 107931), promulgated November 17, 1942, expresses admirably the spirit and purpose of the tax exemption provisions of the 1936 act:

"We do not think that there is any ambiguity in the language used by Congress in section 607 (h) of the Merchant Marine Act of 1936, as amended. That section says that 'The earnings of any contractor receiving an operating-differential subsidy under authority of this charter, which are deposited in the contractor's reserve funds as provided in this section * * * shall be exempt from all Federal taxes.' This section of a long and complex statute must be interpreted in the light of all the provisions of the statute. By the Merchant Marine Act, as we have seen, Congress was principally concerned in building up a merchant marine. The act was not primarily for the benefit of the operator. It was for the benefit of the United States. The Congress was interested in having a large and up-to-date merchant marine which could be availed of in case of war or national emergency. It is true that it was not the intention of Congress to permit an operator to earn money which could be distributed as dividends which would be exempt from income tax. The statute makes ample provision to protect the revenues in any case where earnings are withdrawn from reserve funds for distribution to its stockholders. The capital reserve fund is dedicated to a particular purpose. It is to be used for the replacement of subsidized vessels and for the construction of new vessels, all of which were to be in accordance with the plans and requirements of the United States Maritime Commission.

"That section 607 (h) is not to be narrowly construed is apparent from the fact that Congress provided that an operator could deposit not only a percentage of its earnings but all of them. When they were deposited they were removed from the operator's general funds. They could not be used for the payment of any income taxes or any other taxes."

It may well be that during the war years the tax-exemption benefits should be suspended because of the very great need for tax revenues in aid of the prosecution of our war effort. A bill to that effect, which was the outcome of discussions between Admiral Land and members of the committees of the House and Senate having jurisdiction over the activities of the Maritime Commission, has been introduced by Chairman BLAND, of the House Committee on the Merchant Marine and Fisheries, and is being given careful consideration by that committee. It provides, among other things, for the suspension of the tax privileges for 1942 and subsequent war years. It is not necessary to go into detail as to that bill at the present time, because it will be examined into by the Committee on Commerce of this body and no doubt will be the subject of considerable discussion on the floor in the reasonably near future. It is sufficient to state at this time that the problem of the war years rests upon entirely different considerations than those which are applicable to the period 1938 to 1941, or which might be considered appropriate in connection with the post-war years.

III. TAX BENEFITS ACCORDED NONSUBSIDIZED OPERATORS

As to the nonsubsidized operators, which include not only nonsubsidized owners of dry cargo and passenger vessels but also tankers, tugs, barges, and fishing vessels, such operators receive no tax exemption with regard to their operating earnings whatsoever, but are allowed to hold such earnings in the reserve funds without incurring the additional tax liability imposed under the revenue law against unreasonable accumulations of profits, if, and only if, within a limited period of time set forth in section 511, they use such withheld earnings for new construction. It is perfectly sound legislative policy to say to a shipowner, if he will put his earnings into new construction and accordingly assist in the development o the merchant marine, "We will not penalize you for not having distributed the money so utilized to your stockholders."

As a matter of fact, however, no operator has taken advantage of this provision of section 511 by depositing operating earnings thereunder. The reason is that even in the absence of these provisions of section 511, it is only in very unusual cases that the Treasury Department will consider accumulation of earnings for necessary new construction unreasonable and consequently shipowners have not thought it worth while to restrict the free use of their funds as required by section 511.

The other source of deposits permitted under section 511 consists of the proceeds of sale or loss of vessels. These provisions are not fundamentally different in character from the provisions obtaining a long time in our revenue laws with regard to tax-free exchange of property and replacement of property, of which the taxpayer is involuntarily deprived by requisition or casualties. Section 511 simply makes these principles more workable in the case of shipping. For example, you cannot trade ships like you can trade an

old automobile for a new one. Therefore, the transaction takes the slightly different form of selling one ship for the purpose of building or buying another. Under the internal revenue laws, in the case of loss of a vessel, the replacement must be one for one and like for like. You cannot under such laws use the proceeds of two old vessels to buy one new one, even though the new one may have equal or greater utility than the two old ones. Restrictions of this nature are clearly not desirable if we are to develop a program of encouraging the construction of newer, faster, and larger vessels. Section 511 has now been in effect a little more than 2 years and has resulted in a considerable amount of desirable new construction.

Both under the internal-revenue laws and under section 511, all that happens is that the Treasury Department does not tax the capital gain involved at the time it occurs, but in the ordinary course of events the tax is collected because of the lower allowance of depreciation due to the fact that the base of the new vessel is reduced by deducting from its acquisition cost the amount of gain which was not taxed in connection with the transaction involving the old vessel. Therefore, in the long run, there is no loss in tax revenue to the Treasury Department. As a matter of fact, by reason of recent amendments to the tax laws, the Treasury Department may collect more tax in the long run because the capital gain in many instances is taxed at a 25-percent rate, whereas the increased earnings of the new vessel, caused by reducing the amount of depreciation allowed, is subject in full to the income and excess-profits tax at rates ranging up to 90 percent. The very situation created by these amendments to the tax laws have induced a number of steamship owners who can afford to do so to pay the 25-percent tax at this time in order to avoid the imposition of a tax at much higher rates in future years.

S. 163, which contains certain amendments to section 511, does not disturb its fundamental principles. The bill simply makes some changes as to detail which, in the light of the experience obtained in the administration of section 511, appear desirable. The matter is covered fully in the report of the Committee on Commerce of February 22, 1943.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, November 28, 1942.

ADMINISTRATOR, WAR SHIPPING ADMINISTRATION.

DEAR ADMIRAL LAND: I have your letter of November 24, 1942, in which you refer to section 902 of the Merchant Marine Act of 1936 and request decision of certain questions presented as follows:

"(1) Is it your opinion that the enhancement clause in section 902 requires the Administrator to fix values for all vessels including passenger ships, freight ships, fishing vessels, tugs, barges, small craft, and other water craft as of a specific calendar date, or may the Administrator fix such valuation under the ordinary rules of law applicable to the subject of valuations after deducting all enhancements which he finds to have been proximately caused by the necessity of the taking or use?

"(2) If it is your opinion that values must be based on a specific calendar date, is the Administrator in a position to reach his own determination as to the appropriate date, or is it mandatory under the law for him to pick a specific date such as the date of the President's proclamation of the limited emergency or the date of the unlimited emergency.

"(3) If in your opinion the Administrator is required to fix values as of a specific date, please advise as to the date which in your opinion the Administration is required by law to adopt for this purpose.

"(4) If it is your opinion that a specific date must be selected, is it likewise your opinion that values so fixed must be applied to vessels built subsequently at higher prices?

"(5) If you find that a specific date must be taken, would you apply the valuation determined by this method in cases of vessels purchased by bona fide purchases subsequent to that date at higher prices which reflected the then prevailing reasonable market price?

"(6) If you find that a specific date valuation must be applied, how would you treat vessels which have been reconstructed or extensively repaired after that date with a resulting bona fide reasonable cost to the owner substantially in excess of such value.

"(7) If you are of the opinion that the specific date must be adopted, would you insist on applying such valuation to vessels valued by competent regulatory bodies at a later date at substantially higher valuations reflecting appropriate standards for rate-making purposes?

"(8) If you are of the opinion that the specific date theory must be applied, is the Administrator required to insist upon applying this valuation in cases of vessels subject to bona fide judicial valuations in connection with judicial sales or in fixing of up-set prices or in other judicial proceedings?

"(9) If you are of the opinion that the specific date theory must be applied, will you insist on applying this theory in situations where the vessel was involved in general average proceeding subsequent to that date in connection with which the valuation of the vessel was fixed in accordance with the market value at a substantially higher price.

"(10) If you feel that the specific date theory must be applied would you insist upon its application to cases where vessels are encumbered by liens representing advances by creditors or other interests at values in excess of such value but not in excess of reasonable market value?

"(11) If the specific date theory must be applied, is it your opinion that the Administrator must apply such valuation in connection with fixing hire for the use of vessels on a time-charter basis notwithstanding the greatly increased costs and risks of operation which have developed since that date?

"(12) If the specific value theory must be adopted, must it be applied to any vessels or class of vessels if demonstrated to the satisfaction of the Administrator that the value of such vessels or class of vessels was abnormally depressed or enhanced on that date by reason of extraordinary business circumstances?

"(13) If the specific date theory must be applied must the Administrator's claims arising out of marine casualties be limited to the value of the vessel as under such date notwithstanding the higher market value as of the date of the casualty?

"(14) Can the Administrator properly determine values on the basis of the most favorable results to the United States Government using the enhancement-clause ambiguities to reduce the market values drastically with concurrence of the substantial segment of the industry so as to take advantage of *Vogelstein* v. *United States* (262 U. S. 337), or is the Administrator required to insist upon the most extreme interpretation of the law even though, in his opinion, this interpretation will not be sustained by the courts and would ultimately result in substantially increased costs to the United States?

"(15) Is it your opinion that the enhancement clause has not been satisfied by a program which has resulted in slashing charter rates by over 50 percent and valuations of ships by from 30 to 50 percent over 1941 rates and by an even greater reduction over the rates of World War No. 1?"

Section 902 (a) of the Merchant Marine Act of 1936, as amended, 53 Stat. 1254, provides, in pertinent part, as follows:

"Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Commission to requisition or purchase any vessel or other watercraft owned by citizens of the United States, or under construction within the United States, or for any period during such emergency, to requisition or charter the use of any such property. The termination of any emergency so declared shall be announced by a further proclamation by the President. When any such property or the use thereof is so requisitioned the owner thereof shall be paid just compensation for the property taken or for the use of such property, *but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use.* * * *"

It is understood that the italicized portion of said section is "the enhancement clause" referred to in your letter, supra.

It is at once apparent that the Congress in using such language contemplated that the compensation to be paid a private owner whose vessel had been requisitioned by the United States under the stress of danger to the national security should be measured by standards prevailing at a time when various factors ordinarily attending such a state of affairs were not operative to enhance the value of vessels.

There are certain fundamental truths—of which it is to be presumed that Congress was cognizant—which would appear to underlie the provision in question. War, or the threat of war, exercises a tremendous influence on commodity prices, particularly those directly connected with the war effort. The equalizing influence which the forces of supply and demand exercise upon such prices under normal times and conditions is weakened by the inability of supplies to keep pace with the increased needs. The vital importance of shipping to the prosecution of war or to the strengthening of the national defense in times when the security of the Nation has been imperiled places vessels and various other watercraft directly and immediately in the path of whatever abnormal influences such times produce.

The power lawfully to requisition vessels of private owners was, by the express terms of section 902 (a), authorized to be exercised whenever the President shall proclaim that "the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President." On September 8, 1939, the President issued the following proclamation:

"Whereas a proclamation issued by me on September 5, 1939 proclaimed the neutrality of the United States in the war now unhappily existing between certain nations; and

"Whereas this state of war imposes on the United States certain duties with respect to the proper observance, safeguarding, and enforcement of such neutrality, and the strengthening of the national defense within the limits of peacetime authorizations; and

"Whereas measures required at this time call for the exercise of only a limited number of the powers granted in a national emergency:

"Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, do proclaim that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations. Specific directions and au-

thorizations will be given from time to time for carrying out these two purposes."

This proclamation is commonly known and spoken of as the proclamation of a limited national emergency. However, it would seem that, although for some purposes and in other connections the emergency might have been a limited one, only, it certainly was such a state as was contemplated by said section 902 (a) with respect to the requisitioning of vessels. Hence, it would seem that the conditions set out in said section 902 (a) as necessary for the lawful taking of a private vessel existed as of September 8, 1939.

What are the causes that necessitate the taking or use by the Government of a private vessel? There would appear to be but one answer to that question: The prevalence of a danger or threat to the Nation. In other words, it would seem that the conditions under which the power to requisition was to be exercised and the reason or cause which necessitated such exercise of power are but one and the same. Consequently, it seems but a logical step to conclude that the date upon which such conditions came into being must likewise be considered the date when the causes necessitating the taking or use began to exercise their influence on the market value of vessels.

Furthermore, unless a certain and fixed date be recognized as controlling in this connection, it would appear difficult—if not impossible—to give full effect to the intent of the Congress in fixing the basis on which compensation to be paid owners of private vessels taken over by the Government is to be determined. Hence, it would appear reasonable to conclude that the enhancement clause in said section 902 (a) prohibits the payment of compensation for such vessels to the extent that it may be based upon values in excess of the values existing on September 8, 1939, provided such excess be determined as due to economic conditions directly caused by the national emergency. Questions 1, 2, and 3 are answered accordingly.

The remaining questions will be answered specifically in the order given.

4. No. While, unquestionably, the construction cost of vessels has increased since September 8, 1939, due—in all likelihood—to the same causes that have enhanced the values of vessels, the provision reasonably may not be construed as requiring the elimination of such actual increases in the cost of construction of vessels and other watercraft constructed after such date in determining the just compensation to be paid therefor.

5. Yes. To make exception in such cases—where no exception has been made by the Congress—not only would be going beyond the sphere of statutory interpretation but would be providing a means by which the limitations of said section 902 (a) successfully might be avoided by unscrupulous shipowners feigning circumstances which well might cloud the lack of bona fides of a particular transaction. Furthermore, said section 902 (a) has been the law of the land throughout the present emergency—of which law everyone is presumed to have had knowledge—so that purchasers of vessels since September 8, 1939, must be deemed voluntarily to have assumed the risk created by the presence of said law on the statute books that the vessel purchased subsequently might be requisitioned by the Government and compensation therefor fixed in accordance with the express terms of said law.

6. This situation is more or less analogous to that presented in question 4. In such cases the value of the vessel has been enhanced by reason of the improvements or repairs effected thereon by the owner. Judged by standards existing as of September 8, 1939, the value of the work done may not equal the actual cost thereof just as in the case of the construction of an entire vessel. The variance represents, of course, the inflated cost of labor and materials which, in turn, is caused by the emergency. However, in view of the obvious hardships that would result were the limitation to be applied in such cases, it may be concluded that the Congress did not intend to limit the compensation insofar as such indirect elements of the value of a vessel are concerned.

7. Yes. The language of section 902 (a) is clear and comprehensive in providing that the enhancement prohibition is to be applied "when any such property is so requisitioned." It would appear that any "appropriate standards for rate making purposes" must be regarded—insofar as the requisitioning of vessels under section 902 (a) is concerned—as subject to the limitations imposed by the enhancement clause of said section.

8. Yes. As pointed out in answer to question 7 the statute makes no exceptions—either specifically or by necessary implication—with respect to the operation of the enhancement clause.

9. Yes. See answer to question 8.

10. Yes. The situation here is very similar, in theory at least, to that presented by question 5, and the affirmative answer is based on the same reasons.

11. No; the effect of the statute—with respect to instances in which the use of a vessel is requisitioned—would appear to be only that the compensation under the charter should not be increased by reason of an enhancement in the value of the vessel from the causes specified. It would appear to have no application to increased costs of operations, etc.

12. Presumably, this question has reference to a situation where it is found that an abnormal value of a temporary and unusual nature existed as of September 8, 1939, with respect to a particular vessel or class of vessels, but where it is possible with a fair degree of accuracy to estimate what the value of such vessel or class of vessels would have been had such extraordinary circumstances not existed. Under such circumstances, it would appear that the purposes of the enhancement provision would be fully accomplished by the use of such estimated value or values.

13. No; it would appear that the amount to which the Government is entitled under such claims may or may not be affected by the value of the vessel on September 8, 1939. This question properly is for adjudication by a court of competent jurisdiction and, in order fully to protect the interest of the United States in such matters, the claims of the Administrator arising out of marine casualties should not be limited to the compensation paid upon the requisitioning of such vessels.

14. There is not understood under what authority the head of an administrative department of the Government is entitled to disregard—or give anything less than full force and effect to—a statute because of any personal opinions that may be entertained as to its constitutionality. Such questions properly are for determination by the judicial branch of the Government. Where payments are to be made administratively, without judicial determination, they should be in full accord with the intent and purposes of said statute.

15. It is my opinion that the enhancement clause of said section 902 (a) has not been satisfied unless the compensation paid for vessels requisitioned thereunder has been and is being determined in accordance with its terms as herein construed.

Respectfully,

LINDSAY C. WARREN,
Comptroller General of the United States.

DECEMBER 31, 1942.

Hon. LINDSAY C. WARREN,
Comptroller General of the United States.

DEAR MR. WARREN: In your letter of November 28, 1942, concerning the application of section 902 of the Merchant Marine Act, 1936, your answers to the questions contained in my letter of November 24, appear to be predicated upon the opinion that section 902 became operative on September 8, 1939, by reason of the President's proclamation of limited national emergency issued on that day. Your opinion that the limited national emergency "was such a state as was contemplated by section 902 (a) with respect to the requisitioning of vessels," and that "the conditions set out in said section 902 (a) as necessary for the lawful taking of a private vessel existed as of September 8, 1939," pervades and appears to control all of your conclusions.

A careful review of executive, legislative, and administrative action on and after September 8, 1939, indicates that such a conclusion is in conflict with the interpretation placed upon the proclamation by the Chief Executive, with various acts of Congress, and with explicit statements by Members of Congress, including the chairman of the Committee on the Merchant Marine and Fisheries of the House of Representatives and other members of that committee.

In view of the importance of this question, the matters reviewed are set forth herein for your further consideration.

I. THE PROCLAMATION OF SEPTEMBER 8, 1939

The proclamation of September 8, 1939, which you have described as being "commonly known and spoken of as the 'proclamation of a limited national emergency,'" and which the President himself so characterized in his proclamation of unlimited national emergency dated May 27, 1941, reads as follows:

"Whereas a proclamation issued by me on September 5, 1939, proclaimed the neutrality of the United States in the war now unhappily existing between certain nations; and

"Whereas this state of war imposes on the United States certain duties with respect to the proper observance, safeguarding, and enforcement of such neutrality, and the strengthening of the national defense within the limits of peacetime authorizations; and

"Whereas measures required at this time call for the exercise of only a limited number of the powers granted in a national emergency:

"Now, therefore, I, Franklin D. Roosevelt, President of the United States of America, do proclaim that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations. Specific directions and authorizations will be given from time to time for carrying out these two purposes."

Attention is invited to the terms of the proclamation itself, stating (1) that "measures required at this time call for the exercise of only a limited number of the powers granted in a national emergency," and (2) that "specific directions and authorizations will be given from time to time for carrying out these two purposes" (i. e., neutrality and national defense).

The proclamation did not purport to be self-executing. As will more fully appear hereinafter, it was in fact supported by specific directions and authorizations in the only instances wherein it is known to have been effective.

The United States Maritime Commission received no direction or authorization during the entire period of the limited emergency

(from September 8, 1939, to May 27, 1941), either as to section 902 of the Merchant Marine Act, 1936, as amended, or as to section 37 of the Shipping Act of 1916, as amended (which is also operative "during any national emergency, the existence of which is declared by proclamation of the President"), or as to any law or duty within the scope of its administration.

II. EXECUTIVE ACTION

Following the issuance of the proclamation of limited national emergency of September 8, 1939, the President issued a series of Executive orders. Three of these orders, issued on the same day as the proclamation, referred to the proclamation in opening the premises upon which the President invoked certain statutory powers. Executive Order No. 8244 (4 F. R. 3863) authorized an increase in the strength of the Army. Executive Order No. 8245 (4 F. R. 3863) authorized increases in the enlisted strengths of the Navy and Marine Corps. Executive Order No. 8247 (4 F. R. 3864) authorized increases in the personnel of the Federal Bureau of Investigation of the Department of Justice. On September 18, 1939, the President issued Executive Order No. 8254 (4 F. R. 3983) authorizing increases in the personnel and facilities of the United States Coast Guard, Treasury Department. The opening premise in each of the four Executive orders above cited is as follows:

"Whereas a proclamation issued by me on September 8, 1939, proclaimed that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations."

On September 21, 1939, the President addressed a joint session of the Senate and the House of Representatives, convened in extraordinary session. In his address, the President said (see CONGRESSIONAL RECORD, vol. 85, pt. 1, pp. 11 and 12):

"In respect to our own defense, you are aware that I have issued a proclamation setting forth 'a national emergency in connection with the observance, safeguarding, and enforcement of neutrality and the strengthening of the national defense within the limits of peacetime authorizations.' This was done solely to make wholly constitutional and legal certain obviously necessary measures. I have authorized increases in the personnel of the Army, Navy, Marine Corps, and Coast Guard which will bring all four to a total still below peacetime strength as authorized by the Congress.

"I have authorized the State Department to use, for the repatriation of Americans caught in the war zone, $500,000 already authorized by the Congress.

"I have authorized the addition of 150 persons to the Department of Justice to be used in the protection of the United States against subversive foreign activities within our borders.

"At this time I ask for no other authority from the Congress. At this time I see no need for further Executive action under the proclamation of limited national emergency."

In connection with the President's use of Executive action, it is significant to note that statutory powers were invoked from time to time under specific findings of emergency in terms of the specific statutes invoked. For example, see Executive Order No. 8246 (4 F. R. 3863), dated September 8, 1939, making funds available for the protection of American citizens in foreign countries. This Executive order quoted the terms of the Department of State Appropriation Act, 1940 (53 Stat. 890), and contained a specific finding that "an emergency exists endangering the lives of American citizens in foreign countries within the meaning of the said act." Further illustrations are contained in Proclamation No. 2361, dated September 11, 1939 (4 F. R. 3889), suspending the operation of title II of the Sugar Act of 1937, and Proclamation No. 2378, dated December 26, 1939 (4 F. R. 4941), declaring that the emergency found in Proclamation No. 2361 had ceased and revoking the suspension order.

Another Executive order issued by the President on September 8, 1939, tends to emphasize the limited character of the national emergency declared by proclamation on that day. Executive Order No. 8248 (4 F. R. 3864), dated September 8, 1939, established the divisions of the Executive office of the President and defined their functions and duties. This Executive order was based upon the authority of the Reorganization Act of 1939, and provided in part as follows:

"There shall be within the Executive office of the President the following principal divisions, namely: (1) * * *, (2) * * *, (3) * * *, (4) * * *, (5) * * *, and (6) in the event of a national emergency, or threat of a national emergency, such office for emergency management as the President shall determine."

On May 25, 1940, the President issued an administrative order (5 F. R. 2109) establishing the Office for Emergency Management in the Executive Office of the President and prescribing regulations governing its activities. This administrative order opens with the premise "Whereas, I find there is a threatened national emergency." The order then establishes the Office for Emergency Management and directs it to assist the President in the clearance of information with respect to the measures necessitated "by the threatened emergency."

Further indication of meticulous care on the part of the Chief Executive in specifying the emergency powers invoked by him is contained in Proclamation No. 2412 (5 F. R. 2419), dated June 27, 1940. The purpose of this proclamation was to provide Executive consent to the exercise, with respect to foreign and domestic vessels, by the Secretary of the Treasury and the Governor of the Panama Canal, of powers conferred upon them by section 1 of title II of the act of Congress approved June 15, 1917 (40 Stat. 220; U. S. C. title 50, sec. 191), which provided as follows:

"Section 1. Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States * * *."

In order to establish the necessary consent, the President issued the proclamation cited above, reaffirming the proclamation of September 8, 1939, and further declaring "the existence of a national emergency by reason of threatened disturbance of the international relations of the United States." The opening premises of this proclamation, coming as late as June 1940, are believed to be particularly significant:

"Whereas a proclamation issued by me on September 8, 1939, proclaimed that a national emergency existed in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations, and that specific directions and authorizations would be given from time to time for carrying out these two purposes; and

"Whereas the continuation of the conditions set forth in said proclamation of September 8, 1939, now calls for additional measures within the limits of peacetime authorizations."

Attention is drawn to the care with which this proclamation reiterates "that specific directions and authorizations would be given from time to time for carrying out" the proclamation of September 8, 1939, and to the further statement that conditions then existing called for additional measures under the terms of this proclamation.

In view of the facts (1) that the September 8, 1939, proclamation of limited national emergency expressly provided that specific directions and authorizations would be given for carrying out its purposes; (2) that specific directions and authorizations were contained in a series of Executive orders following the proclamation by hours or days; (3) that the President, in addressing the extraordinary session of Congress on September 21, 1939, reviewed the measures invoked by him and declared that there was no further need at that time for Executive action under the terms of the proclamation; (4) that other proclamations and Executive orders indicate a clear distinction between the limited emergency declared by the September 8 proclamation and a national emergency in the usual sense of the term (witness the references on September 8, 1939, and May 25, 1940, to the "threat of national emergency" and "threatened national emergency"); and (5) that in June 1940, the President explicitly reaffirmed his intention to adhere to "specific directions and authorizations" for carrying out the purposes of the proclamation of September 8, 1939, it would appear that the absence of specific directions or authorization to the Maritime Commission with respect to the powers to be exercised by it "during any national emergency declared by proclamation of the President," as provided by section 902 of the Merchant Marine Act, 1936, as amended, and section 37 of the Shipping Act of 1916, was conclusive evidence that such powers had not been invoked.

III. ADMINISTRATIVE ACTION BY THE COMMISSION

In all of its administrative interpretations the Maritime Commission has held to the view that the powers available to it in the event of a national emergency were not operative by virtue of the proclamation of September 8, 1939.

At that time, two sections of the Merchant Marine Act, 1936, as amended, and one section of the Shipping Act of 1916 contained provisions which would have become operative by a proclamation of national emergency. Under the terms of section 902 (a) of the Merchant Marine Act, 1936, as amended, it is made lawful for the Commission to requisition vessels "whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President." Section 510 (g) of the same act prohibits the use for commercial operation of any obsolete vessel acquired by the Commission or in its laid-up fleet (which vessel is or becomes 20 years old or more), except that any such vessel "may be used during any period in which vessels may be requisitioned under section 902 of this act." Under the terms of section 37 of the Shipping Act of 1916 certain types of sales, leases, mortgages, or charters of vessels automatically become unlawful and subject to severe criminal penalties "when the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President."

The question as to section 37 of the Shipping Act of 1916 was twice considered and ruled upon by the General Counsel of the Maritime Commission. The two opinions were dated September 22, 1939, and January 9, 1941, respectively. In the first opinion, the general counsel said:

"* * * It is true that the provisions of section 37 might be invoked by the proclamation by the President of 'any national emergency' without expressly referring to said law. However, by said proclamation and the subsequent specific directions issued pursuant thereto, it is believed the President has so definitely limited the extent of the national emergency therein proclaimed as to make clear that it was not intended by the President to apply to, and does not apply to, said section 37 of the Shipping Act, 1916, as amended."

The same position was taken regarding section 510 (g) of the Merchant Marine Act, 1936, as amended, as noted in the following excerpt from a letter addressed by the Chairman of the Maritime Commission to a Member of the United States Senate under date of April 6, 1940. The purpose of the letter was to explain why the Maritime Commission was unable to sell its laid-up fleet in the absence of congressional action or a Presidential proclamation of unlimited national emergency.

"Reference is frequently made to the Commission's laid-up fleet of which there are about 109 cargo vessels of wartime construction. This fleet is primarily a war reserve and action taken by the Congress in August 1939 sterilized this fleet insofar as vessels in the fleet are 20 years of age or older. There are at this time about 20 of these vessels which are not so sterilized as they have not yet reached the 20-year age limit. With the exception of these 20, action by the Commission is restricted by statute except as outlined in the Merchant Marine Act of 1936, as amended, particularly inviting attention to section 902, which requires a Presidential proclamation to release this fleet, as outlined in this section. Any other general action with regard to the release of this fleet would require congressional authority."

With respect to section 902 (a), the Commission's interpretation of the effect of the September 8 proclamation was likewise reported to the Congress when the Commission on April 16, 1941, filed a report with the Committee on the Merchant Marine and Fisheries of the House of Representatives in support of Congressman Oliver's bill (H. R. 4088), which was intended to grant the Commission power to purchase and charter vessels, a power that would have been in existence if section 902 (a) had been operative under the September 8 proclamation. This report said in part (see House Rept. No. 440, 77th Cong., 1st sess., p. 9):

"Under existing law, the Commission is not authorized to procure vessels by charter. Under title VII of the Merchant Marine Act, 1936, as amended, the Commission may charter out vessels owned by the Commission, under certain conditions and for use in essential trade routes, and may operate certain of its vessels under specified conditions when it is unable to sell or charter them for operation in essential trade routes. The Commission has a limited authority to purchase vessels (constructed in the United States) under section 215 of the Merchant Marine Act, 1936, as amended, for use on essential trade routes. The Commission would have authority to acquire and operate vessels owned by United States citizens under section 902, as amended, of the 1936 act, but this section is not operative until the President proclaims that a national emergency exists or that the security of the national defense makes advisable the requisition or purchase of such vessels."

In its administrative actions the Maritime Commission has consistently followed the interpretation that its emergency powers did not become operative under the proclamation of September 8, 1939. These actions were taken in the usual course of business. They bore no relation to any controversy. On the contrary, the Commission, on more than one occasion, reported the situation to the committees of Congress in support of supplementary authority with which to meet the needs of changing conditions.

IV. LEGISLATIVE ACTION

The action of Congress in shaping and adopting further enabling legislation relating to the merchant marine, and the approval by the President of such laws are believed to be further evidence of the correctness of the Commission's view that section 902 did not become operative under the proclamation of September 8, 1939. Cited herein are certain steps in the development of the following laws: (1) Public Resolution No. 74, approved May 14, 1940; (2) Public Law No. 101, approved June 6, 1941; and (3) Public Law No. 173, approved July 14, 1941.

A. Public resolution 74

As heretofore noted, the laid-up fleet had been sterilized by the provisions of section 510 (g) of the Merchant Marine Act, 1936, as amended. (The exact provisions of this subsection are set forth hereinafter as part of another quotation.) Although this provision became law by the act of August 4, 1939, events following the outbreak of war led to a demand within less than a year thereafter for the Commission to place the laid-up fleet in operation. Section 510 (g) authorized the use of the laid-up fleet "during any period in which vessels may be requisitioned under section 902," but the Commission had taken the position that section 902 was not operative, and that section 510 (g) was therefore still in effect, as indicated in the letter from the Chairman of the Maritime Commission to a Member of the United States Senate, dated April 6, 1940, hereinabove quoted.

On April 9, 1940, Mr. Buck, of California, introduced in the House of Representatives House Joint Resolution 509, reading as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 510 (g) of the Merchant Marine Act, 1936, as amended (restricting the use of vessels in the laid-up fleet of the Maritime Commission), is hereby suspended until the proclamation heretofore issued by the President under section 1 (a) of the Neutrality Act of 1939 is revoked."

Thereafter, Mr. Buck explained the joint resolution to the Committee on the Merchant Marine and Fisheries of the House of Representatives in the following language:

"The purpose of the resolution which I originally introduced was to repeal section 510 (g) of the Merchant Marine Act of 1936, as amended, which provides as follows, and for the information of the committee I should like to read that subsection:

"'(g) An obsolete vessel acquired by the Commission under this section which is or becomes 20 years old or more, and vessels presently in the Commission's laid-up fleet which are or become 20 years old or more, shall in no case be used for commercial operation, except that any such obsolete vessel, or any such vessel in the laid-up fleet may be used during any period in which vessels may be requisitioned under section 902 of this act, as amended, and except as otherwise provided in this act for the employment of the Commission's vessels in steamship lines on trade routes exclusively serving the foreign trade of the United States.'

"The exception provides that, in the event the President shall find that a national emergency exists, these vessels may be utilized otherwise than as set out in subsection (g). We do not contend that national emergency exists. In fact, I think that the President would find it rather difficult to justify a proclamation to that effect which would release these vessels."

Attention is drawn to the closing lines of the quotation. The Congressman not only did not contend that a national emergency existed but said that he thought the President would find it rather difficult to justify a proclamation to that effect which would release the vessels.

In reporting the measure to the House of Representatives, the Committee on Merchant Marine and Fisheries said that:

"It appears that to enable the Government to be in a position to make effective disposition of its old vessels in any shipping emergency in foreign or domestic trade, it would be desirable to lift the restrictions of section 510 (g), and to vest in the Commission broad and flexible authority to sell or charter its vessels, including those in the laid-up fleet, for use in the coastwise or intercoastal trades, as well as to sell or charter for use in the foreign trade."

The significance of this language is the committee's recommendation that the restrictions of section 510 (g) be lifted. The restrictions would automatically have been lifted by the operation of section 902 (a).

On the floor of the House of Representatives the chairman of the Committee on the Merchant Marine and Fisheries made the following statement (CONGRESSIONAL RECORD, vol. 86, pt. 5, p. 5614):

"Mr. BLAND. There are 116 ships involved. What is meant by the sterilization is that in this Congress we passed a bill that those ships, over 20 years of age, in what is known as the laid-up steel fleet, should not be sold or used except under a proclamation of an emergency by the President, which would be very unwise at this time."

The ranking minority member of the Committee on Merchant Marine and Fisheries also stated (CONGRESSIONAL RECORD, vol. 86, pt. 5, p. 5620) that the resolution would authorize the Maritime Commission "to sell or charter its laid-up ships during the continuance of the war," and another minority member of the committee [Mr. CULKIN] said that he could not "conceive of any opposition to this bill from the standpoint of any patriotic American."

Prior to passage a new section was added to the language orginally proposed by Mr. BUCK, as follows:

"SEC. 2. At any time prior to revocation of the proclamation issued by the President on November 4, 1939, under section 1 (a) of the Neutrality Act of 1939, all vessels transferred to the Maritime Commission by the Merchant Marine Act, 1936, or otherwise acquired by the Commission (other than vessels constructed under the Merchant Marine Act, 1936) may, notwithstanding any provision of law contrary hereto or inconsistent herewith, be sold or chartered by the Commission, upon competitive bids and after due advertisement, upon such terms and conditions (including with respect to charters the charter period) and subject to such restrictions (including restrictions affecting the use or disposition of the vessel by the purchaser or charterer), as the Commission may deem necessary or desirable for the protection of the public interest."

It is significant to note that in this joint resolution the Congress, in May 1940, authorized the Maritime Commission "notwithstanding any provision of law contrary hereto or inconsistent herewith" to sell or charter the vessels in the laid-up fleet "upon such terms and conditions * * * and subject to such restrictions * * * as the Commission may deem necessary or desirable for the protection of the public interest."

If the view that section 902 of the Merchant Marine Act, 1936, became operative under the proclamation of September 8, 1939, is correct, the authority contained in Public Resolution No. 74 was not only unnecessary, but the Congress, in adopting it, made it possible for

the Commission to sell vessels in 1940 at 1940 prices, when the same vessels were subject to immediate requisition at 1939 prices. It is submitted that the action of Congress in suspending the provisions of section 510 (g) as above set forth establishes beyond question the fact that Congress did not then subscribe to the view that section 902 became operative on September 8, 1939.

B. Public Law No. 101

In April 1941, Mr. Oliver, of Maine, introduced a bill, H. R. 4088, under which the Maritime Commission would have been authorized to purchase or charter vessels of American or foreign flag. At about the same time, the chairman of the Committee on Merchant Marine and Fisheries introduced a joint resolution to permit the requisition of foreign-flag vessels immobilized in American ports. These bills were consolidated as H R. 4466, and became Public Law No. 101, Seventy-seventh Congress, first session, approved June 6, 1941. Although the approval date is subsequent to the proclamation of unlimited emergency on May 27, 1941, the bill was considered by the committees of Congress before such proclamation.

Under date of April 16, 1942, the Maritime Commission submitted to the Committee on Merchant Marine and Fisheries a report favoring the Oliver bill, H. R. 4088. The Commission pointed out that it had no legal authority to charter vessels and only limited authority to purchase vessels at that time, since section 902 had not yet become effective. The report said:

"The Commission would have authority to acquire and operate vessels owned by United States citizens under section 902, as amended, of the 1936 act, but this section is not operative until the President proclaims that a national emergency exists or that the security of the national defense makes advisable the requisition or purchase of such vessels."

In the consideration of H. R. 4466 in the House of Representatives, the following discussion took place between Mr. Oliver and the chairman of the Committee on the Merchant Marine and Fisheries (CONGRESSIONAL RECORD, vol. 87, pt. 4, p. 3721):

"Mr. OLIVER. Is it not perfectly possible that under the terms of this bill the Maritime Commission might very well, and might very conceivably, become the operator of merchant ships?

"Mr. BLAND. Yes; I think so.

"Mr. OLIVER. And is it not possibly conceivable, also, that these ships, in turn, if a state of national emergency was proclaimed, might come under jurisdiction of some other agency of government which might not feel so sympathetically inclined toward labor?"

Also, in the course of debate (CONGRESSIONAL RECORD, vol. 87, pt. 4, p. 3681), Mr. MICHENER, of Michigan, asserted that "I have not yet heard a lawyer contend that the President had any authority to declare a general emergency on September 8, 1939."

It is to be noted that this law, drafted and considered some 18 months after the proclamation of September 8, 1939, contained the following provision:

"SEC. 4. Whenever the United States Maritime Commission is authorized to charter vessels under section 3 hereof, it is further authorized, notwithstanding any other provision of law, to purchase any vessel, whether undocumented or documented under the laws of the United States or of a foreign country, * * * at such prices and upon such terms and conditions as it may deem fair and reasonable and in the public interest."

Under the terms of section 3 the Commission was authorized to charter vessels under certain conditions "during the national emergency declared by the President on September 8, 1939, to exist, but not after June 30, 1942."

Such enabling legislation was wholly unnecessary if section 902 were then operative, and the language of the statute clearly demonstrates prevalence of the view that the national emergency declared by the proclamation of September 8, 1939, was of limited scope and insufficient to render the terms of section 902 effective.

Public, 101 granted authority to the Commission to purchase or charter vessels "at such prices and upon such terms and conditions as it may deem fair and reasonable and in the public interest." Ship prices and charter rates had risen to very high levels (levels much higher than those now prevailing) at the time this legislation was under consideration in Congress. Nevertheless, the Commission was authorized, "notwithstanding any other provision of law," to negotiate charters "at such rate of hire as it may deem to be fair and reasonable in view of the attendant circumstances." It is hardly conceivable that Congress would have granted authority of this nature in the spring of 1941, in the face of 1941 values, if it had considered the vessels subject to requisition at 1939 values.

C. Public Law No. 173

In February 1942 the Maritime Commission was directed by the President to assemble a shipping pool of 2,000,000 tons to transport strategic and critical materials and otherwise to serve the national-defense effort. At that time charter rates and equivalent earnings had reached a very high level, and ship values were up accordingly. In an effort to obtain larger control of ships and their values, the Maritime Commission asked the Congress for legislation which was incorporated in the so-called ship warrant bill, H. R. 4583, introduced on April 29, 1941. In its essence, this measure provided a scheme of rate control and priorities whereby facilities for the operation of ships could be denied to owners who did not comply with the warrant requirements at least until owners who would so comply had been served. This law, as finally adopted, provided, in part, as follows:

"The warrants to be issued pursuant to this act shall be in such form as the Maritime Commission shall prescribe, and shall set forth the conditions to be complied with by the affected vessel as a condition to receiving the priorities and other advantages provided in this act by reference to an undertaking of the owner or charterer with respect to the trades in which such vessel shall be employed, the voyages which it shall undertake, the class or classes of cargo or passengers to be carried, the fair and reasonable maximum rate of charter-hire or equivalent, and such incidental and supplementary matters as appear to the United States Maritime Commission to be necessary or expedient for the purposes of the warrant."

The proposed legislation, as suggested by the Commission, did not contain the requirement for the payment of "fair and reasonable" rates. This provision was inserted in the bill at the insistence of shipowners who contended that they should be entitled to "just compensation" under the fifth amendment to the Constitution, or, in the absence of specific provision for just compensation, to the equivalent protection of the "fair and reasonable rate" provision. The Maritime Commission through Commissioner Dempsey, made its position emphatically clear. Mr. Dempsey pointed out that freight rates had risen to a very high level and the Commission had no authority to freeze them. Notwithstanding the Commission's contention that the rates were at that time unreasonably high, the Committee on Commerce of the Senate wrote into the law the provision that rates should be "fair and reasonable."

If section 902 had become effective in 1939, and if the consequence of its operation had been the freezing of rates and values, it is inconceivable that Congress in 1941 would have provided in the warrant legislation for "fair and reasonable" rates, notwithstanding the protest of the Maritime Commission to the effect that 1941 rates had become excessive and abnormal. The only fair deduction from this proceeding is that while Congress wished to reduce rates below the extreme levels then prevailing, it had no thought of reducing rates to 1939 levels.

The insertion of "fair and reasonable" as a limitation on the Commission's authority under the ship warrants law is a straw in the wind toward the attitude of Congress in adopting the general requisitioning law (Public Law No. 274, approved Oct. 16, 1941). Under this law, military and naval equipment, supplies, or munitions, or materials necessary for the manufacture, servicing, or operation thereof, was made subject to requisition by the President of the United States. The President was required to pay fair and just compensation, the determination to be made on the basis of the fair market value of the property at the time it is requisitioned.

When this legislation was adopted and later amended (by the Second War Powers Act, Public Law No. 507, approved March 27, 1942), the Congress had before it all the laws relating to the requisitioning of property, including section 902 of the Merchant Marine Act, 1936, as amended, and, with all the facts before it, directed that:

"The President shall determine the amount of the fair and just compensation to be paid for any property requisitioned and taken over pursuant to this act and the fair value of any property returned under section 2 of this act, but each such determination shall be made as of the time it is requisitioned or returned, as the case may be, in accordance with the provision for just compensation in the fifth amendment to the Constitution of the United States."

The chairman of the Committee on the Judiciary of the House of Representatives took a leading part in the discussion of this measure on the floor, and expressed his views as follows (CONGRESSIONAL RECORD, vol. 88, pp. 1831, 1832):

"Now here is the citizen's guaranty of a square deal. It is in the Constitution. This is the language:

" 'Nor shall private property be taken for public use without just compensation.'

* * * * *

"There is no difference between wartime and peacetime insofar as the duty of the Government and the necessity of the Government to respond in just compensation when private property is taken. Since the beginning of the Government, by judicial construction, measures of fair compensation have been established * * *.

"No act of requisitioning and no act that this Congress can pass can limit the right or recovery guaranteed to the citizen by the Constitution of the United States."

* * * * *

"I do not care what you write in the statute, what rule of damages you prescribe here, you could not make the compensation less than just compensation. You may by legislation prescribe a rule that would make the Government pay more than just compensation, but you cannot make it pay less. I repeat that. You may by legislation provide that the Federal Government must pay more than fair compensation, but you cannot effectively provide that it shall pay less."

In the course of the Senate hearings on the legislation the point was made by one Senator, and concurred in by another who was joined by the Assistant Secretary of War, that ships, or even railroads, might be subject to requisition under the authority of the bill.

The significance of this course of legislative history in the hearings and debates of Congress, wherein section 902 of the Merchant Marine Act, 1936, as amended, was mentioned, considered, and discussed time and again, is that not once was the suggestion ever advanced that the provisions of that

section had become operative by the proclamation of September 8, 1939. The contrary view, on the other hand, was so apparent and so prevalent that the matter never became an issue.

V. CONCLUSION

Inasmuch as the view that the emergency powers of section 902 were not made operative by the proclamation of September 8, 1939, finds such support as herein cited from the record of Executive action, as contained in the proclamations and Executive orders of the President, together with the President's express declaration to the extraordinary session of Congress that further action under the proclamation was not necessary, and from the record of legislative action, as contained in the provisions of statutes passed by Congress and in the expressed views of the members of responsible committees, I am transmitting the substance of the review that has been made with the thought that if a reconsideration by you of this single point should lead to agreement on it between us, the questions remaining as to the meaning of section 902 would be far less difficult of solution.

Sincerely yours,

E. S. LAND,
Administrator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, January 7, 1943.

ADMINISTRATOR, WAR SHIPPING ADMINISTRATION.

DEAR ADMIRAL LAND: I have your letter of December 31, 1942, in which you request reconsideration of my decision of November 28, 1942, on certain questions involving the so-called enhancement clause of section 902 of the Merchant Marine Act of 1936 in the light of certain facts contained in your letter.

In the first paragraph of your letter you state—

"Your opinion that the limited national emergency 'was such a state as was contemplated by section 902 (a) with respect to the requisitioning of vessels' and that 'the conditions set out in said section 902 (a) as necessary for the lawful taking of a private vessel existed as of September 8, 1939,' pervades and appears to control all of your conclusions."

The letter then purports to show that this interpretation of said section 902 (a) is at variance with that placed upon it by the Chief Executive and various Members of Congress, including the chairman of the Committee on the Merchant Marine and Fisheries of the House of Representatives and inconsistent with various other acts of Congress.

Congress prescribed in section 902 (a) two separate and distinct situations under which the powers conferred therein might be exercised: (1) "Whenever the President shall proclaim that the security of the national defense makes it advisable"; or (2) "during any national emergency declared by proclamation of the President." On September 8, 1939, the President proclaimed that "a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations."

Apparently, there has been no authoritative ruling by the courts or opinion by the Attorney General upon the question of whether the power conferred by section 902 lawfully could have been exercised upon the issuance of that proclamation. However, it does appear from your letter that it was determined administratively by the Maritime Commission that the proclamation did not have that effect. I find it unnecessary for present purposes—as will hereinafter appear—to disagree with that interpretation.

The third paragraph, on page 3 of your letter, reads:

"The United States Maritime Commission received no direction or authorization during the entire period of the limited emergency (from September 8, 1939, to May 27, 1941), either as to section 902 of the Merchant Marine Act, 1936, as amended, or as to section 37 of the Shipping Act of 1916, as amended (which is also operative 'during any national emergency, the existence of which is declared by proclamation of the President'), or as to any law or duty within the scope of its administration."

In decision of November 28, 1942, there was a statement to the effect that the conditions prescribed by Congress in said section 902 (a) as necessary for the lawful exercise of the requisitioning power appeared to exist upon the proclamation by the President on September 8, 1939, that "a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peacetime authorizations." In this connection, it is to be noted that, although the concluding sentence of said proclamation stated that "specific directions and authorizations will be given from time to time for carrying out these two purposes," no specific direction or authorization from the President was necessary under the terms of section 902 (a) of the Merchant Marine Act of 1936 for it to become operative.

However, assuming that private vessels could not have been taken over by the Government under said section 902 until the President had proclaimed the existence of an unlimited national emergency—as he did on May 27, 1941—certainly by that time the market values of most types of vessels had been enhanced by "the causes necessitating the taking or use." Hence, it is readily apparent that to attach significance to that date in fixing the compensation to be paid for requisitioned vessels would practically nullify the effect of the enhancement clause.

The principal considerations upon which my decision may be said to have been based may be stated briefly as follows: (1) That it would be difficult—if not impossible—to give full effect to the intent of the Congress in enacting the enhancement clause unless a certain and fixed date be recognized as controlling in fixing the compensation to be paid by the Government for requisitioned vessels; (2) that no more appropriate date could be selected than the day upon which the Chief Executive deemed it advisable to issue a formal proclamation that a national emergency existed for certain stated purposes; and (3) that the appropriateness of that date is fully attested by subsequent conditions and circumstances affecting the value of vessels.

It was concluded in my decision of November 28—upon the assumption that vessels lawfully could have been requisitioned upon the issuance of the proclamation of September 8, 1939—that "the date upon which such conditions came into being must likewise be considered the date when 'the causes necessitating the taking or use' began to exercise their influence on the market value of vessels." However, that such dates were one and the same was a matter of coincidence only, there being nothing in said section 902—either specifically stated or necessarily implied—to require that where it was determined that from and after a certain date ship values became inflated due to economic conditions directly caused by the national emergency, the enhancement clause did not prohibit the payment of compensation based upon such inflated values unless there existed, also, during that time the power to requisiiton such vessels.

Consequently, the fact—if it be a fact—that private vessels could not have been taken over by the Government under said section until the proclamation of an unlimited national emergency on May 27, 1941, would appear to have no material bearing upon the questions considered in my decision of November 28, nor upon the conclusions reached therein, and I am pleased to have been afforded this opportunity to correct any erroneous impressions to the contrary that may have been entertained with respect to this feature of my decision.

Respectfully,

LINDSAY C. WARREN,
Comptroller General of the United States.

WAR SHIPPING ADMINISTRATION,
Washington, December 17, 1942.

To the Owners of All Vessels Purchased, Chartered, or Requisitioned for Use or Title by the War Shipping Administration:

In view of recent developments with respect to the interpretation of section 902 of the Merchant Marine Act, 1936, as amended, we find it necessary to advise you of the following:

During the latter part of this year, the Administrator learned for the first time that certain of the officials of the Office of the Comptroller General of the United States were of the opinion that under section 902 of the Merchant Marine Act, 1936, as amended, it was unlawful for the Administrator to pay for vessels requisitioned under section 902 of the act sums in excess of the values on these vessels as of the date of the President's proclamation of limited emergency dated September 8, 1939. Section 902 had been administered by the War Shipping Administrator and prior thereto by the United States Maritime Commission, in a manner that was inconsistent with such interpretation.

As soon as the views of the subordinate officials of the Comptroller General were made known to the Administrator, conferences were held with the Comptroller General but no solution to the problem developed therefrom. The Comptroller General then offered to state his views upon receipt of a formal request for an opinion which could be transmitted to Congress for such action as it deemed appropriate. Accordingly, the Administrator directed a request to the Comptroller General of the United States for formal opinion under date of November 24, 1942, on 15 specific questions, and on November 28 the Comptroller General replied on all points. A copy of his opinion is attached herewith.

You will note that in the opinion of the Comptroller General values of all vessels, including both large and small craft—freighters, passenger ships, tugs, barges, fishing vessels, and other watercraft—were, in effect, frozen by the President's proclamation of limited emergency on September 8, 1939, except for vessels built or rebuilt after that date, as to which the Comptroller apparently would allow payment of actual cost, less depreciation, and that, in his opinion, the Administrator may not lawfully pay for use or title to vessels at higher rates or values than those prevailing on September 8, 1939. It will be noted that the 1939 values apply notwithstanding the fact that the vessels were purchased after that date at substantially higher cost and even though replacement vessels cannot now be obtained at 1939 prices. Charter rates also would be reduced under this ruling to September 8, 1939, levels, except for additional allowances for increases in expenses since that time.

Immediately upon receipt of this opinion the Administrator ordered that payments for vessels purchased or requisitioned for the War Shipping Administration under section 902 of the Merchant Marine Act of 1936, as amended, be discontinued. Payments for vessels lost from marine or war casualties

under charters made under this section were also stopped, pending a clarification of the situation.

The Administrator promptly transmitted copies of the Comptroller General's opinion to the chairman of the Senate Committee on Commerce and the chairman of the House Committee on the Merchant Marine and Fisheries. There was at that time pending in the Senate Committee on Commerce legislation affecting the War Shipping Administration known as the omnibus bill, and designated H. R. 7424. After considering the Comptroller's ruling, the Senate Committee on Commerce on December 4, 1942, reported out H. R. 7424 with an amendment to section 902 which would have the effect of eliminating the enhancement clause contained in the existing provision of law, thus confirming the Administrator's application of the law. The reason for this action was explained in a report submitted on behalf of the committee (No. 1813, 77th Cong., 2d sess.), pertinent excerpts of which are attached herewith.

However, although the bill was placed on the Senate Calendar, it did not come to a vote prior to adjournment of this Congress, leaving the entire question open for the next Congress.

During the interim, unless the Administrator applies the statute in accordance with the Comptroller General's ruling, he will be in a position of administering the law in a manner inconsistent with the interpretation of the Government's accounting officers. Under the circumstances the Administrator feels that it is incumbent upon him, in view of the large sums of money involved in this problem and the public interest relating thereto, to apply the Comptroller General's ruling and accordingly to take the following action:

1. WITH RESPECT TO PAYMENT FOR VESSELS PURCHASED OR LOST

(a) To withhold payments for all vessels previously requisitioned for title by the War Shipping Administration or purchased by the War Shipping Administration pursuant to the provisions of section 902 of the Merchant Marine Act, 1936, as amended, except in cases where the value of the vessel as determined by the Administrator does not exceed the value of the same vessel on September 8, 1939, or, with respect to vessels constructed or reconstructed subsequent to that date, where the value of the vessel is determined at an amount not in excess of actual construction or reconstruction cost less depreciation.

This means that with few exceptions (principally yachts which have been valued at 1939 values) payments will be withheld on all vessels heretofore taken for title, including freighters, tankers, passenger ships, tugs, barges, fishing vessels of all kinds, and all other watercraft, even though a determination of value has been reached and the owner has been notified thereof.

(b) To withhold all payments for total loss of vessels from marine or war risk assumed by the War Shipping Administration to the same extent as noted in paragraph (a). Claims for total loss of such vessels will be treated in the same manner as claims for vessels requisitioned for title by the War Shipping Administration.

(c) In cases where the application of the rules set forth in (a) and (b) result in hardship to any owner, the Administrator is prepared to determine the value of such vessel in accordance with the decision of the Comptroller General of the United States upon request for such determination from the owner, and to tender the amount so determined to the owner. The owner would then have the election of accepting the amount tendered in full settlement or of accepting 75 percent thereof and instituting suit in the appropriate court for just compensation under section 902.

II. WITH RESPECT TO VESSELS CHARTERED BY THE WAR SHIPPING ADMINISTRATION

(a) With respect to vessels chartered by the War Shipping Administration on time-charter basis, for which charters have actually been executed, instructions have been issued that payments of charter hire should be limited to 75 percent of the amount stipulated in the charter. With respect to executed bareboat charters, payments for hire will be limited to 50 percent of the stipulated hire. This is a precautionary move and further analysis may demonstrate that in many, if not most cases, a substantial reduction in charter hire will not be required to comply with the Comptroller General's ruling. Payment and acceptance of the above amounts shall be without prejudice to the rights of the parties under the law and charter agreements.

Withholding charter hire in the amount above mentioned will apply to vessels of all types chartered to the War Shipping Administration, including freighters, tankers, passenger ships, barges, tugs, fishing vessels, and other craft.

(b) With respect to vessels chartered by the War Shipping Administration as to which charter parties have not actually been executed, the tender of charters will be withheld pending further analysis and determination as to the extent, if any, to which the existing charter rates must be reduced to comply with the Comptroller General's ruling. However, where the owners require immediate financial assistance, such owners will be tendered charters providing for charter hire at the rate of 75 percent of the existing rates in the case of time-chartered vessels and 50 percent in the case of bareboat chartered vessels, without any specified insurance values. The owners would then be in a position to accept 75 percent of the hire tendered, reserving their legal rights for later adjudication. In any case, where a time-chartered owner feels that the amount made available in this manner will not be sufficient to provide for the cost of operating such vessels, the Administrator, upon request will give consideration to the desirability of converting the requisition from time form to bareboat form, as a result of which all operating costs would be assumed by the Administrator.

(c) Attention is directed to the fact that under the Comptroller General's ruling charter hire and compensation for vessels lost previously paid may have been in excess of the amount the owners were lawfully entitled to receive. Pending further direction from Congress no effort will be made for the time being to secure readjustment of such prior overpayments based on the Comptroller's ruling. However, all rights of the Government in this respect are reserved.

(d) Consideration is being given to the desirability of canceling all or certain classes of outstanding charters.

III. FOREIGN-FLAG VESSELS

With respect to vessels under foreign flag, which the Administrator has no legal authority to requisition under section 902 of the Merchant Marine Act, 1936, as amended, or under Public Law 101, Seventy-seventh Congress, existing agreements and charters will be maintained in full force and effect.

It is hoped that the action of the Administrator as above outlined will not cause undue hardship or inconvenience to the owners and operators of vessels. The Administrator is most anxious that the problem of valuation should not impede the prosecution of the war and, accordingly, wishes to make certain that adequate funds for operating requirements will be available to owners whose vessels are being operated in the war effort. It is believed that the above arrangements will accomplish this objective without violating the rules laid down by the Comptroller General. Suggestions for further relief will be given prompt consideration. The Administrator will be prepared to confer with owner's representatives during the week of December 21 for this purpose.

W. C. PEET, Jr.,
Secretary, War Shipping Administration.

APRIL 14, 1942.

Hon. LINDSAY C. WARREN,
Comptroller General of the United States, Washington, D. C.

MY DEAR MR. WARREN: You have requested in your letter of February 28, 1942, certain information with respect to contracts entered into between the United States Maritime Commission and the Tampa Shipbuilding & Engineering Co. and other matters relating to these contracts. A full report in compliance with your request is in preparation and will be made available to you shortly.

Meanwhile, however, I thought it might be helpful to you to have before you a general statement of the Tampa matter.

The Tampa Shipbuilding Co. has played an exceedingly useful part in the working out of the Commission construction program, particularly in the early stages thereof. Although the company experienced certain financial difficulties during the period of its contracts, a series of circumstances made it possible to work out the corporate and contractual situation in such manner that there were no losses involved to the Government. The company was preserved as a going concern and became available to the Navy Department as an important factor in their own building program as well as an important repair yard; certain bonds of the company held by the Reconstruction Finance Corporation which were in default have been in effect salvaged, and very substantial sums have been saved to the Commission through lower shipbuilding prices resulting from the original Tampa award, affecting the Commission's entire early construction program.

When bids were solicited early in 1938 for the first group of cargo vessels, the prices offered by the various shipyards that had ability to perform were, with the exception of the Tampa bid, far beyond the estimates which the Commission had made. The Tampa bid was approximately in line with the Commission's estimates.

The Commission was faced with the problem of whether it was better to reject all bids and readvertise with no assurance that any substantial reductions in contract prices would result or accept the Tampa bid in order to serve notice on the other builders of what the Commission was prepared to do in order to attain this vital construction at proper prices.

During the First World War cargo ships had been successfully built at the Tampa yard. The company was, to a certain extent, already under the control of the Government through its obligations to the Reconstruction Finance Corporation and administrative and financial controls were thereof feasible. The only serious question appeared to be the matter of sufficiency of financing for some necessary plant improvements and for working capital. The Reconstruction Finance Corporation had a nonliquid investment in mortgage bonds resulting from the construction of a drydock. Interest on these bonds was in default for a year or more and the best way of preserving such investment was through putting the company into a going-concern condition. The Reconstruction Finance Corporation therefore agreed to a refunding of the defaulted mortgage bonds, including the overdue interest, and made available to the company $500,000 cash, two Tampa banks participating to the extent of $100,000 each. The Reconstruction Finance Corporation insisted however on a guaranty by the Commission with respect to its $300,000

part of the $500,000 loan, the guaranty being solely of the nature of an interdepartmental transaction and any possibility of third parties securing any rights thereunder being specifically excluded. Certain suppliers of steel and machinery were willing to grant credits to help the working capital situation, and arrangements were made whereby Mr. Kreher, the president of the company, and Mr. Spadaro, served as sureties. Mr. Spadaro was induced to act in this capacity by one of the local banks and consented to do so under a plan which limited his liability to $500,000 Mr. Kreher pledged his stock in the company as collateral to his surety bond.

The Tampa bid was, therefore, accepted, and contracts entered into for four vessels. The circumstances were far from ideal but the award appeared to be fully justified by the circumstances, a view that was, I believe, well borne out by subsequent happenings.

As a result of the action taken in the Tampa situation, the second set of bids obtained on readvertising the remaining vessels were at prices which, although higher than the Tampa award, nevertheless, were very much lower than the previous bids and were at a level which justified awards.

This reduction was so substantial that, in my opinion, the Tampa transaction, even had it resulted in a complete loss to the Government, would still have saved money.

It is not necessary for purposes of these present comments to go into detail as to the Tampa operations except to say that the company's estimates of funds required for necessary plant improvements proved inadequate, and the particular payment plan embodied in the contracts further strained the company's cash resources. This situation was partially corrected by changing the terms of payments to a plan which put payments to the contractor into a better relation with his current disbursements for labor and material.

In April 1939 a second group of C–2 contracts was advertised for competitive bidding. Tampa was a bidder on these contracts at a price somewhat in excess of the previous bid and more nearly in line with its competitors. Since Tampa was the low bidder, it was entitled to consideration, provided it made necessary financial arrangements. At this point, a group of commercial surety companies who had previously followed a policy of not going into contracts with new shipyards and who had specifically refused to act as sureties with respect to the first Tampa award agreed to go on the Tampa bonds under the second award provided more working capital was made available, arrangements for which, including a segregation of funds, were made with the Reconstruction Finance Corporation.

As a commentary on this award, it should be pointed out that the Commission felt that the new contracts should yield the company a profit, although on the basis of information then available, the company might not do better than break even or might sustain a small loss on the first group of vessels. There was no indication at that time that there would be a substantial loss, although the company was obviously working on narrow margins. However, the working funds which had been made available for the second contract were segregated with a view to safeguarding operations under that award.

Some months after the award of the second contract, it became evident that the company was experiencing higher costs due in part to labor difficulties and to difficulties in management, which became more evident as the volume of their operations increased. The company had based its bid upon labor rates then prevailing at its yard and in the vicinity, but before starting work found it necessary to enter into a labor agreement at much higher rates and a substantial increase in cost resulted. As its contract did not contain the usual provision for adjustment of the contract price on account of increased labor rates, this unfavorable cost situation directly affected profit. The labor problem was seriously aggravated by unfortunate controversies that arose and that accompanied the further adjustment of the company's labor relation. The Commission did what it could in the hope of correcting both the labor and the management situation, but found it difficult to obtain the necessary cooperation.

Nevertheless, the company completed and delivered the first of its vessels, the *Sea Witch*, which proved an exceptionally able ship. Shortly before the second vessel was completed, however, it became apparent that working funds available for the first group of vessels were not going to be sufficient to permit continued operation for any great period of time. Unpaid bills were piling up, creditors were threatening action, and key men in the company's working organization were on the point of accepting employment elsewhere.

At this stage of the matter, and quite independent of difficulties of the company, the Navy Department asked the Commission to furnish three of the first group of four Tampa C–2 vessels. They originally suggested that this include the *Sea Witch*, but as this vessel already had been turned over to the United States Lines and was on an extended voyage to the Orient, the Navy Department consented to take the three under construction. Obviously, these vessels could not be obtained on any condition unless the arrangements made, in addition to reimbursing to the Commission its payments to the shipyard, included taking care of the unpaid bills, some, or all of which, would be liens on the vessels, or otherwise lead to reclamation suits by the creditors.

The company was not, at that time, technically in default under its contracts with the Commission, although such default was, of course, imminent, and while it was without sufficient working funds to complete the remaining three vessels of the first group, it still had working funds for the second group of vessels because of the segregation thereof. The Commission had the right, in event of default, to enter the shipyard and complete the vessels for its own account. Had the Commission done so, it would probably have found it necessary to satisfy all or a large part of the creditors whose claims related to these vessels. Such action would, in any event, have been exceedingly expensive and would have also involved difficult questions relating to the rights of various parties, since the Reconstruction Finance Corporation, the Commission, the sureties on the first group of vessels and the sureties under the second group all had rights in this connection, not to mention the possible rights of a trustee or receiver who might be appointed in the interest of the general creditors. Another alternative which was considered was to remove the vessels from the yard in their uncompleted condition and contract for their completion elsewhere. This also would have been very costly and would have been wholly impractical with respect to the fourth of the vessels of this group which had not advanced sufficiently to permit of launching, and the completion of which, therefore, would have probably had to be abandoned.

Any drastic action under default clauses of the first contract would in any event have automatically brought about a default under the second contract and would also have resulted in the immediate loss of the company's supervisory organization, which would have rendered further operation impracticable until such time as a new organization could be recruited, the possibility of which, in view of the temporary character of the resulting operation, would have been remote.

In order, therefore, (1) to preserve the shipyard as a going concern, and (2) to complete the remaining seven vessels, the only feasible plan was that which was actually adopted; namely, to get a new general management and a new corporate entity to take over the situation.

The Commission and the Reconstruction Finance Corporation having come to this conclusion, Mr. George B. Howell, vice president of the Exchange National Bank of Tampa, was approached and agreed to give up his vice presidency of the bank and to form a new company and management and himself to become the active head thereof. Mr. Kreher, the president and principal stockholder of the old company, and other stockholders, representing nearly all of the capital stock of the old company, agreed to an arrangement whereby the new company, which was organized with nominal capital, would take over the assets of the old company in consideration of assuming its liabilities. The arrangement included the voluntary surrender by the old company to the Commission of the three uncompleted hulls of the first group of vessels; the sale of these hulls in their then condition to the new company for an amount equal to what the Commission had expended upon them by way of payments to the old company; the making of an agreement with the Navy Department whereby these hulls were taken over from the company under contracts for their completion with the Navy Department at values which would permit the unpaid bills relating to these vessels to be discharged without exceeding what these vessels would have cost had they been built under contemporaneous contracts with other shipyards, and the assumption by the new company of the second group of contracts.

This procedure would not have been practicable had the result been a price for the vessels in excess of their value as determined by other current construction, but careful analysis of the situation indicated that even under these arrangements these three vessels were the cheapest which the Navy could obtain.

The plan had the additional advantage of avoiding a default on the second four vessels, which, in view of the working capital available for them and the management being provided by the new corporation could thus be kept alive.

The amount of the unpaid bills on the first group of contracts was approximately $900,000; the guarantor, Mr. Spadaro, was liable for $500,000 of this amount; the other surety, Mr. Kreher, after the wiping out of the value of his stockholding in the company as a result of the losses on the first group of ships, had no substantial assets which could be availed of to meet his obligation.

Analysis of the situation indicated that it was possible that the Government claims against the surety had already been weakened by the arrangements which it had been necessary to make previously in order to keep the company going, and that, in any event, we could not change this contract from a contract for merchant vessels to a contract for naval auxiliaries without, in effect, releasing it. Furthermore, had recourse been had to Mr. Spadaro as surety, the first claim, as a practical matter, would have been on behalf of the suppliers of machinery, materials, and services under the payment bond, so that there would have been no salvage to the Government out of his bond.

The reorganization plan, however, included arrangements with Mr. Spadaro whereby, in effect, he underwrote part of the working capital for the new company, and the new company undertook to pay out of any profits of this or future construction for the Government the amount of the $500,000 liability which Mr. Spadaro had formerly had.

This undertaking was implemented by an arrangement with the new company as to recapture of profits, in addition to those prescribed by law, such that it could make no

profit on the first group of vessels, and that it was to give the Government half of all the profits on the second group and on any subsequent Government contracts until all of the $500,000 representing the Spadaro liability was thus recovered. It is our understanding that the company, through work subsequently placed with it by the Navy Department, is in process of liquidating this obligation and that its entire liquidation in the very near future is indicated. The Government will therefore have recovered without litigation all that it could have recovered from Mr. Spadaro even disregarding the probability that a suit under this bond would at best have led to a partial recovery by creditors only, with no net recovery by the Government.

It will, therefore, be seen that the maximum possible book loss to the Government is $400,000, all of which went to pay claims which were payable in any event and which were recompensated for by (1) the fact that this was fully offset by the value of the uncompleted hulls acquired by the Navy as determined from contemporaneous contracts with the builders, (2) the avoidance of losses due to disruption of the yard, and (3) the economies involved when the Navy started its conversion work in advance of completion of vessels.

Subsequently, the Navy asked us to turn over all of the four ships in the second group of contracts for conversion to naval auxiliaries. It was not desirable in the interest of the Government that these vessels be first completed as merchant vessels and then taken by the Navy, since most of the value of the work done in the latter stages of construction would have been a complete loss to the Government, and the cost of conversion would have been unnecessarily high. Accordingly, the company was requested by the Commission to consent to the cancelation of these contracts against payment for work actually done and for materials on hand and in progress.

Again careful comparison was made with the cost of these vessels to the Navy Department in their then stages of completion as compared with other vessels of the same type under construction, and it was found that the Navy would be acquiring these vessels on favorable terms. The transaction involved no profit to anyone. The Navy then made its own contractual arrangements with the company for the changes and additional work involved in completing them as naval auxiliaries.

As a result of this last transaction, the Maritime Commission's interest in the Tampa yards and its commitments to the Reconstruction Finance Corporation with respect to their advances which had been given in connection with their advances of working capital is terminated, and a collapse that would have been a serious economic blow to the city of Tampa and the State of Florida was averted. In connection with this and other Navy construction, the Reconstruction Finance Corporation investment is in healthy condition, and the Navy has available for war needs a shipyard with which it is well pleased and which it has subsequently caused to be considerably expanded.

Sincerely yours,

E. S. LAND, *Chairman.*

OCTOBER 15, 1942.

Hon. JOSIAH W. BAILEY,
United States Senate.

RE: COMPTROLLER GENERAL'S REPORT DATED AUGUST 8, 1942, RELATING TO CERTAIN TRANSACTIONS BETWEEN MARITIME COMMISSION AND WATERMAN STEAMSHIP CORPORATION

DEAR SENATOR BAILEY: This letter is in reply to your request that the Commission make a report to your committee upon the report of the Comptroller General of the United States dated August 8, 1942, and entitled as follows: "Report of the sale by the United States Maritime Commission to Waterman Steamship Corporation of five obsolete vessels from the Commission's laid-up fleet, with option to repurchase said vessels, and the subsequent purchase from said corporation of five other similar and older vessels at greatly enhanced prices, instead of exercising said option."

The report submitted by the Comptroller General contains a number of statements as to matters of fact which are wholly or partially inaccurate and the legal discussion therein involves important misconceptions with respect to the statutes under which the Commission operates. It is regrettable that the Comptroller General's representatives did not consult with me or the other Commissioners or with the responsible officials of the United States Maritime Commission with a view to ascertaining the factual situation or as to the Commission's legal powers and rights in connection with this matter, since, if this had been done, the preparation of this report would have been much simplified.

Soon after the Maritime Commission was established, it began to dispose of its vessels in a manner directed by Congress in the Merchant Marine Act, 1936, as amended. As to the regular lines previously operated by the Government and the vessels employed thereon, such lines were sold to established operators or the vessels chartered to operators who agreed to maintain regular service. The vessels then in lay-up, so far as practicable, were handled in the same manner—that is to say, they were put in condition and then sold or chartered to operators who were maintaining or agreed to maintain regular service. There were certain other vessels in the laid-up fleet which were either unsuitable as to type and size or in poor condition. These vessels were disposed of for scrap or sold alien under suitable trading restrictions.

Thereafter, there remained another class of vessels in the laid-up fleet which could be put into condition, but at a cost which the Commission felt would not justify the expenditure by the Government in view of uncertain shipping conditions. Early in 1940 it was decided that these vessels should be offered on an "as is" basis. As an essential part of the consideration for the sale, the purchaser was required (a) to recondition the vessels, (b) to specify a regular service which had already been considered by the Commission to be an essential foreign-trade route or which might, prior to award, qualify as such, (c) to maintain such service with the vessels, and (d) to replace the old vessels. Four of the vessels were offered on these terms to established lines under a proposal issued March 26, 1940. The Commission's proposal indicated that applications for an operating-differential subsidy and a construction-differential subsidy would be entertained, and a replacement program was made a condition of the bidding.

Upon the opening of the bids on April 17, 1940, bids were received from Ocean Dominion Steamship Co. and Waterman Steamship Corporation. The Ocean Dominion bid was considered inadequate, while Waterman did not in its bid offer to maintain regular service on an essential trade route. For this reason, the general counsel of the Commission ruled that the Waterman bid was unresponsive to the proposal. Accordingly, both bids were rejected by the Commission.

Since no operator would undertake to maintain regular service on an established trade route with the advertised vessels, the Commission decided that it was not warranted in reconditioning the vessels at the Government's expense. This left as the only alternatives (a) abandoning all attempts to dispose of the vessels, or (b) inviting further bids upon terms which did not require an undertaking on the part of the operator to maintain regular service on an established foreign-trade route. Alternative (a) was obviously undesirable in the public interest and the Commission thereupon worked out terms of a proposal which, while not requiring such regular service, would, nevertheless, put the vessels in operation as part of our merchant marine, and, at the same time, provide for their replacement with new vessels. The Commission considered it proper in this connection not to offer a construction-differential subsidy for the construction of new vessels, but it did agree to entertain applications for financial aid under section 509 of the Merchant Marine Act, 1936, which section provides for loans amounting, in the case of vessels of the type proposed, to not more than 87½ percent of the full domestic construction cost. This was a fair and proper basis on which to dispose of these four old vessels and one other old vessel that was included in the new proposal. In effect, the operator wanted ships; we wanted the ships in service, but in accordance with the statute and with adequate protection to the Government.

Since Waterman had submitted a bid in connection with the earlier proposal, it was thought likely that it would be a bidder in connection with a second offer, but there was a possibility that other American operators might be interested. Accordingly, a new proposal was issued on May 10, 1940, along the foregoing lines and containing two additional conditions for the protection of the Commission's interests. The first was that if any vessel was sold within 2 years from the date of award, the buyer or its affiliates would pay to the Commission 80 percent of the amount by which the selling price exceeded the sum of the purchase price plus the cost of improvements and repairs made by the buyer subsequent to delivery of the vessel but prior to its first voyage. The second condition was that the buyer agreed that "if the United States shall acquire ownership of any vessel through purchase or requisition under the provisions of section 902 of the act, after delivery to the buyer, the amount to be paid to the buyer or any succeeding owner of such vessel shall in no event exceed the depreciated cost of the vessel to the buyer or such succeeding owner, or the fair and reasonable scrap value of such vessel as determined by the Commission, whichever is the greater."

This agreement with regard to the rights of the United States to acquire vessels under section 902 of the act has been rather loosely referred to as an "option to purchase" in records of the Commission which the representatives of the Comptroller General examined in connection with this matter, and the same phrase has been used by the Comptroller General in his report. As a matter of law, there was no option to purchase. The language of the agreement on this point follows rather closely that of section 802 of the Merchant Marine Act, 1936, which is not considered by the Commission to confer an unqualified option to purchase. The purpose and intent of the agreement, which was similar in scope to that of section 802 (which relates to vessels constructed with the aid of a construction-differential subsidy) was that if it became necessary, in case of emergency, pursuant to a Presidential proclamation as provided in said section 902, to requisition a particular vessel subject thereto, the price formula set forth in such special agreement would in such event govern, and that the same result would obtain if, because of a voluntary purchase arrangement, requisition proved to be unnecessary. As a practical matter, once the requisition powers of the Commission came into effect by virtue of the Presidential proclamation of an unlimited emergency of May 27, 1941, it did have the right to acquire the vessels at the agreed price, and the term "option to purchase" was not entirely inappropriate in connection with nontechnical discussions on the subject. However, the intent and spirit of the agreement obviously raised a serious question as to whether or not such power of requisition should be exercised in the

absence of a general requisition for title. I mention this matter for its bearing upon the action later taken by the Commission in acquiring other vessels by way of purchase.

When the bids were opened on May 22, 1940, Waterman Steamship Corporation was the only bidder. A careful analysis of the bidding was made in order to determine how the total of the bid price and the estimated cost of repairs compared with the aggregate of the same items in connection with other sales made by the Commission. It appeared, even on the Commission's estimate of the cost of repairs, which were lower than those of Waterman, that the prices for the vessels were in line with those involved in such contemporaneous sales. (The actual cost of repairs as now reported by Waterman of $783,097.32 is close to its then estimate of $806,000.)

Since the carrying out of the replacement program was of prime importance to the Commission, it imposed several conditions to the acceptance of the award, among which were requirements that the replacement contract be entered into within 6 months rather than 1 year as contained in the proposal, that the liquidated damages for failure to carry out the replacement program be set at $550,000, and that in order to assure the due carrying out of the agreement, a joint account be established, in which was to be deposited $1,500,000, $550,000 immediately, and the balance in six equal monthly installments.

In accordance with the foregoing, the sales agreement was executed, dated as of June 8, 1940, and the sale of the five vessels to Waterman was consummated.

As I read the Comptroller General's report, he does not criticize this phase of the matter except by the statement that the invitation was "framed to meet Waterman's desires," and that rejection of the corporation's bid was recommended as inadequate. It should be observed (a) that, as shown above, the vessels were offered the second time under terms which could be met by a greater number of operators than could qualify under the terms and conditions of the earlier proposal, (b) that the spirit and intent of the law with respect to competitive bidding was fully carried out, (c) that the reference to the inadequacy of the bid is based upon the opinion of one member of the Commission's staff out of a considerable number who made recommendations to the Commission on this matter, and (d) that such dissenting recommendation was not concurred in by the Commission. The Commission has always encouraged the full expression of views by members of the staff but the ultimate responsibility is with the Commission itself and no proper objection lies to action by the Commission because such action is not that recommended by one or more members of the staff.

After the consummation of the sale of the five old vessels to Waterman, the company proceeded to make the required deposits aggregating $1,500,000 in a joint account and entered into construction contracts with the Gulf Shipbuilding Corporation for the construction of four vessels of the modified C–2 design. These contracts were entered into in November 1940, and approvals of the Commission obtained during the following 2 months. Waterman, in the meantime, had filed an application under section 509 for aid in financing the acquisition of these four vessels. This application was withdrawn when Waterman decided it did not then require Government financial aid.

In August 1941 the Commission, in furtherance of its expanded shipbuilding program, entered into contracts with Gulf Shipbuilding Corporation for the construction of 14 vessels similar to the vessels covered by the yard's contract with Waterman.

This series of Maritime Commission contracts, together with some Navy work undertaken by the yard in the interests of national defense, made it impossible for the yard to complete the construction of the last two of the foregoing vessels. Accordingly, the Commission agreed that Waterman's obligations under the sales agreement with respect to the construction of these two vessels be extended to December 31, 1944, which date was approximately 1 year after the estimated date of completion of the Maritime Commission contracts with the yard, thus enabling the Commission to carry on its own construction program without being hampered by the previous commitments of the yard, and at the same time, insuring completion of the Waterman new construction program at the earliest practicable date thereafter.

In September 1941, Waterman initiated discussions with the Commission looking toward the disposal of certain of its old vessels with the intent of acquiring additional new tonnage. Coincident thereto, the Commission desired to obtain a number of vessels to participate in the Russian aid program, particularly on the hazardous northern route. Discussions with the steamship companies with the object of chartering vessels for this service were unsuccessful. Their unwillingness to make such charter was based on the risks involved, the greater earnings available in other trades, and certain legal difficulties arising from the fact that the vessels had to be placed under foreign flag. The Commission was thus faced with the alternative of purchasing additional vessels or obtaining them by requisition.

The question of requisitioning the privately owned merchant marine was the subject of considerable discussion by the Commission during the summer and fall of 1941. The Commission had determined as a matter of policy that it was not yet prepared to adopt this procedure. Until general control of freight and charter rates had fully taken effect, it was considered possible that the just compensation which an owner might receive under section 902 would of necessity reflect the more lucrative employment available to American flag vessels under then existing conditions, and that, based on these factors, such just compensation might be substantially in excess of the price at which it was felt Waterman was prepared to sell these vessels.

The original proposal of Waterman Steamship Corporation contemplated a trade-in of the old vessels under the provisions of section 510 of the Merchant Marine Act of 1936. The enactment of this section had been urged by the Commission prior to the outbreak of war and was designed to facilitate the acquisition of new tonnage by operators in domestic trades, which at that time were overtonnaged. Under section 510 as originally passed the Commission was required to immobilize old tonnage obtained thereunder, but this restriction was suspended on May 14, 1940. About a year later, Congress, under Public 101 (77th Cong. approved June 6, 1941) extended the Commission's power to purchase vessels. In view of the fact that the removal of the immobilization requirement made the value of vessels, if determined under section 510, substantially the same as if they were purchased under Public, 101, the acquisition of the vessels under the last mentioned statute was adopted as the more convenient procedure.

While preliminary negotiations were being conducted by Waterman with the Commission, and prior to any formal action thereon, the requirements of the Russian-aid program made it imperative that additional vessels be placed in this service. As indicated above, the Commission's policy at this time was against vessel requisition. This was the only procedure whereby the specific vessels covered by the sales agreement could have been acquired by the Commission pursuant to and at the price stipulated under section 7 of that agreement. The Commission, therefore, felt free to acquire other vessels required to meet specific needs at prices fair and reasonable and in the public interest. In so doing, its rights under the sales agreement with respect to the five vessels covered thereby were not in any way affected, in the event that the Commission should later determine upon their requisition.

In connection with the previous negotiations for the sale of some of these old vessels, the appraisal committee of the Commission determined the figure of $79.25 per dead-weight ton as being a fair and reasonable value for the vessels. The Commission had previously placed an insurance valuation of $100 per dead-weight ton on similar vessels, but it was then considering whether or not such insurance valuation should not be reduced to $75 per dead-weight ton in order to avoid any question of enhancement due to causes necessitating the taking." It was therefore decided that it would not acquire these vessels by voluntary purchase for more than $75 per dead-weight ton. Such figure thus represents a fair and reasonable price and excludes any element of enhancement due to causes necessitating the taking.

Shortly after the acquisition of these five vessels pursuant to Commission action taken in November and December 1941, Waterman filed a new application under section 509 for aid in the construction of 7 new vessels. These 7 vessels were out of a total of 14 covered by the Commission's contract with the Gulf Shipbuilding Corporation, which, together with the 2 vessels under direct contract between Waterman and Gulf, would make a total of 9 new vessels.

In the course of consideration of this matter an analysis of the financial situation of the company indicated that while the company could make the necessary down payments, it was a matter of grave doubt whether, over a period of years, the prospective earnings would be sufficient to meet amortization and interest requirements on such a large number of new vessels. Since the fall of 1941 the Commission, in the interests of national defense, had taken action toward reducing charter rates and freight rates which necessarily affected the earning power of the company during the war years. The post-war prospects were, of course, purely a matter of conjecture. In January 1942 Waterman made a proposal whereby the Commission would rely on the vessels alone for payment after 50 percent of the mortgage debt had been paid. This suggestion was presented to the Commission on February 6, 1942, and rejected. Thereupon, Waterman amended its section 509 application by reducing the number of vessels with respect to which financial aid was requested from seven to two. They coupled this action with a renewal of the suggestion that the liability of the company for a deficiency judgment be limited, modifying the form of proposal, however, so as to increase such personal liability from 50 percent to 65 percent of the full construction cost of the vessels. The company stated in this connection that if the proposal was acceptable to the Commission additional vessels would be contracted for. This modified proposal was submitted to the Commission on March 10, 1942, and was rejected for both policy and legal reasons.

In April 1942, Waterman proposed to the Commission that its outstanding contracts with the Gulf Shipbuilding Co. for the construction of two vessels be taken over by the Commission and the vessels then sold to Waterman under section 509 of the act. Since under the original sales agreement of June 8, 1940, the Commission had agreed to give financial aid under section 509 for four new vessels, this proposal was accordingly approved by the Commission. Waterman, following this action by the Commission, amended its 509 application so as to include four new vessels. As a result of this action by the Commission,

Waterman, in effect, would upon carrying out the proposed acquisition of four new vessels financed under section 509, carry out the replacement requirements of the sales agreement. Two questions, however, still remained open: (a) whether or not Waterman, in connection with the acquisition by the Commission of the five old vessels in the latter part of 1941, had obligated itself to acquire new vessels in addition to the four new vessels which were the required replacements under the sales agreement, and (b) if the answer to the first question was in the affirmative, whether Waterman should be permitted to use its construction reserve fund under section 511 of the Merchant Marine Act, 1936, as amended (in which the proceeds from the five vessels sold to the Commission had been or were about to be placed) for the replacement vessels, or whether such fund should be held for the purpose of acquiring additional new tonnage.

Because of the fact that Waterman had originally offered to trade in these vessels under section 510 of the act and after sale of five vessels to the Government had filed an application for financial aid under section 509 for seven vessels, there was some basis for the opinion held by certain members of the Commission's staff that Waterman had undertaken to use the proceeds from the sale of the old vessels for additional new tonnage. Waterman denied the existence of any binding commitment, and the general counsel felt that, regardless of the equities involved, there was no sufficient legal basis for the Commission enforcing the alleged obligation. This conclusion necessarily disposed of the second question, but in view of the attention given to the section 511 fund by the Comptroller General, some comment thereon may be in order.

As the Merchant Marine Act of 1936 was originally passed it contained tax-exemption provisions with respect to the proceeds of sale and indemnities for loss of subsidized vessels where, as required by the statute, such sales and insurance proceeds were placed in a capital reserve fund. Unsubsidized vessel operators had no such privilege and could not secure any tax advantages except in the case of loss of the vessel under the very restricted provisions of section 112 (f) of the Internal Revenue Code. In 1939 a proposal was made to Congress whereby an operator having an old vessel could trade it in and turn it over to the Commission and receive a credit therefor against new construction undertaken either by the Commission or through a direct contract between the operator and a private shipyard. This proposal was made with the dual purpose of immobilizing the obsolete tonnage and encouraging new construction, particularly by the unsubsidized operators in the intercoastal trade. Since the transaction involved no cash receipts by the owner, and since the existing provisions with regard to tax deferment seemed to be inapplicable, special provisions to effect tax deferment were inserted in the legislation, after consultation with the Treasury Department. For some time, at least, section 510 was not taken advantage of by the unsubsidized operators.

In 1940 proposals were made to Congress for the establishment of construction reserve funds, in which would be placed the proceeds of sales and insurance and also operating earnings. Complete exemption from tax rather than tax deferment was asked for These proposals of the ship operators were opposed in their then form, both by the Commission and by the Treasury Department. While the bill was under consideration by Congress the Navy began to acquire a number of small craft, including fishing vessels. Since many of these vessels were heavily mortgaged, their taking by the Navy would leave, in many cases, an insufficient amount over the mortgage to make replacements after meeting the required tax payment. Accordingly, the owners of these small craft joined with the operators of larger vessels, principally in the intercoastal trade, in asking for some measure of relief. Since it was important to encourage new construction of smaller craft as well as larger vessels, Congress requested that the Maritime Commission and the Treasury Department get together on a program whereby, (a) while no tax exemption from earnings was to be granted, earnings deposited in the construction reserve fund would not be subject to the penalty tax under section 103 of the Internal Revenue Code relating to unreasonable accumulation of earnings, (b) proceeds of sales and insurance losses would be placed in a construction reserve fund and would be entitled to tax deferment in a manner similar to existing sections of the internal-revenue laws involving nonrecognition of gain in cases of exchanges or involuntary conversion and to section 510, but without imposing all of the restrictions thereof, and (c) the tax deferment was only obtainable if new vessels were, within a limited time, acquired out of moneys deposited in the construction reserve fund, thus making the construction of new vessels a condition to tax deferment. Section 511 was favorably reported by the House Committee on the Merchant Marine and Fisheries on the basis of these modified suggestions and became law on October 10, 1940.

I wish to point out in this connection that it is not discretionary with the Commission to withhold the benefits of section 511 to any operator who meets the requirements of the statute and the joint regulations of the Commission and the Commissioner of Internal Revenue, promulgated with the approval of the Secretary of the Treasury, nor do the statutory provisions justify inquiry by the Commission into the motives, real or conjectural, which lead any operator to avail himself of the statutory benefits granted by said section. The Commission does have some discretion with respect to the character of new construction, but if the new vessel is suitable as to type and size, it would be an abuse of its discretion to prohibit, for nonstatutory reasons, the use of section 511 funds to aid in its construction. In the Waterman case, the only problem was whether or not the operator, as a matter of law, had specifically agreed with the Commission not to use the proceeds of the sale of the five old vessels deposited under section 511 in order to carry out its obligations under the sales agreement. If such were the case, the Commission could properly have said that it would not permit such use of the section 511 funds, but, as stated above, the Commission did not consider that there was an enforceable commitment on which to base a denial of the use of the section 511 funds in connection with the four replacement vessels under the sales agreement.

That the right of the Commission to restrict the use of section 511 funds is dependent upon the existence of some collateral agreement is well illustrated by the situation which arose in the case of the *Fairport* and the *Fairisle*. These vessels, it will be remembered, were originally the subject of a private contract between Waterman and the Gulf Shipbuilding Corporation. When the Commission, in April 1942, agreed to take over these contracts for the purpose of selling the vessels under section 509, it imposed as a condition to this action that the down payment on these two vessels should be made out of Waterman's free funds.

As to the remaining two vessels, the Commission made no specific requirement. But it does not follow from this that Waterman will necessarily obtain tax exemption through the use of section 511 funds. This question of tax deferment is a complicated one which is primarily within the jurisdiction of the Bureau of Internal Revenue and not of the Commission. The Commission, however, is taking steps to place all of the relevant facts before the Bureau of Internal Revenue in order fully to inform that agency in the matter.

This leaves open for discussion solely the question of what is the proper thing to do as to the five old vessels which were sold to Waterman in 1940 under conditions giving the Commission the right to requisition them at the sales price, plus improvements, less depreciation. As stated before, the consensus of opinion of the Commission in November 1940, was against the singling out of these vessels when there was no general requisitioning of the American merchant marine. In April 1942, the War Shipping Administration requisitioned for use practically the entire dry cargo and tanker tonange of the American merchant marine but did not generally requisition vessels of such classes for title. The powers of requisitioning vessels, either for use or title, are now vested in me as Administrator, War Shipping Administration, and the question of proper future action with respect to these five vessels has had careful study.

These five vessels have been requisitioned for use for some months and the War Shipping Administration is about to tender charters fixing the terms and conditions pertaining to such use. In order to protect the interests of the Government, there will be inserted in the charters as tendered a provision limiting the amount which the Government is required to pay, in the event of loss, to the amount for which they could have been requisitioned for title under the sales agreement. By adopting this procedure, any possible injustice to Waterman due to depriving them of the use of the vessels after the war, is avoided, and, at the same time, the Government is not required to expend funds for their purchase, although it is protected as to the amount which it has to pay if the vessels are lost. One of the vessels has already been lost and the charter as tendered will contain the same provision as to payment for such loss. If the operator refuses to accept the charters as tendered, the War Shipping Administration will requisition the four remaining vessels for title and deny any claim by Waterman to obtain compensation for the lost vessel in excess of the price for which title could have been acquired under the sales agreement.

In the final portion of his report, the Comptroller General refers to the connection of the Commission's former general counsel, Bon Geaslin, with the transactions mentioned in the report. He infers that such connection was improper, constituting a possible violation of the spirit, if not of the letter, of section 807 of the Merchant Marine Act, 1936, as amended. The Commission has adopted comprehensive regulations regarding admission to practice of agents and attorneys representing shipping interests, including provisions similar to those adopted by the Bureau of Internal Revenue prohibiting former employees from appearing before the Commission with respect to matters on which they formerly acted in an official capacity. Mr. Geaslin resigned as general counsel on April 29, 1939, effective July 10, 1939, with the expiration of his accrued annual leave. At that time, Waterman had no business before the Commission. On December 29, 1939, he was admitted to practice before the Commission generally, and not in relation to then pending business of any operator. It was not until April 1940 that our records show he took any part in any of the matters relating to Waterman.

In conclusion, I wish to state that there is nothing in the whole transaction which, in my opinion, is contrary to the letter or the spirit of the statutes under which the Commission operates; that the decision to buy the five vessels from Waterman, rather than to requisition the five vessels sold under the sales agreement, was proper under condi-

tions existing at the time the decision was made; that the price paid for these vessels was fair and reasonable, and that the Government, in entering into this transaction, did not waive or limit its rights with respect to requisitioning thereafter the other five vessels at the prices specified in the sales agreement.

This letter has been considered by and is transmitted with the approval of the Commission.

Sincerely yours,

E. S. LAND,
Chairman.

MARCH 12, 1943.

Hon. S. O. BLAND,
Chairman, Committee on the Merchant Marine and Fisheries, House of Representatives.

DEAR JUDGE BLAND: You have requested the comment of the Maritime Commission with respect to the report which the Comptroller General of the United States transmitted to the Speaker of the House of Representatives on January 21, 1943, relative to the purchase of the steamship *President Roosevelt* by the Maritime Commission for the account of the War Department.

In October 1940 the Secretary of War asked the Maritime Commission to acquire and transfer to it two vessels for which there was immediate need as Army transports. The War Department had previously ascertained that the steamship *President Roosevelt* was suitable for its purposes, and that the owner of the vessel was willing to sell it for $600,000. The Commission thereupon purchased the vessel from its owner at the price indicated and transferred it to the War Department.

The steamships *President Wilson* and *President Lincoln*, sister ships of the *President Roosevelt*, were sold by the American President Lines in April 1940 for $675,000 each. The price paid for the *President Roosevelt* would therefore appear to be decidedly on the low side, as was pointed out to the Comptroller General in my letter of September 5, 1942.

The Comptroller General's report apparently ascribes "irregularity" to the failure of the Maritime Commission to acquire the vessel at the price of $178,531, which the report says was "the value of the vessel at the time of acquisition" upon the basis of the Commission's General Order No. 24.

It is obvious that the owner would not have parted with the vessel on a voluntary basis for the price of $178,531. The Commission would therefore had had to use compulsion in order to obtain the vessel at less than $600,000, and then would have had to sustain the proposition that under such compulsory process the amount which it should pay for the vessel was the figure quoted by the Comptroller General.

That this is what the General Accounting Office believes should have been done is the inference to be drawn from the reference in the report to the requisition authority contained in the Merchant Marine Act of 1936.

Whether or not the requisition authority of section 902 of the 1936 act was operative (1) on and after September 8, 1939, the date of a proclamation of limited national emergency issued by the President, or (2) on and after May 27, 1941, the date of the President's proclamation of unlimited national emergency, has been the subject of recent correspondence between the Comptroller General and the Administrator of the War Shipping Administration.

The Maritime Commission is in accord with the view that the authority of section 902 did not become operative under the President's proclamation of September 8, 1939, for the reasons set forth in the Administrator's letter of December 31, 1942, a copy of which was forwarded to you.

It is to be inferred from the instant report that the Comptroller General adheres to the view that the authority of section 902 became operative on September 8, 1939, in spite of the evidence heretofore submitted that such a conclusion is contrary to the belief and intent of the executive and legislative branches of the Government.

On this basis, the report concludes that the enhancement clause in section 902 would have required the payment of the lower value for the vessel acquired in October 1940.

Detailed discussion of the meaning and application of the enhancement clause may properly be left to the further development of the difference in viewpoints between the General Accounting Office and the War Shipping Administration since the whole question of the orderly administration of section 902 in the public interest is involved in that difference of opinion.

The Comptroller General takes the position that the amount that should have been paid for the vessel was established by the Commission's General Order No. 24.

A copy of that order, as amended, is attached.

As its title indicates, it is an order prescribing the basis for the valuation of vessels for the purpose of determining capital employed and net earnings under operating-differential subsidy agreements in accordance with the terms of section 607 of the Merchant Marine Act, 1936, which governs the reserve funds of contractors. Reference is made to the section and order for details.

The order is not, and does not purport to be, a basis for the valuation of assets for general corporate or other purposes—a fact that is obvious when it is noted that many vessels have been sold at various times at prices greatly in excess of the General Order 24 basis, such prices being the result of values fixed by buyers and sellers in voluntary sales transactions.

The report does not specify the ground upon which this basis of valuation would be required in lieu of the market value on September 8, 1939—the basis heretofore indicated by the Comptroller General for the determination of requisition values.

The report closes with the statement that action by the General Accounting Office "as required by law" will be taken to withhold credit in the account of the Chief Disbursing Officer of the Treasury Department for the amount of the alleged overpayment.

The legal basis for this action is not clear to the Maritime Commission, in view of the provisions of section 207 of the Merchant Marine Act, 1936, as amended.

The history of the vessel, including the outlay of the Government for the cost of construction and operation prior to the enactment of the Merchant Marine Act, 1936, is set forth in the report. The pertinency of these matters is not apparent, since the history of the efforts of the United States Government to promote the American merchant marine was fully reviewed by the Congress prior to the adoption of the 1936 act.

The gravamen of the alleged irregularity on the part of the Maritime Commission appears to lie in its failure to exercise the power of requisition as contained in section 902 in the acquisition of the vessel. Since this matter will be made the subject of an extensive review in the near future, it would not appear to be advisable to undertake it in this letter; but it should be emphasized that even if requisitioning had been resorted to, there is no adequate basis for the theory that the value of the vessel for the purposes of just compensation would properly have been determined in the manner indicated in the report.

Sincerely yours,

E. S. LAND,
Chairman.

MEMORANDUM ON PRICES THE WAR SHIPPING ADMINISTRATION MAY PAY FOR REQUISITIONED VESSELS

I. THE QUESTION

The question involved is one of interpretation of section 902 (a) of the act of June 29, 1936, known as the Merchant Marine Act of 1936, as amended by the act of August 7, 1939, which is as follows:

"SEC. 902. (a) Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, it shall be lawful for the Commission to requisition or purchase any vessel or other watercraft owned by citizens of the United States, or under construction within the United States, or for any period during such emergency, to requisition or charter the use of any such property. The termination of any emergency so declared shall be announced by a further proclamation by the President. When any such property or the use thereof is so requisitioned, the owner thereof shall be paid just compensation for the property taken or for the use of such property, but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use. If any property is taken and used under authority of this section, but the ownership thereof is not required by the United States, such property shall be restored to the owner in a condition at least as good as when taken, less ordinary wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the property in such condition. The owner shall not be paid for any consequential damages arising from a taking or use of property under authority of this section."

We also quote section 902 (d), which is as follows:

"(d) In all cases, the just compensation authorized by this section shall be determined and paid by the Commission as soon as practicable, but if the amount of just compensation determined by the Commission is unsatisfactory to the person entitled thereto, such person shall be paid 75 percent of the amount so determined and shall be entitled to sue the United States to recover such further sum as, added to said 75 percent will make up such amount as will be just compensation therefor, in the manner provided for by section 24, paragraph 20, and section 145 of the Judicial Code (U. S. C., 1934 ed., title 28, secs. 41, 250)."

The particular question is the interpretation of the "enhancement" clause in the sentence, which reads:

"When any such property or the use thereof is so requisitioned, the owner thereof shall be paid just compensation for the property taken or for the use of such property, but in no case shall the value of the property taken or used be deemed enhanced by the causes necessitating the taking or use."

To focus more sharply, the question is, "What are the 'causes necessitating the taking' within the meaning of the statute?"

The War Shipping Administration was established by an Executive order as a branch of the Maritime Commission, and for convenience it is here included in the term "Commission." The President, on September 8, 1939, issued a proclamation declaring the existence of a limited national emergency. On the face of the proclamation, as well as from the subsequent administrative action, it is clear the power of the Commission to requisition vessels was not brought into operation and there were not then, or for some time later, any causes existing which necessitated such requisitions. By proclamation of May 27, 1941, the President declared a general national emergency which was intended to and did bring into operation the requisitioning power of the Commission. Then and

thereafter there were causes existing which necessitated requisitions of vessels. In 1939 ship values seem to have been at a low level and not to have yet been enhanced by world or national conditions. Between 1939 and May 27, 1941, there was a rise in the general market values of ships (excepting vessels such as pleasure yachts) because of the outbreak of war in Europe, destruction by submarines and the operation of the laws of supply and demand.

The Commission, in paying for ships requisitioned since May 1941, has established base prices higher than general market prices prevailing in 1939, but below those reached by the time of the President's proclamation in May 1941.

If the causes necessitating requisitions arose in 1939 or 1940, then any enhancement thereafter resulting from such causes must be excluded from the prices voluntarily to be paid by the Commission. On the other hand, if the cause necessitating requisitions was the national emergency which arose and was proclaimed in May 1941, then obviously only those enhancements occurring thereafter, as a result of the emergency, are to be excluded by the Commission. Events commencing in 1939, such as the outbreak of war in Europe, may, it is true, have contributed to and eventually brought about in 1941 the national emergency, and by application of the doctrine of the Squibb case, a sort of house-that-Jack-built type of reasoning, earlier events, which finally developed the national emergency of 1941, might be said to be "causes necessitating the taking." On the other hand, the enhancement clause is plainly susceptible of the interpretation that the national emergency which arose and was proclaimed in 1941 was the immediate and proximate "cause necessitating the taking." The choice lies between these two interpretations.

II. SUMMARY OF CONCLUSIONS

1. Compensation for property taken by the United States under the power of eminent domain need not be paid in advance of or at the time of taking. If a statute made no provision for payment by the executive branch and required the owner to sue in the Court of Claims for just compensation, it would be valid provided, as in section 902 (d), the Congress does not attempt to limit the judicial award to something below value at the time of taking. Such a law is not made invalid by giving the Commission power to offer less than just compensation. It follows that we must disregard arguments that to be valid, 902 (a) must be construed to allow the Commission to pay constitutional just compensation.

2. The origin and history of the enhancement clause demonstrate that it was intended to operate, under some circumstances, to limit payments to less than value at the time of the taking.

3. The phrase "causes necessitating the taking" refers to the coming into existence of a national emergency proclaimed by the President, and bringing into operation the Commision's power to requisition. The date of the arising of the cause is the date of such a proclamation. Only enhancements occurring subsequently are to be excluded. Conditions prevailing for years prior to the proclamation, which may have contributed to and finally culminated in a national emergency, are not causes necessitating the taking, within the meaning of section 902.

4. The Comptroller General's original opinion was sound in reasoning, but made the mistake of assuming that the proclamation of September 8, 1939, proclaimed an emergency necessitating ship requisitions, and brought into operation the Commission's power to requisition. The proclamation of May 27, 1941, is one which did that, and May 27, 1941, is the crucial date. Only enhancements occurring after that date may be excluded from the Commission's offers to owners. The shift in the Comptroller's position is not maintainable in law or in fact. He has attempted to apply his own judgment as to whether in 1939 conditions existed necessitating ship requisitions, notwithstanding the President, the Congress, and the Maritime Commission had the contrary view and acted accordingly.

5. Under established law shipowners, resorting to the Court of Claims, could recover compensation greatly in excess of 1939 values and substantially in excess of the base prices (1940 values) established by the Commission. The enhancement clause should not be construed so as to force the owners into litigation, with heavy expense to both sides, hardship to owners, and loss to the Government through awards higher than the Commission's present basis.

6. The enhancement clause in 902 (a) has not been impliedly repealed either by the act of June 6, 1941, for requisition of foreign vessels or by the General Requisition Act of October 16, 1941, as amended.

7. It is recommended that the Commission apply to the Attorney General for an opinion. If he accepts the views of this memorandum, the Commission may rely on his opinion and continue to pay more than 1939 values, not more than market values as of May 27, 1941. If the Attorney General adopts the Comptroller General's view, the Congress should promptly be asked to enact law allowing the Commission to at least maintain its present base prices.

III. PRELIMINARY DISCUSSION

There should be no misapprehension as to what the Congress attempted to do as bearing on the problem how far any question of constitutional validity may influence interpretation of the statute.

Section 902 does two distinct things. In (a) it defines and restricts the amounts which the Commission may offer, and voluntarily pay, without litigation. In (d) it provides a remedy to the shipowner in the Court of Claims, if he is dissatisfied with the Commission's offer. The fifth amendment provides that "private property shall not be taken for public use without just compensation." It contains no requirement (as do some State constitutions) that the compensation must be paid in advance of or simultaneously with the taking.

Accordingly, the Supreme Court of the United States has repeatedly held that the constitutional requirement for just compensation is satisfied, if ultimate compensation is assured, and that such assurance is given if at the time of the taking there is in effect a law which gives the owner a full and adequate remedy against the United States, in the Court of Claims, to recover the full "just compensation" guaranteed by the fifth amendment, and which carries with it an implied pledge of the public good faith, to pay the judgment (*Crozier* v. *Krupp*, 224 U. S. 290, 306; *Yearsley* v. *Ross Construction Co.*, 309 U. S. 18, 21).

It follows that if a statute providing for requisition by the United States of private property in time of national emergency authorizes the taking without any provision for either complete or partial payment by executive officers or agencies, but gives to the owner as his only means of obtaining compensation the right to sue in the Court of Claims, and if the statute leaves that court freedom to award "just compensation" as judicially determined—the statute is valid. Such statute is not rendered invalid by adding to it a provision giving an executive officer power to offer, and the owner a chance to accept, without litigation, a sum which may be less than the owner could obtain in court. The validity of the statute depends on whether the courts are left free to award full "just compensation" undiminished by any legislative formula. Section 902 (d), fairly construed, gives such a remedy in the courts.

Section 902, as originally enacted in 1936, after providing in (a) that payments by the Commission for requisitioned vessels should exclude, as an element of value, enhancements by the causes necessitating the taking, then proceeded to say in subdivision (b) that the owner, if dissatisfied with the Commission's offer, could "sue the United States for the amount of such just compensation." The word "such" suggested that the courts, as well as the Commission, should be restricted by the enhancement clause.

When section 902 was revised August 7, 1939, the enhancement clause in (a) restricting prices paid by the Commission was retained, but in the clause [now (d)] relating to suits against the United States for compensation, the word "such" before the word "compensation" was omitted. Some significance may properly be given to striking out the word "such." As now worded, the statute does not expressly make the enhancement clause a limitation on judicial awards. What is just compensation is a judicial question and legislative action cannot validly prescribe that property may be taken for less. These considerations require that the enhancement clause constitutes a limitation only on voluntary payments by the Commission. The same thought was expressed by the Chairman of the Maritime Commission in his testimony before committees in April 1939 when he said, relating to the enhancement clause in section 902:

"It is understood that this is a limitation upon the amount of just compensation that may be determined and paid by the Commission, even though there may be some question as to whether such limitation may be binding upon the courts."

What I have said points at the proposition that the constitutionality of the enhancement clause, applying as it does only to the Commission and not to the courts, is not really at issue, and to sustain it there is no necessity for construing it as a mere legislative declaration of rules applied by the courts in fixing just compensation. It may be construed as intended to prescribe a formula, binding on the Commission though not on the courts, by which less than constitutional just compensation is all that the Commission may offer or pay without litigation. Eliminating fears of invalidity leaves us to interpret the enhancement clause according to its fair meaning, legislative history and other appropriate considerations.

IV. INTERPRETATION OF THE ENHANCEMENT CLAUSE

Its history does show convincingly that the Congress used the clause in a sense which under some conditions might produce a price basis less than just compensation in the constitutional sense.

The clause was coined and first appears in the ship subsidy bill of 1922, when the Congress was considering subsidizing ship construction. (See sec. 412, Committee Print No. 6, June 12, 1922, quoted in the Commission's Memorandum on Legislative History.) The clause reappeared in section 702 of the Merchant Marine Act of 1928, and again in a bill (H. R. 7521, sec. 1004) introduced April 15, 1935, by Congressman BLAND.

All those measures related to requisition, so-called, of ships respecting which there had been granted construction loans or operating subsidies or mail contracts. The debates and committee reports, as well as the provisions of the bills, show conclusively that the Congress was invoking the principle that, as a condition to receiving a subsidy, the Government could exact from the shipowner an agreement to turn the ship over to the Government at a price fixed by a stipulated formula. It is also clear that the enhancement clause was formulated for the purpose of enabling the Government to acquire the vessels at a figure below the general market value at the date of taking, which it would have to pay if compelled to resort to bargaining at arm's length, or to the power of eminent domain.

The arguments which have been suggested that the enhancement clause must be so construed as to provide constitutional "just compensation" in all cases, as a mere statutory declaration of principles already applied by the courts, must be laid aside and we must return to the question of interpretation first stated.

This view is supported by the words then used. Committee print No. 6, June 12, 1922, reads:

"In such event the owner shall be paid the fair actual value of the vessel at the time of taking, or paid fair compensation for her use based upon such fair actual value, but in neither case shall such fair actual value be enhanced by the causes necessitating the taking."

The word "but" means "except." According to the dictionaries it is "a word used to introduce a statement in modification of the preceding statement." The plain inference is that the amount paid might be less than actual value. The word "but" was retained in section 902.

Although the enhancement clause as first used had no application to eminent domain, it later was transplanted into legislation dealing with requisitions under that power. There is no basis for now giving the phrase a meaning different from that in which it was originally used.

V. WHAT IS MEANT BY "CAUSES NECESSITATING THE TAKING"

Does the phrase "causes necessitating the taking" refer to the existence and declaration of a national emergency, thus limiting the term "enhancement" to subsequent price rises, or may it be construed to include conditions prior to the time the national emergency arose and require exclusion from the price of enhancements occurring prior to the national emergency?

One of the considerations is a practical one. In 1939 ship values were low. Thereafter, during the period up to May 1941, there was a very considerable increase in market values of ships. There was an established market, because ships were bought and sold by private owners. During that period the Government did not attempt to control or limit in any way ship prices. They grew larger through the operation of the laws of supply and demand. Under these circumstances, if ships have been requisitioned by the United States since May 1941, and the Commission's offers to the owners are limited by this statute to 1939 values, such offers will necessarily be rejected. As has been pointed out above and the owners know, on rejecting such offers, owners may go into the Court of Claims and recover market value at the time of taking, more than double 1939 value. The judicial rule that just compensation is not enhanced merely because the Government wants the property, or beyond the value to the owner, if left in his hands, will not prevent the owner from recovering in court sums more than double the amount offered. Owners would be forced to resort to the courts. Any owner who had, late in 1940, bought a ship for double its 1939 value would know his property could not be taken at its value in 1939. The Government and its courts would be burdened with expensive ligitation, in which the awards would be at least values as of May 1941, plus interest. The owner would be subjected to expensive litigation and meanwhile deprived of his property and its proceeds with possible financial stress to him.

It is not conceivable that any court would adopt an interpretation of the statute producing such a result if any other reasonable conclusion is possible. As between two possible interpretations, the one fixing 1939 values as the limit to payments by the Commission is neither rational, supported by good sense or anything but harmful to the Government and the shipowners. The only shipowners who would be coerced to accept such offers from the Commission would be those faced with financial disaster by long delay in recovering its value—and that sort of coercion is not a pretty business for government to engage in.

The statute itself points to a national emergency proclaimed by the President as the cause necessitating the requisition of ships. The proclamation and the causes necessitating the taking are linked together in the law. The power of the Commission to requisition was not to exist or come into operation until such proclamation issued. The Congress declared in effect that only a national emergency was a cause justifying requisition, and left it to the President to decide when and if such a cause existed. It is not for the courts to say that prior to his proclamation any cause for requisition existed, and if a national emergency is the "cause" mentioned in the statute, it follows that the "enhancement" in value mentioned must be an enhancement following the cause and not one preceding it.

The legislative history of the clause fortifies this view. Of particular interest are the proceedings in the House relating to H. R. 7521 (sec. 1004), introduced by Mr. BLAND on April 15, 1935. That section dealt with so-called requisition of ships, the construction or operation of which was subsidized. The provision for taking the ships at less than current value, was that value should not be enhanced by the causes necessitating the taking. Congressman Moran proposed an amendment that the price should not exceed the cost to the owner, less depreciation based on an assumed 20-year life of the vessel. His point was that the enhancement clause alone would not exclude increases in market value occurring before the emergency arose necessitating the taking. He said (CONGRESSIONAL RECORD, vol. 79, pt. 9, p. 10200):

"We did not get into the World War until 1917 but the World War began in 1914. The price of vessels had enhanced from 1914 to 1917. We needed them but that was not the cause of the enhancement. Nevertheless we had to pay a higher price on that account."

The House seems to have accepted his view, as it adopted his amendment. In March 1940, when he was a member of the Maritime Commission, Mr. Moran, in a memorandum to the Commission relating to section 902, reiterated the view he had successfully urged upon the House in 1935, saying:

"There is the saving clause (sec. 902 (a)) 'but in no case shall the value of the property taken or used be deemed enhanced by causes necessitating the taking or use' but this does not protect against price rises caused by general conditions leading to an emergency before the actual emergency arises, as experienced in the years 1914–17."

It is obvious that the enhancement in ship values from 1939 to May 1941 are analogous to the enhancement from 1914 to 1917 which he described.

VI. THE COMPTROLLER GENERAL'S OPINION

Turning now to the Comptroller General's original opinion of November 28, 1942, we find that he concluded that the existence of a national emergency requiring the requisition of vessels was the "cause" in the sense the word was used in the statute, and he said:

"It would seem that the conditions under which the power to requisition was to be exercised and the reason or cause which necessitated such exercise of power are but one and the same."

His opinion, fixing September 8, 1939, as the crucial date, was based on the assumption that the proclamation of September 8, 1939, brought into operation the requisitioning power of the Commission. He pointed out that it was necessary that "a certain and fixed date be recognized" as the date when the cause arose which necessitated the requisitioning, with the result that enhancements occurring prior thereto may be allowed, and enhancements occurring thereafter may be excluded, and he concluded that the crucial date was the date of the proclamation of an emergency requiring the requisition of ships, the bringing into operation the Commission's power to requisition.

It is a logical opinion, and probably develops more clearly than is done in this memorandum the tying together of the proclamation with the origin of the "cause." The fault in the opinion was the mistaken assumption that the proclamation of 1939 brought the requisitioning power into operation or had anything whatever to do with ships, or was intended to declare the existence of any situation requiring the requisition of ships.

The Commission's reply of December 31, 1942, pointed out the Comptroller General's mistake as to the purpose and effect of the proclamation of September 8, 1939. It demonstrated beyond cavil that the proclamation was deliberately framed to avoid calling into operation the requisitioning power of the Commission, and that the President in later Executive orders and a message to Congress made clear that the "limited" emergency was not one affecting ships or creating a governmental need for them; that the Congress enacted laws inconsistent with the view that any emergency existed or had been proclaimed September 8, 1939, bringing into operation the Commission's requisitioning power under section 902.

It was also disclosed in the Commission's letter of December 31, 1942, that after September 9, 1939, the Commission and its counsel had repeatedly held that the proclamation of September 8, 1939, had not brought into operation its requisitioning power. After this disclosure an adherence to the reasoning of the Comptroller General's opinion of November 28 would have resulted merely in shifting from September 8, 1939, to May 27, 1941, as the date when there came into existence causes or conditions necessitating requisitions of vessels. It was the proclamation of May 1941 which declared an unlimited national emergency, and which was meant to and did make operative under section 902 the Commission's power to requisition. Instead, the Comptroller General, in his letter of January 7, 1943, shifted his position and adhered to September 8, 1939, as the date when there had arisen causes necessitating the taking of vessels. He seems then to have adopted what has been labeled above as the Squibb case, or "House that Jack built" argument, to the effect that it is not a national emergency which is the cause necessitating requisitions, but prior conditions and events which contributed to and finally produced the national emergency.

This theory, carried to its logical reasoning, might carry us back to Munich and Czechoslovakia, or even to the defects of the Versailles Treaty, as a direct contributing cause of our present troubles. This theory puts the Commission at sea without chart or compass, without a definite date as a basis for action, the need for which the Comptroller General emphasized so carefully in his original opinion.

It should also be noted that in announcing his adherence to the view that in 1939 causes had arisen necessitating requisitioning of vessels, the Comptroller General has substituted his judgment for that of the President, the Congress, and the Maritime Commission which is going a bit too far. Furthermore, the Comptroller General's view that in 1939 there had actually arisen, though not proclaimed, causes necessitating requisitioning of ships, is without a factual basis.

Memoranda prepared by the Commission show that in October 1939 we had a surplus of merchant vessels, many of which were

idle. There was a crisis of idle ships and idle seamen which continued well into the spring of 1940 and attracted wide attention in the press and in Congress. In 1940 the Government did not requisition any vessels. It bought a very few in 1940, principally for the Army and Navy. In May 1940 Congress even passed a joint resolution (Public Resolution 74) authorizing the Commission to sell any of their vessels except those constructed under the Merchant Marine Act of 1936. The first requisitions were in August 1941 when a few were so acquired. Not till April 1942 were ships requisitioned in considerable numbers.

No cause or condition necessitating ship requisition was known or thought to exist prior to April 1941 when the Commission, reporting to the House Committee on Merchant Marine, said:

"The United States urgently needs more oceangoing tonnage. It needs it for its foreign commerce and for its national defense program. It must now try to fill needs not reasonably foreseen a few months or even a few weeks ago, and certainly not in their present scope and intensity."

In 1942 the Congress considered a bill (H. R. 7424) to amend various provisions of law relating to the War Shipping Administration. After it passed the House and while it was pending in the Senate, the Comptroller General's opinion of November 28 was issued and came to the attention of the Senate Committee on Commerce. That committee then inserted and reported out an amendment revising section 902 (a), by striking out the enhancement clause and substituting the sentence:

"For any such property or the use thereof, heretofore or hereafter so requisitioned, the owner shall be paid just compensation in accordance with the standards set forth in the act of October 16, 1941 (Public Law 274, 77th Cong.) as amended."

The act of October 16, 1941, is the general requisition act authorizing the President or agencies designated by him to requisition property needed for war or national defense, and to pay therefor just compensation in accordance with the fifth amendment. The committee report (Rept. No. 1813, 77th Cong., 2d sess.), after citing decisions holding that just compensation guaranteed by the fifth amendment is the value at the time of taking and that market value is controlling if a market exists, made the following statement:

"Section 902 (a) of the act contains language relating to enhancement of values which is ambiguous and which may be susceptible of an interpretation which might force a rolling back of prices to some earlier period, possibly even to 1939 as the Comptroller General has pointed out. It is not believed that such an extreme interpretation was intended to be applied. In any event such interpretation would result in serious inequities, discriminations, and injustices to shipowners of various classes of vessels including freighters, tankers, fishing vessels, barges, and other small craft. Such interpretation further would seem to clash with the standards of just compensation established by the Supreme Court under the fifth amendment and recently readopted by Congress in the act of October 16, 1941, pursuant to which the President is authorized to requisition all property required for the war effort in conformity with the Constitution. The purpose of this amendment is to restate the meaning of section 902 (a) as to this matter and to avoid any danger that it may be construed in a manner conflicting with the fifth amendment of the Constitution or the wartime congressional policy in the act of October 16, 1941, as amended."

The committee disagreed with the Comptroller General's conclusion that the enhancement clause required the Commission to use 1939 values in paying for ships, emphasized the resulting injustices, and pointed out that under the Constitution shipowners could not be compelled to accept 1939 values.

The bill died in the Senate through the ending of the session.

VII. IN THE COURT OF CLAIMS THE OWNERS COULD RECOVER MUCH MORE THAN 1939 VALUES, AND MORE THAN THE COMMISSION'S BASE PRICES

Something further should be said in support of an earlier statement in this memorandum, that if 1939 values fix the limit which the Commission may offer and pay for ships requisitioned after August 1941, and in 1942, the owners, forced into the Court of Claims, will ultimately recover as "just compensation" sums greatly in excess of 1939 values and considerably more than the 1940 standard of values used by the Commission in payments for requisitioned ships.

What is "just compensation" is a judicial question. It is not competent for Congress to prescribe a formula binding the courts, which requires the exclusion of any element of value. Hon. HATTON SUMNERS summed it up, when the Second War Powers Act, approved March 27, 1942, was under consideration, saying:

"You may by legislation provide that the Federal Government must pay more than fair compensation, but you cannot effectively provide that it shall pay less."

It is also settled that the fifth amendment providing for just compensation operates in time of war as well as in time of peace, and that market values produced by war conditions cannot be excluded. The numerous judicial decisions relating to requisitions during World War No. 1 are unanimous on that point. It is also established that market value, if there exists a market, is the best standard of value.

In the case of ships from 1939 through 1941 and into 1942, the fact is established that there was an active market in ships, in which they were bought, sold, and chartered. It was a free market in the sense of being unaffected by governmental price control until well into 1942.

Among the rules established by the courts in fixing just compensation are the following:

The mere fact that the Government wants the property should not be allowed to enhance just compensation. Stated otherwise, it is the loss to the owner and not the gain to the Government which controls. Again, it is the value to the owner, if the property were left in his hands, which controls.

None of these principles would operate here to restrict values of ships below those reached by May 1941. There was a real market for vessels and charters, with abundant cargoes to carry. If the requisitioned ships had been left in private ownership, the owners would have had a ready market at prevailing market prices, producing large earnings. The doctrine that value for the "highest available use" must be rejected if the condemning government is the only person who could put the property to that use, has no application here. A ship has only one use—to transport freight and passengers—and that use was open to every private owner.

Some of these principles were reiterated in the recent case of *United States* v. *Miller*, decided by the Supreme Court of the United States January 4, 1943. The Court also held that where the Government had determined to acquire certain property and published its decision, enhancement in value resulting from the likelihood of acquisition by the Government forms no part of just compensation. That principle is not helpful here, because not before the proclamation of May 1941, and probably not before the general requisition of ships was determined upon in April 1942, was there exposed a probability of Government acquisition. Even if May 27, 1941, is accepted as the date, so as to exclude subsequent enhancements, May 1941 values, if awarded to owners by the courts, would be very greatly in excess of 1939 values and substantially in excess of the schedule of prices which the Commission has established and which it has been paying.

If the statute is construed to allow the Commission to continue to pay 1940 values, the Government will be saved large sums and much litigation expense.

Indeed, the Commission has evidently done a fine job in holding down payments for ships to a standard definitely below market values at dates of acquisition, and effecting an enormous saving as compared with ship costs to the Government in the last war.

VIII. OTHER STATUTES AND THE GENERAL REQUISITION ACT OF OCTOBER 16, 1941, AS AMENDED

Much material has been prepared by the Commission in an effort to show that the enhancement clause must be construed to allow payment by the Commission of full just compensation, and is no more than a statutory declaration of constitutional law.

For reasons above stated, including the origin and history of the clause, such a contention is unacceptable and, in any event, may be laid aside because the conclusions here expressed are not disturbed by the admission that the Congress intended to limit voluntary payments by the Commission to a standard under some conditions below "just compensation."

There are, however, two statutes which have been cited which deserve examination. One is the act of June 6, 1941, to authorize acquisition of foreign vessels. By section 1 the President was authorized "through such agency or officer as he shall designate, but not after June 30, 1942," to requisition title or use of ships, "provided that just compensation shall be determined and made to the owner or owners of any such vessel in accordance with the applicable provisions of section 902 of the Merchant Marine Act of 1936, as amended."

This adopts the provisions of section 902, including the enhancement clause, governing voluntary payments without litigation, and affords no help but leaves us where we started. The President delegated the power to the Maritime Commission. It is true section 4 authorized the Commission to purchase vessels "at such prices and upon such terms and conditions as it may deem fair and reasonable and in the public interest." At first blush it might seem incongruous that the Congress should make a distinction between purchases and requisitions, as to the price to be paid, but the same situation exists under section 902 (a) of the Merchant Marine Act, and we cannot assume that the Congress had no reason for it. However this may be, the statute offers no solution of the meaning of "causes necessitating the taking."

The other statute is the general requisition act of October 16, 1941, as amended by the Second War Powers Act of March 27, 1942. The pertinent provisions are as follows:

"That whenever the President, during the national emergency declared by the President on May 27, 1941, but not later than June 30, 1943, determines that (1) the use of any military or naval equipment, supplies, or munitions, or component parts thereof, or machinery, tools, or materials necessary for the manufacture, servicing, or operation of such equipment, supplies, or munitions is needed for the defense of the United States; (2) such need is immediate and impending and such as will not admit of delay or resort to any other source of supply; and (3) all other means of obtaining the use of such property for the defense of the United States upon fair and reasonable terms have been exhausted, he is authorized to requisition such property for the defense of the United States upon the payment of fair and just compensation for such property to be determined as hereinafter provided, and to dispose of such property in such manner as

he may determine is necessary for the defense of the United States. The President shall determine the amount of the fair and just compensation to be paid for any property requisitioned and taken over pursuant to this act and the fair value of any property returned under section 2 of this act, but each such determination shall be made as of the time it is requisitioned or returned, as the case may be, in accordance with the provision for just compensation in the fifth amendment to the Constitution of the United States If, upon any such requisition of property, the person entitled to receive the amount so determined by the President as the fair and just compensation for the property is unwilling to accept the same as full and complete compensation for such property he shall be paid 50 percent of such amount and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States in the manner provided by sections 24 (20) and 145 of the Judicial Code (U. S. C., 1934 ed., title 28, secs. 41 (20) and 250) for an additional amount which, when added to the amount so paid to him, he considers to be fair and just compensation for such property."

This gave the President or any agency selected by him power to requisition certain kinds of property and pay "just compensation," as defined in the Constitution. It does not aid in the interpretation of the enhancement clause in the Merchant Marine Act It does not operate as an implied repeal of the enhancement clause. Repeals by implication are not favored. It is a grant of power to the President, not to the Maritime Commission. It may be that the Congress was willing to give to the President or agencies designated by him wider power than to the Commission.

It is not apparent how the General Requisition Act can operate effectively on the present problem. If it be assumed that the phrase "military or naval equipment" includes merchant vessels, then, if the President has designated or does designate the Commission as an agency under that act, it would follow, as to requisitions made after such designation, the Commission could voluntarily pay, without litigation, just compensation in the constitutional sense, without any limitation by the enhancement clause.

One difficulty would be that prior to such designation by the President requisitions would have been made by the Commission which have not yet been paid for, and as to these, section 902 controls and the problems of interpretation dealt with above would still remain as to such requisitions.

A greater difficulty arises because of a serious doubt that the term "military or naval equipment" includes ships. The context indicates that the word "equipment" has a narrower scope. This is emphasized by the fact that when the General Requisition Act was passed in October 1941 and also when it was amended March 27, 1942, there was already in operation the Merchant Marine Act, which enabled the Government to requisition domestic ships for any purpose, and the act of June 6, 1941 (operative until June 30, 1942), authorizing the President to requisition foreign vessels, and it was not necessary in the act of October 16, 1941 (General Requisition Act) to make any provision for taking ships. The safer conclusion is that the words "military or naval equipment" in the act of October 16, 1941, does not include ships. At most, it could be construed to do no more than cover ships for the direct use of the Army or Navy as transports, tenders, supply ships, or other auxiliaries.

The conclusion is that the act of October 16, 1941, as amended, should not be relied on as the basis for requisitioning and paying for ships.

IX. COURSE TO BE FOLLOWED

The Commission should apply to the Attorney General for an opinion. (If under the law the Commission may not require an opinion from the Attorney General, the President could ask for it.)

If the Attorney General accepts the view that the enhancement clause only relates to enhancement occurring after May 27, 1941, the Commission may proceed accordingly. If the Attorney General accepts the Comptroller General's view, application should then be promptly made to the Congress for a "clarifying amendment" to section 902.

This memorandum does not deal with price to be paid for a ship, the construction or operation of which has been subsidized under a statute prescribing the price, or the formula for fixing a price, at which the owner shall sell the vessel to the United States. Such subsidies were granted and accepted on an agreement at least implied, if not expressed in a contract, that the price formula in the subsidy statute should be applied, and the owner is bound to accept the formula, which may be very much less than the value at the time the Government takes the vessel.

The numerous subsidiary questions stated in the Commission's letter to the Comptroller General of November 24, 1942, have not been discussed. If the basic principles to be followed are settled, their application to the peculiar facts of individual cases should be determined without much trouble.

WILLIAM D. MITCHELL.

UNITED STATES MARITIME COMMISSION,
Washington, March 22, 1943.

Hon. EDWARD J. HART,
Chairman, Special Subcommittee on Charter Rates, Committee on the Merchant Marine and Fisheries, House of Representatives.

DEAR CONGRESSMAN HART: The Maritime Commission desires to present to your committee information which may be helpful in its consideration of the charter rates paid for voyages to the Red Sea in the summer and fall of 1941.

The Commission has asked the owners who took part in these voyages to agree, voluntarily, to a revision of the charter rates paid, and to make a refund to the Government thereon. Attached is a copy of the statement made to representatives of the owners who met with the Commission on November 19, 1942. The owners agreed to take the matter under consideration, but no action thereon has been taken by them.

The Red Sea voyages in question represent the first arrangements of their kind undertaken by the Maritime Commission. The sailings began in the early part of May 1941 and were continued for several months thereafter.

The President had directed the Commission a few weeks before the Red Sea voyages were authorized to assemble a pool of 2,000,000 tons of merchant shipping for use in the national defense effort. The Commission thereupon set about to obtain the necessary shipping through voluntary arrangements with the owners. Vessels needed by the armed services for conversion were purchased, while ships needed for cargo transportation were obtained, as far as possible, on a charter basis, bareboat and time charters predominating.

The assembling of this pool of shipping was barely under way when the Commission was directed to make available to the British Ministry of War Transport enough ships to transport quantities of material from the United States to Suez and vicinity via the Red Sea. The task was most urgent, because of the military situation in north Africa at the time.

The Commission did not pay the charter hire, in this instance or others, at the time under discussion. It approved the rates to be paid. In obtaining the use of ships on a voluntary basis, the Commission undertook to correlate and direct traffic. Charters were made between the shippers and the owners. The Maritime Commission organized the schedules, spotted the cargo and loading berths, and approved the charter rates. Its control was exercised by indirection.

In the case of the Red Sea voyages, the ships were chartered by their owners to the British Ministry of War Transport. The charter hire was paid out of lend-lease funds allocated for the purpose, presumably on account of the problem of exchange involved.

A combination of factors led the Maritime Commission to adopt the space charter form for the Red Sea voyages, instead of the bare-boat or time-charter forms more commonly used by it.

The nature of the cargo to be carried was perhaps the primary factor, when considered in connection with the speed with which the undertaking had to be set in motion.

The British Purchasing Commission had bought quantities of war equipment and supplies in the United States. The Red Sea voyages were undertaken in order to get as much of this material to Africa as might be assigned to that theater of operations. The items were as diverse in nature as the needs of an expeditionary force would require.

Under the usual space charter arrangement, the shipper paid on the basis of the total cubic content of the ship, delivering to the vessel whatever he wanted to go, and the vessel owners took care of all expenses of loading and discharging. The device was suited to the needs of the Red Sea movement, since it would permit prompt sailings with a minimum of detail in determining rates. Space charters were being used to some extent at the time by commercial operators for similar voyages.

American vessels, restricted in their movements by the Neutrality Act of 1939, had not theretofore gone into waters potentially as dangerous as the Red Sea. Neither had they carried ammunition and explosives in such quantities as were included in these shipments. No one knew the actual hazard in the undertaking. Events proved that the actual hazard was less than anticipated.

The largest factor in judgment from the standpoint of hazard was the risk of delay. War-risk insurance was available to cover the loss of or damage to a ship resulting from hostilities, but the owners had to assume the risk of extensive delays in the return of their ships.

Ships were then at the peak of their earning power. Replacements for ships lost were hard to find, and the cost high. If a ship should be damaged at some place where repairs were difficult or impossible to obtain, the owner lost the use of his vessel during the delay in its repair and return.

The risks of delay were intensified by factors other than the dangers of loss or damage resulting from attack. Ships sometimes had to unload at Red Sea ports that were inadequately equipped. They had to sail in unfamiliar and poorly charted waters to reach such ports, and might have to sail under black-out conditions to reach them.

Another important consideration was the uncertainty of return cargo.

American demand for strategic and critical materials meant that there was cargo to be carried, but the movement o such cargo had not been fully organized and coordinated. The Commission had undertaken to control inward cargo and rates thereon, but it was unable to advise a ship operator in May or June 1941 that after his vessel had unloaded in the Red Sea it could obtain a return cargo at a specific point.

There was no return cargo to be had in the Red Sea. The distances from Port Said to the ports at which return cargo might be had are considerable. From Port Said to Colombo is 3,500 miles; to Beira, 4,000 miles; to Calcutta, 4,700 miles; to Singapore, 5,000 miles. It is 1,400 miles from Port Said to Aden, at the other end of the Red Sea. A

ballast voyage of considerable length was therefore indicated before a ship could be placed on a homeward loading berth.

Under these conditions, it appeared advisable to approve charter rates on a one-way basis, so that the owners could and would undertake the voyages, assuming the risks of time and delay.

Commercial rates current at the time for voyages of comparable length amounted to $1 or more per cubic foot. Such rates yielded an enormous return. We were close to the situation that obtained during World War No. 1, when a vessel paid for itself with a single voyage, if it made a safe return.

The Maritime Commission had no legal control over charter rates (except the powers of sections 9 and 37 of the Shipping Act of 1916, which were of limited application) until after the adoption of the Ship Warrants Act, which was approved on July 14, 1941. In the course of the hearings on that legislation prior to its passage, the Commission pointed out that ship earnings were very high and in danger of getting out of hand.

When the Commission undertook to organize the Red Sea voyages, ship earnings were at their peak, as heretofore noted. The owners were in a position to demand $1 or more per cubic foot for commercial cargoes to the Red Sea.

The cost of loading and discharging these Red Sea vessels was to be assumed by the British Ministry of War Transport, thereby relieving the owners of an expense normally borne by them under the above-quoted $1 rate. It was also estimated that the cargoes to be carried, because of the nature of the items to be shipped, would leave about 20 percent open space in the vessel which could not be utilized.

The Maritime Commission took the position that inasmuch as this amount of free space was greater than normal, a deduction of 20 percent from the going rate should be made. This modification, with a 5 percent deduction for the stevedoring provided by the shipper, made the rate 75 cents per cubic foot.

The owners demurred, contending that the commercial rate was $1 or more, that their vessels were in no different position than any other neutral vessels, and that they should be paid on the commercial basis, making allowance only for the cargo expense assumed by the shipper. The Commission was unwilling to approve the going rate for this purpose, considering it too high, particularly in view of the anticipated volume of the business.

The alternative would have been requisitioning. The Commission wanted to avoid, or at least to postpone, the application of section 902 until there had been a further opportunity to effect a reduction of ship earnings and values. The Commission was intent upon effecting a downward revision of the whole structure of rates and values before resorting to requisition.

The Commission therefore insisted upon the downward adjustment of the space charter rate, and finally the owners acquiesced in it.

The actual experience with the Red Sea venture proved that the hazards of war were not so great as had been feared, that the delays encountered were not extensive on the average, and that the operators obtained return cargoes with relative ease and in substantial volume. The time element which loomed so large when the voyages were undertaken did not prove a material handicap in the majority of cases, although some losses were incurred. As a result, the returns to most of the owners who made the Red Sea voyages were completely out of line with what had been anticipated.

In August 1941, the Commission required a downward revision in the space charter rate, from 75 cents to 60 cents per cubic foot, and the elimination of any payment for cargo carried on deck.

The Red Sea operation is the only instance in which the Commission made extensive use of the space charter arrangement. It has preferred to use bareboat and time charters, the rates for which have been brought pretty well into line, in the opinion of the Commission, although those rates were also very high when the Commission initiated its effort to scale ship values and charter hire downward.

Attached is a chart showing the fluctuations of world time charter rates from the third quarter of 1939 to the first quarter of 1942. As indicated therein, vessel earnings improved immediately after the outbreak of the war in September 1939, but it was not until near the end of 1940 that the inflationary effect of war conditions on merchant shipping began to be conclusively evident. Then, within less than 6 months, world time charter rates went up from a point less than $4 per dead-weight ton per month to a figure above $10 per ton per month.

The Commission had begun its efforts toward reduction of values and rates only a few weeks before the date shown on the chart as the peak of time charter rates, which occurred just about the time the President's proclamation of unlimited national emergency (May 27, 1941) made the powers of section 902 operative. The chart therefore indicates graphically the reason for the Commission's desire to avoid, or at least to postpone, the use of its powers to requisition vessels.

The effort to assemble a pool of 2,000,000 tons of merchant shipping, and the control which the Commission has assumed over the traffic in strategic and critical materials gave it some bargaining power, which it used to the utmost of its ability, while the ship-warrants law was pending. One instance of this use is reflected in the establishment of the Red Sea charter rates.

As soon as the Ship Warrants Act was approved, the Commission brought about a drastic reduction in time charter rates, as indicated by the scale of rates set forth in the Commission's Press Release 970, on July 30, 1941, a copy of which is attached. While the new rates become effective only as charters were made after that date, they were responsible in large measure for the continued downward revision of charter rates, as reflected in the curve on the chart, and for making it possible for the War Shipping Administration to stabilize charter rates at a reasonable level in the spring of 1942.

A further reduction in rates had been initiated in January 1942, as shown by the Commission's Press Release 1117, a copy of which is attached.

The significance of the Commission's actions in regard to charter rates is apparent from a comparison of current rates with the rates paid during World War No. 1 and during the present conflict before measures of control became effective.

Referring again to the chart, it will be seen that although world time charter rates went from $4 per ton per month in December 1940 to more than $10 per ton per month in May 1941, they were brought down again to their 1940 levels by the end of 1941. If controls had not been applied, there would undoubtedly have been further and pronounced inflationary effects after the Japanese attack on Pearl Harbor.

During World War No. 1 the Shipping Board paid more than $4 per ton per month for vessels on bare-boat charter. The Court of Claims later allowed the owners $6.60 per ton per month as just compensation for the bare-boat rate. The Commission and the War Shipping Administration have been able to hold the bare-boat charter rates down to a level of $1 to $1.50 per ton per month, which is not appreciably higher than 1939 pre-war earnings in many instances.

When the War Shipping Administration initiated extensive requisitioning of vessels for use in the war effort a year ago, the general structure of charter rates and ship values had been restored to the levels of 1940.

The owners who took part in the Red Sea venture are still participating in the war effort on the basis of the stabilization herein described, subject only to the Comptroller General's decision of November 28, 1942, concerning which the War Shipping Administration is still negotiating.

If there is any further information your committee desires in connection with this matter, the Commission will be glad to furnish it.

Sincerely yours,

E. S. LAND,
Chairman.

JANUARY 28, 1943.

The Honorable JOSIAH W. BAILEY,
United States Senate.

MY DEAR SENATOR BAILEY: The Commission has for some time given careful consideration to the operation of the South Portland Shipbuilding Corporation, of South Portland, Maine, and has had before it the results of independent investigations made by the House Committee on Merchant Marine and Fisheries and by the Truman committee of the Senate. The conclusion has been reached that the company, operating under the management that existed up to the end of 1942 failed to exercise due diligence in the prosecution of its contracts for facilities and ship construction. On January 4, 1943, however, the company installed a new management and, in the interest of avoiding, if possible, any interruption in essential ship production it has appeared desirable to permit continuance of work under the contracts by the present company for a reasonable period during which the new management will have the opportunity to demonstrate its efficacy.

After some prolonged and extremely difficult negotiations, including a formal hearing before the Commission at which Mr. John Reilly and Mr. Joseph Haag, of the Todd Shipyards Corporation, appeared on behalf of the South Portland company, there was addressed to Mr. Reilly a letter dated January 20, 1943, and at the same time a technical notice of default under the facilities and shipbuilding contracts was mailed to the South Portland Shipbuilding Corporation.

Mr. Reilly has replied to the letter of January 20, under date of January 25, 1943, indicating that the South Portland Corporation with certain reservations agrees to the procedure and conditions outlined in the Commission's letter.

Copies of the letters and notices of default as well as a copy of the press release issued today by the Commission are enclosed herewith.

In substance and effect the plan contemplates the following:

(a) That the new management installed on January 4, 1943, will have a period of approximately 2½ months in which to demonstrate its effectiveness. If at the end of that period, there are still grounds for default, no further notice will be required. A general criterion of performance is indicated, which, while severe, having in mind the seasonal situation at South Portland, may be treated with some degree of flexibility by the Commission should performance of the new management warrant it.

(b) Fees payable with respect to the 16 vessels covered by the first contract are eliminated entirely insofar as relates to vessels still to be launched or delivered, and fees already paid under that contract are to be returned to an extent that will eliminate any profit by the corporation arising out of operations prior to December 31, 1942; that is to say, arising out of the operations of the old management.

(c) Fees with respect to all other vessels are reduced approximately 45 percent, and

the matter of the additional facilities is settled.

In proposing this plan to the company, the Commission had in mind the necessity of protecting the Government's interest against any continued faulty management, but deemed it necessary to avoid, if possible, the interruptions to production that would almost inevitably result from more drastic action, particularly during the 30-day period of notice to which the contractor is entitled under the default provisions of the contract.

The Commission feels that it has thus met the primary objectives contained in the reports of the committees of both Houses of the Congress.

Sincerely yours,

E. S. LAND,
Chairman.

UNITED STATES MARITIME COMMISSION,
Washington, March 21, 1943.

Production requirements for the 60-day period starting January 20, for the South Portland Shipbuilding Corporation, as set by the Maritime Commission, have been met and the contract with that yard will be continued, the Maritime Commission announced today.

With the delivery Saturday by the Maine yard, of the *Hannibal Hamlin* the quota of 12 ships to be delivered within the trial period has been exceeded by 2. The stipulated quota of 36,000 tons of steel to be fabricated also has been exceeded materially. This performance, the Commission states, is adequate evidence of the yard's ability to carry out its contract. Both labor and management have cooperated in expediting production.

Following investigation by the Maritime Commission, the House Merchant Marine and Fisheries Committee, and the Truman committee of the Senate, new management was installed at the yard on January 4. Shortly thereafter the Commission announced it would be in the interest of the war effort and would avoid any interruption in essential ship production if the yard were permitted to continue operations for 60 days, subject to a stipulated production minimum.

The present yard, with 13 ways, is the result of a consolidation of the adjoining yards of the Todd-Bath Iron Shipbuilding Corporation and the South Portland Shipbuilding Corporation. The former company originally constructed 30 Liberty-type ships for the British Government. At the conclusion of that contract, keels were immediately laid for the construction of Liberty ships for the United States Maritime Commission.

Recent operations at the shipyard, the Commission said, showed indications of a decided decrease in the number of man-hours required per ship, and in costs and construction time. For the first time since the inception of the ship construction program, the South Portland yard is now averaging less than 105 days from keel laying to completion for the construction of a Liberty ship. In one instance, the yard delivered a new ship into service in 95 days. It is expected this performance will be improved upon during coming months.

Latest reports definitely indicate to the Commission that the personnel in the combined yards are fully appreciative of the vital importance of the work they are doing so that production will be continuously increased.

INCREASE IN PAY OF POLICEMEN AND FIREMEN IN THE DISTRICT OF COLUMBIA

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 17) to provide for a temporary adjustment of salaries of the Metropolitan Police, the United States Park Police, the White House Police, and the members of the Fire Department of the District of Columbia, which were, to strike out all after the enacting clause and insert:

That all employees of the District of Columbia Government whose compensation is prescribed by the act entitled "An act to fix the salaries of officers and members of the Metropolitan Police Force and the Fire Department of the District of Columbia," approved July 1, 1930 (including the United States Park Police in the District of Columbia), or by the act entitled "An act to amend the act entitled 'An act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia,'" approved June 4, 1924, all other employees of the District of Columbia Government except employees whose wages are fixed on a daily or hourly basis and adjusted from time to time in accordance with prevailing rates by wage boards or similar administrative authority serving the same purpose not covered by the joint resolution entitled "Joint resolution extending until April 30, 1943, the period for which overtime rates of compensation may be paid under the acts of June 28, 1940 (54 Stat. 676), October 21, 1940 (54 Stat. 1205), and June 3, 1941 (55 Stat. 241), and for other purposes," approved December 22, 1942, and all individuals whose rate of compensation is prescribed by the act entitled "An act to create the White House Police Force, and for other purposes," approved September 14, 1922, as amended, shall receive additional compensation at the rate of $300 per annum, except that—

(1) any such employee shall be paid only such additional compensation as will not cause his aggregate compensation to exceed the rate of $5,000 per annum; and

(2) employees paid on a per diem basis shall receive an increase of 10 percent in their compensation otherwise provided for by law, but such percentage increase shall not in any case exceed $25 per month.

SEC. 2. This act shall take effect as of December 1, 1942, and shall terminate on June 30, 1944, or such earlier date as the Congress by concurrent resolution may prescribe.

Amend the title so as to read: "An act to provide for a temporary increase in compensation for certain employees of the District of Columbia Government and the White House Police Force."

Mr. McCARRAN. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. McKELLAR, from the Committee on Post Offices and Post Roads:

Sundry postmasters.

By Mr. CONNALLY, from the Committee on the Judiciary:

Tom C. Clark, of Texas, to be Assistant Attorney General of the United States, vice Thurman Arnold, resigned.

By Mr. WALSH, from the Committee on Naval Affairs:

Dental Surgeon Alexander G. Lyle, to be a dental surgeon in the Navy, with the rank of rear admiral, for temporary service, to rank from March 13, 1943.

By Mr. REYNOLDS, from the Committee on Military Affairs:

John D. Howard, of Texas, to be area director at $4,600 per annum in the Beaumont area office of the War Manpower Commission; and

Sundry officers for promotion under the provisions of law, and sundry other officers for appointment, by transfer, all in the Regular Army.

NOMINATION OF HUGH B. COX

Mr. WHERRY. Mr. President, it is a privilege to report that the Judiciary Committee, to whom the nomination of Hugh B. Cox, of the District of Columbia, to be Assistant Attorney General of the United States, was referred, unanimously recommends that the nomination be confirmed. I now report the nomination.

The ACTING PRESIDENT pro tempore. The nomination will be received and placed on the Executive Calendar.

If there be no further reports of committees, the clerk will proceed to state the nominations on the Executive Calendar.

UNITED STATES MARITIME COMMISSION—NOMINATION PASSED OVER

The Chief Clerk read the nomination of Rear Admiral Emory S. Land, United States Navy, retired, to be a member of the United States Maritime Commission.

Mr. BARKLEY. Mr. President, I ask that the nomination go over.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be passed over.

WAR MANPOWER COMMISSION

The Chief Clerk proceeded to read sundry nominations in the War Manpower Commission.

Mr. BARKLEY. I ask that the Manpower Commission nominations be confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. BARKLEY. I ask that the nominations of postmasters be confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations of postmasters are confirmed en bloc.

Mr. BARKLEY. I ask that the President be immediately notified of all nominations confirmed today.

The ACTING PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

That concludes the calendar.

RECESS TO THURSDAY

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock meridian on Thursday next.

The motion was agreed to; and (at 4 o'clock and 45 minutes p. m.) the Senate took a recess until Thursday, March 25, 1943, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 23, 1943:

DIPLOMATIC AND FOREIGN SERVICE

Boaz Long, of New Mexico, now Ambassador Extraordinary and Plenipotentiary to Ecuador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

Robert M. Scotten, of Michigan, now Envoy Extraordinary and Minister Plenipotentiary to Costa Rica, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Fay A. Des Portes, of South Carolina, now Envoy Extraordinary and Minister Plenipotentiary to Guatemala, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

James B. Stewart, of New Mexico, now Envoy Extraordinary and Minister Plenipotentiary to Nicaragua, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Nicaragua.

Walter Thurston, of Arizona, now Envoy Extraordinary and Minister Plenipotentiary to El Salvador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

John D. Erwin, of Tennessee, now Envoy Extraordinary and Minister Plenipotentiary to Honduras, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Honduras.

Avra M. Warren, of Maryland, now Envoy Extraordinary and Minister Plenipotentiary to the Dominican Republic, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

John Campbell White, of New York, now Envoy Extraordinary and Minister Plenipotentiary to Haiti, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

APPOINTMENTS AND PROMOTIONS IN THE NAVY

TEMPORARY SERVICE

Capt. Ingram C. Sowell to be a rear admiral in the Navy, for temporary service, to rank from the 13th day of September 1942.

The following-named commanders to be captains in the Navy, to rank from the date stated opposite their names:

Felix B. Stump, June 30, 1942.
Joseph W. Fowler, June 30, 1942.
Leland P. Lovette, June 30, 1942.

The following-named lieutenant commanders to be commanders in the Navy, to rank from the date stated opposite their names:

Nicholas B. Van Bergen, January 1, 1942.
Jesse R. Wallace, March 1, 1942.
Henry E. Eccles, June 30, 1942.
Ralph Earle, Jr., June 30, 1942.
Albert K. Morehouse, June 30, 1942.
William V. Saunders, June 30, 1942.
Henry A. Schade, June 30, 1942.
Joseph N. Wenger, June 30, 1942.
Roland N. Smoot, June 30, 1942.
Paul C. Wirtz, June 30, 1942.
Daniel F. J. Shea, June 30, 1942.
Arthur A. Ageton, June 30, 1942.
Thayer T. Tucker, June 30, 1942.
Peter W. Haas, Jr., June 30, 1942.
William R. Thayer, June 30, 1942.
Louis A. Reinken, June 30, 1942.
Olin Scoggins, June 30, 1942.
Pleasant D. Gold 3d, June 30, 1942.
Paul B. Koonce, June 30, 1942.
William H. Hamilton, June 30, 1942.
John B. Moss, June 30, 1942.

The following-named lieutenants to be lieutenant commanders in the Navy, to rank from the date stated opposite their names:

Charles J. Hardesty, Jr., January 1, 1942.
Earle C. Hawk, January 1, 1942.
William L. Kabler, June 30, 1942.
George K. Carmichael, June 30, 1942.
Nickolas J. F. Frank, Jr., June 30, 1942.
Henry J. McRoberts, June 30, 1942.
Frank A. Brandley, June 30, 1942.
Richard G. Visser, June 30, 1942.
Andrew McB. Jackson, Jr., June 30, 1942.
Wellington T. Hines, June 30, 1942.
Richard T. Spofford, June 30, 1942.
Harold M. Heiser, June 30, 1942.
Stanley M. Alexander, June 30, 1942.
William B. Moore, June 30, 1942.
Robert E. Perkins, June 30, 1942.
Leonidas D. Coates, Jr., June 30, 1942.
Robert T. Sutherland, Jr., June 30, 1942.
David L. Whelchel, June 30, 1942.
Robert L. Moore, Jr., June 30, 1942.
John T. Hayward, June 30, 1942.
William T. Nelson, June 30, 1942.
Denys W. Knoll, June 30, 1942.
Francis S. Stich, June 30, 1942.
Eddie R. Sanders, June 30, 1942.
Jefferson R. Dennis, June 30, 1942.
Robert J. Stroh, June 30, 1942.
John Corbus, June 30, 1942.
Christian L. Engleman, June 30, 1942.

The following-named lieutenants (junior grade) to be lieutenants in the Navy, to rank from the date stated opposite their names:

John H. Maurer, November 1, 1941.
Carter B. Jennings, January 1, 1942.
Johns H. Janney, January 1, 1942.
Robert L. Neyman, February 2, 1942.
James J. Southerland 2d, March 1, 1942.
Robert "W" McElrath, March 16, 1942.
James H. Barnard 2d, April 1, 1942.
Delmer F. Quackenbush, Jr., April 1, 1942.
Warfield C. Bennett, Jr., April 1, 1942.
Norman C. Gillette, Jr., June 30, 1942.
Richard A. Teel, June 30, 1942.

The following-named ensigns to be lieutenants (junior grade) in the Navy, to rank from the 1st day of June 1942:

Louis H. Roddis, Jr.
Charles H. Johnson, Jr.
John P. Aymond
Frank W. Bampton
Wade C. Wells
Wade E. Bertram
James C. Wootton
Howard W. Crews
Carl H. Horenburger
Jess W. Barnes
Harold N. Funk
Clark F. Rinehart
Roy M. Plott
John F. Spivey, Jr.
Harold P. Gerdon
Franklin J. Martin
Rolla S. Lemmon
Arthur J. Brassfield
Maurice A. Peters
Kenneth P. Hance
Jacob W. Onstott
Chandler W. Swanson
Robin M. Lindsey
Thomas S. White
Ned L. Broyles
William E. Rowbotham
William H. McRee
Alvin C. Berg
Billy V. Gates
Beecher Snipes
Otto F. Meyer, Jr.
Hal F. Perrenot
Lacy L. McColloch
Jesse L. Pennell
John B. Honan
Charles A. Van Dusen, Jr.
Clarence E. Olson
John J. Worner
George W. Smith
Delbert M. Minner
William H. Munson
Myron P. Fishel
Robert C. Lefever
James M. Dunford
Walter B. Miller
Marshall E. Turnbaugh
Ernest F. Schreiter
John V. Wilson
William C. Hushing
Neil E. Harkleroad
John N. Renfro
Oliver H. Payne
William E. Kuntz
John C. Fisher
Dave Johnston, Jr.
Robert V. Laney
Charles R. Chandler
James H. Smith, Jr.
Francis B. Weiler
John B. Pye
George R. Smith
Chester J. Kurzawa
Dwight O. Ness
Charles S. Thomas, Jr.
John R. Wallingford
Jim D. Miller
Thomas W. Murphy
Frank M. Ralston
Paul E. Loustaunau
Preston N. Shamer
Paul A. Holmberg
Leroy E. Harris
Roger W. Paine, Jr.
Joseph C. Roper
Marvin D. Norton, Jr.
Robert L. Border
Frank Blaha
Elbert C. Lindon
William S. Dawson
Waller C. Moore, Jr.
James C. Bidwell
Alfred H. Higgs
Edward Ackerman
Vadym V. Utgoff
George M. K. Baker, Jr.
Edward C. Blonts, Jr.
John B. Ritch, Jr.
Jack C. Young
Eugene H. Simpson
John F. Quinn, Jr.
Paul W. Gill
Thomas R. Eddy
Alexander S. Wadsworth 3d
Louis P. Spear
David H. Pope
Harry L. Harty, Jr.
William Denton, Jr.
James L. Abbot, Jr.
Daniel K. Weitzenfeld
Allyn B. Ostroski
William D. Adams
Charles M. Cassel, Jr.
Richard M. Swensson
William J. Valentine
William L. Savidge
Thomas C. Hart
Robert C. Truax
Arthur G. Harrison
Kenan C. Childers, Jr.
Sam J. Caldwell, Jr.
Egil T. Steen
Frederic C. Fallon
James F. B. Johnston
John C. McCarthy
Charles A. Dancy, Jr.
Richard McC. Tunnell
Winfred E. Berg
William J. Walker
Thomas J. Walker 3d
Fernald P. Anderson
Andrew B. Hamm
Harvey S. Moredock, Jr.
Ernest L. Schwab, Jr.
Clyde H. Parmelee
Gustav A. Norwood
Peter Shumway
William M. Shifflette
Wendell W. Bemis
Chester W. Smith
John B. Guerry, Jr.
James R. Banks
Alton L. C. Waldron
Henry G. Reaves, Jr.
John S. Moyer
Robert E. Lawrence
Wayne Herkness 2d
Eugene G. Fairfax
William W. Brehm
Floyd E. Moan
Rafael C. Benitez
Robert L. Gurnee
Harry W. McElwain
Nathan F. Asher
Onofrio F. Salvia
Robert J. Trauger
Richard E. Robb
Lee D. Goolsby
Charles F. Leigh
Charles R. Clark, Jr.
Frank D. Miller
Theodore M. Ustick
John B. Dudley
James W. McConnaughhay
John D. Harper, Jr.
Edward Olcott
James P. Coleman
Tom J. Gary
Richard T. Fahy
Robert L. Mastin
Willard Y. Howell
Chester H. Fink
Noble C. Harris, Jr.
Blake S. Forrest
Benjamin C. Jarvis
Robert H. Dasteel
Will P. Starnes
Francis J. Fitzpatrick
Emmett P. Bonner
Fredric "B" Clarke
Paul R. Schratz
Calvin S. George, Jr.
Walter A. McGuinness
William R. De Loach, Jr.
Jack A. Mahony, Jr.
James G. Glaes
George C. Duncan
Earle F. Craig
John E. Parks
Joseph M. West
Carl F. Pfeifer
Norton E. Croft
Frederick L. Taeusch
Joseph W. Hughes
Curtis F. Vossler
Thomas J. Rudden, Jr.
James D. Reilly
William J. Manning
John A. Fidel
Robert W. Gavin
John W. Salvage
Joseph D. Linehan
Almer P. Colvin
William H. Snyder
Edward D. Mattson
Ralph W. Rawson
John H. Millington
DeWitt McD. Patterson
Robert P. Guiler 3d
Charles K. Miller
Thomas C. Williamson
Edward I. Gibson
Harry A. Seymour
Robert B. Wood
Henry J. Brantingham
Donald C. Brewington
Morris D. Gilmore, Jr.
Richard L. Downing
Roland W. Schumann, Jr.
Harry E. Davey, Jr.
Herbert A. Cassidy, Jr.
Donald J. Hardy
Frederick B. Tucker
Gaylord S. Parrett
William L. Thompson
Douglas N. Syverson
Augustus J. Rush
Robert C. Evins
Edward H. Seiler, Jr.
Richard F. Barry, Jr.
John J. A. Michel
Lucien C. Powell, Jr.
Posey A. Hooper
Orville O. Liebschner
Robert J. Slagle
Henry F. Lloyd
Charles R. Stapler
Frank H. Kolb, Jr.
Jesse W. McCoy
Edmonds David
Gordon W. Smith
Houston C. Tucker, Jr.
Robert E. Paige
Richard K. Gould
Herbert Kriloff
John E. Dunn
John J. Munson
Daniel S. Baughman, Jr.
Edward J. Foote

George R. Palus
Robert R. Stuart, Jr.
Harold C. Lank
Stanley W. Kerkering
Bernard J. Germershausen
Albert R. Strow
Theodore C. Siegmund
Montrose G. McCormick
Paul C. Rooney
Clarence E. Bell, Jr.
Robert F. Deibel, Jr.
Robert W. Clark
William B. Fargo
Roy E. Breen, Jr.
George F. Sharp
Allen B. Register
William W. Huffman
John V. Cameron
Wilbur S. Wills, Jr.
Edwin G. Reed, Jr.
Frank C. Perry
Lester S. Wall, Jr.
Neal Almgren
Edward T. Grace
Eugene V. Knox
Warren L. Hunt
Jacob J. Vandergrift, Jr.
Charles D. Nace
John B. Balch
John D. P. Hodapp, Jr.
Dudley H. Adams
Donald C. Deane
Macgregor Kilpatrick
Roman V. Mrozinski
Francis T. Cooper, Jr.
Frederick N. Russell
John C. Jolly
John C. Lawrence
Leslie S. Robinson
David W. Watkins, Jr.
Richard S. McElroy, Jr.
Fred M. Bush, Jr.
Robert F. Wadsworth
Elmore F. Higgins, Jr.
Howard J. Greene
Howard P. Ady, Jr.
Ernest H. Dunlap, Jr.
Richard W. Lombard
Herbert D. Remington
William R. Dunne
William L. Poindexter
John C. Spencer
Murray B. Frazee, Jr.
Overton D. Hughlett
Paul E. Glenn
William K. Yarnall
James W. McCrocklin
Kenneth B. Hysong
Wilson G. Wright 3d
John E. Shepherd 3d
Elmar S. Waring, Jr.
Raymond P. Kline
Albert R. Barbee, Jr.
John A. Sharpe, Jr.
Norman W. Doudiet
Kenneth L. Kollmyer
John F. Miller, Jr.
Robertson C. Dailey
Harold W. Gehman
Paul T. Krez
Thomas D. Keegan
Hubert T. Murphy
Claude L. Goodman, Jr.
Rexford J. Ostrom
Richard W. Phillips
George V. Rogers
Raphael A. Zoeller
Clayton Ross, Jr.
Iler J. Fairchild, Jr.
Alfred J. Toulon, Jr.
Harold C. Miller
Charles N. G. Hendrix
James L. May
James H. Elsom
Selwyn H. Graham, Jr.
Wilbur J. Mason
Irving D. Dewey
Lemuel D. Cooke
Clay H. Raney
George J. Largess
Marcus L. Lowe, Jr.
Richard J. Dressling
James McC. Hill
Robert W. Conrad
Robert A. Gulick, Jr.
Walter K. Stow, Jr.
John W. Magee
Alfred B. Wallace
Charles DeW. McCall
Loren H. Kiser
Marlin D. Clausner
Edward R. Holt, Jr.
Ronald F. Stultz
Frank J. Coulter
James B. Wallace
Francis M. Welch
Sigmund A. Bobczynski
James A. McAllister
Ivan D. Quillin
Warren J. Davis, Jr.
Carl J. Ballinger, Jr.
John R. Blackburn
Canterbury B. Pierce
John C. Mathews
Harvey R. Nylund
Andrew R. Drea
Frederick M. Radel
Robert Brent
Arthur F. Fischer, Jr.
Emmett M. Compton
Lincoln Marcy
Partee W. Crouch, Jr.
Stephen C. O'Rourke
Edward F. Rye
John R. Zullinger
Allan G. Wussow
Davis Cone
Albert G. Neal
Landon L. Davis, Jr.
James D. Ramage
Walter L. Douglas, Jr.
Joseph W. Castello
Jack W. Hough
Ellis J. Fisher
Richard L. Helm
Gene T. Shirley
William J. Carey, Jr.
George D. Ghesquiere
Charles W. Cushman
John P. Weinel
Byron E. Cooke
George W. Forbes, Jr.
James J. Madison
Robert M. Brownlie
Paul A. Dimberg
Harvey L. Lasell
John B. Williams, Jr.
Hugh B. Sanders, Jr.
William D. Bonvillian
Franklin E. Cook, Jr.
Grant H. Rogers
Rowland F. Nicolai
William T. Alford
George T. McDaniel, Jr.
Ira S. Hardman, Jr.
Edward L. Dashiell, Jr.
John B. Howland
John C. Weatherwax
Samuel L. Collins
Reginald F. Ockley, Jr.
Robert G. Merritt
Russell C. Dell
Edwin L. Harris, Jr.
Robert J. Duryea
Robert H. Smith
John M. Cease
Tom S. Sutherland
Edmond A. Hoggard
Russell H. Buckley
Max A. Berns, Jr.
George C. Simmons, Jr.
Karl S. Van Meter
Robert R. Startzell
Richard W. Robinson
John T. T. O'Neill
Harold A. Wells
Stephen L. Johnson
Nelson J. Allen
Eugene B. Henry, Jr.

Lt. (Jr. Gr.) Ira W. Brown, Jr., A–V(N), United States Naval Reserve, to be a lieutenant (junior grade) in the Navy, to rank from the 1st day of December 1941.

The following-named officers of the Naval Reserve to be ensigns in the Navy, to rank from the date stated opposite their names:

Willard E. Eder, April 1, 1940.
William W. Hunker, June 7, 1940.
Carl C. Schmuck, Jr., June 7, 1940.
Harry H. Basore, Jr., July 15, 1940.
Ralph S. Smyle, July 15, 1940.
James Thanos, August 1, 1940.

Dr. Charles F. Deppe to be an assistant surgeon in the Navy, with the rank of lieutenant (junior grade), to rank from the 16th day of March 1943.

The following-named officers of the Naval Reserve to be assistant paymasters in the Navy, with the rank of ensign, to rank from the date stated opposite their names:

Gardiner T. Pollich, November 7, 1940.
Bennett H. Hunter, November 7, 1940.
Kenneth L. Jeffery, Jr., November 7, 1940.
John J. Shea, November 19, 1941.
James K. Lytle, Jr., November 19, 1941.
Raymond P. Barker, November 19, 1941.
Burnett N. Hull, November 19, 1941.
Joseph L. Howard, November 19, 1941.
Russell M. Hoverman, November 19, 1941.
Palmer Hughes, Jr., November 19, 1941.
William W. Winkleman, November 19, 1941.
Charles L. Knight, November 19, 1941.
Harry J. Hicks, Jr., November 19, 1941.
Charles H. Drayton, November 19, 1941.
Coleman W. Morton, November 19, 1941.
Asher J. Thompson, November 19, 1941.
John W. Graham, November 19, 1941.
Don C. Christensen, November 19, 1941.
John J. O'Connor, Jr., November 19, 1941.
James R. Fordham, November 19, 1941.
R. Douglas Davis, November 19, 1941.
Franklin W. Hynson, November 19, 1941.
Fred C. Culver, November 19, 1941.
Norman L. Arrighi, November 19, 1941.
George Henry, Jr., November 19, 1941.
Norman M. Schwartz, November 19, 1941.
James J. Lynch, November 19, 1941.
Richard J. Lautze, November 19, 1941.
Richard E. Forrest, November 19, 1941.
Robert H. Blandford, November 19, 1941.
Lawrence A. Wheeler, March 23, 1942.
William P. Catchpole, March 23, 1942.
W. Howard Nolan, March 23, 1942.
Paul J. Flamand, September 11, 1942.

Lt. John A. Stelger, CEC–V (S), United States Naval Reserve, to be an assistant civil engineer in the Navy, with the rank of lieutenant (junior grade), to rank from the 4th day of December 1939.

Lt. (Jr. Gr.) Joseph A. Roseman, D–V (G), United States Naval Reserve, to be a lieutenant (junior grade) in the Navy, to rank from the 1st day of June 1942.

IN THE MARINE CORPS

Col. David L. S. Brewster to be a brigadier general in the Marine Corps, for temporary service, from the 16th day of September 1942.

Col. Clifton B. Cates to be a brigadier general in the Marine Corps, for temporary service, from the 16th day of September 1942.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 23, 1943:

WAR MANPOWER COMMISSION

APPOINTMENTS

Samuel M. Derrick, to be field supervisor, at $5,600 per annum, Atlanta regional office.

A. Frederick Smith, to be senior economist, at $4,600 per annum, Atlanta regional office.

James J. Carney, Jr., to be program control technician, at $4,600 per annum, Atlanta regional office.

POSTMASTERS

ARIZONA

Jessie L. Beyard, Seligman.
Sara O. Delgado, Tiger.

CALIFORNIA

Howard K. Goodwin, Long Beach.

MAINE

Christine G. Davis, Eliot.
Bertha M. Plummer, Raymond.

OHIO

Mary P. Mowl, Aurora Station.
Albert D. Owen, Austinburg.
Charles T. Wilford, Avon.
Harold Q. Overholser, Camden.
Agnes M. Jones, Columbia Station.
Earl J. Brulport, Fayetteville.
Leslie O. Campbell, Georgetown.
Myrtle I. Grant, Grove City.
Samuel E. Fleming, Manchester.
Karl S. Schiller, Petersburg.
Thomas F. Short, Seaman.
Hugh M. Parker, Windham.

VIRGINIA

Andrew W. Cameron, Hot Springs.

HOUSE OF REPRESENTATIVES

TUESDAY, MARCH 23, 1943

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore [Mr. McCORMACK].

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Eternal God who livest and reignest above all space, Thou hast ever before Thee those who mourn and all who are sorrowful. Grant to every one a sense of Thy sympathizing presence and a simple understanding of Thy holy nature that those graces may be sealed out of which spring the most beautiful affections. In Thy great mercy empower us with that spirit that will enable us to face trial and every bereavement of this mortal world.

Grant that our country may be disentangled from those spurious desires of self-indulgence, rather obeying the demands of a high sense of accountability. Whatever there may be which stains her good name and imperils her marvelous mission, we humbly pray for it downfall. Whatever there may be in our homeland which qualifies public contentment and individual rights, O let it live and remain. Whatever there may be of her sacrifice to preserve her glorious destiny, may it yield a sublime service for our democracy. We pray for the numberless men and women who know not of the delights and splendors of the world and belong to no order of distinction but are in the front ranks of defense. When their toiling days are over they will stand beside the noblest of mankind. Bear in Thy merciful arms our firesides, our presiding Speaker, and the Congress. In the name of our Redeemer. Amen.

The Journal of the proceedings of yesterday was read and approved.