By Mr. HORAN:

H. R. 6027. A bill to amend the Tariff Act of 1930, and for other purposes; to the Committee on Ways and Means.

By Mr. JENNINGS:

H. R. 6028. A bill to provide for the establishment of a ferry across the Powell River at or near Lead Mine Bend, Tenn.; to the Committee on Public Works.

By Mr. KEATING:

H. R. 6029. A bill to amend part VIII of Veterans Regulation No. 1 (a) so as to provide entitlement to educational benefits for those individuals who enlisted or reenlisted prior to October 6, 1945, on a same basis as for those individuals who enlisted or reenlisted within 1 year after October 6, 1945; to the Committee on Veterans' Affairs.

By Mr. MOULDER:

H. R. 6030. A bill to amend the Federal Alcohol Administration Act with respect to labeling and advertising certain domestic whisky as aged; to the Committee on Interstate and Foreign Commerce.

By Mr. PHILLIPS of California:

H. R. 6031. A bill to authorize an agreement between the United States and Mexico for the joint construction and operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, Calif., and Mexicali, Lower California, Mexico; to the Committee on Foreign Affairs.

By Mr. QUINN:

H. R. 6032. A bill to amend section 5 of the Federal Alcohol Administration Act as amended, to provide a definition of the term "age" as used in the labeling and advertising of whisky; to the Committee on Interstate and Foreign Commerce.

By Mr. RANKIN:

H. R. 6033. A bill to provide for a preliminary examination and survey of the Hatchie and Tuscumbia Rivers in Mississippi and Tennessee, for the purpose of determining action necessary to control floods and provide proper drainage in the areas through which such rivers flow; to the Committee on Public Works.

H. R. 6034. A bill to provide for the establishment of a veterans' hospital for Negro veterans at the birthplace of Booker T. Washington in Franklin County, Va.; to the Committee on Veterans' Affairs.

By Mr. CHUDOFF:

H. R. 6035. A bill to amend the National Housing Act, as amended, and for other purposes; to the Committee on Banking and Currency.

By Mr. GRANAHAN:

H. R. 6036. A bill to authorize the construction of a research laboratory for the Quartermaster Corps, United States Army, at a location to be selected by the Secretary of Defense; to the Committee on Armed Services.

By Mr. LANE:

H. R. 6037. A bill to amend the National Housing Act, as amended, and for other purposes; to the Committee on Banking and Currency.

By Mr. BENNETT of Florida:

H. Res. 328. Resolution providing for the consideration of the bill H. R. 4766, to authorize certain construction at military and naval installations, and for other purposes; to the Committee on Rules.

By Mr. COOLEY:

H. Res. 329. Resolution providing for the consideration of Senate Joint Resolution 53, to provide for the reforestation and revegetation of the forest and range lands of the national forests, and for other purposes; to the Committee on Rules.

By Mr. LANE:

H. Res. 330. Resolution creating a Select Committee on Potato Price-Support Program in Aroostook County, Maine; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ENGLE of California:

H. R. 6038. A bill to provide for issuance of a supplemental patent to Charles A. Gann, patentee No. 152419, for certain land in California; to the Committee on Public Lands.

By Mr. HOFFMAN of Illinois:

H. R. 6039. A bill for the relief of Anna K. McQuilkin; to the Committee on the Judiciary.

H. R. 6040. A bill to provide for the naturalization of Leo Battistella; to the Committee on the Judiciary.

H. R. 6041. A bill to provide for the naturalization of Mrs. Annunziata Vittore; to the Committee on the Judiciary.

By Mr. KEATING:

H. R. 6042. A bill for the relief of Mannuel O. Zariquiey; to the Committee on the Judiciary.

By Mr. McCARTHY:

H. R. 6043. A bill for the relief of Anastazia Bolek; to the Committee on the Judiciary.

By Mr. MANSFIELD:

H. R. 6044. A bill for the relief of Anna Russo; to the Committee on the Judiciary.

H. R. 6045. A bill to direct the Secretary of the Army to reconvey certain land to the Missoula Chamber of Commerce, Missoula, Mont.; to the Committee on Armed Services.

H. R. 6046. A bill to reimburse the Missoula Chamber of Commerce, Missoula, Mont., for its expenditures in connection with the acquisition, and conveyance to the United States, of certain land for the enlargement of the Fort Missoula Military Reservation; to the Committee on the Judiciary.

PETITIONS, ETC.

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

1416. By the SPEAKER. Petition of John Jarrett and others, Chambersburg, Pa., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1417. Also, petition of Mary Herzog and others, Blaine, Wash., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1418. Also, petition of Mrs. C. A. Anderson and others, Seattle, Wash., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1419. Also, petition of I. C. Ellis and others, Orlando, Fla., requesting passage of H. R. 2135, and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1420. Also, petition of St. Petersburg Townsend Club No. 1, St. Petersburg, Fla., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1421. Also, petition of Associated Townsend Clubs of Hillsborough County, Tampa, Fla., requesting passage of H. R. 2135 and H. R. 2136, known as Townsend plan; to the Committee on Ways and Means.

1422. Also, petition of Mrs. Mae Clayton and others, Tampa, Fla., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

1423. Also, petition of West Palm Beach Townsend Club No. 1, West Palm Beach, Fla., requesting passage of H. R. 2135 and H. R. 2136, known as the Townsend plan; to the Committee on Ways and Means.

SENATE

THURSDAY, AUGUST 18, 1949

(Legislative day of Thursday, June 2, 1949)

The Senate met, in executive session, at 12 o'clock meridian, on the expiration of the recess.

Rev. Ralph Candler John, S. T. M., William Frazer McDowell professor of religion, American University, Washington, D. C., offered the following prayer:

Eternal God, Thou in whose mind a thousand years are as but a day and a watch in the night, we pause midst the rush of this bourne of time and place to acknowledge Thy sovereignty over our lives and to beseech Thy guidance. Our prayer is that Thou wilt help us to share the perspectives of Thy understanding, that small things may appear to be what they are and that great things may have their due share of the resources of our time and talent. We would live, O God, in a manner relevant to the needs of the day which Thou hast given.

Make us to know the benediction of Thy presence. Be with us for direction, for comfort, and for strength. Through Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. McCARRAN, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, August 17, 1949, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 1279) for the relief of George Hampton.

EXECUTIVE MESSAGES REFERRED

The 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.)

NOMINATION OF TOM C. CLARK TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

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

Mr. WHERRY. Mr. President, will the acting majority leader yield for a moment? We are working under a unanimous-consent agreement and it is very vital that the full amount of time be allowed to the proponents and the opponents of this nomination. I see the distinguished Senator from Michigan [Mr. FERGUSON] is present now. I am wondering——

Mr. FERGUSON. Mr. President, I hope a quorum call will be waived.

Mr. McCARRAN. I thought the Senator wanted a full Senate.

Mr. FERGUSON. I do, but I assume that the Members of the Senate will be here shortly.

Mr. McCARRAN. Very well.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Tom C. Clark to be Associate Justice of the Supreme Court of the United States?

Mr. McCARRAN. Mr. President, may I inquire about how much time the Senator from Michigan expects to occupy?

Mr. FERGUSON. I desire an hour at first.

Mr. McCARRAN. Very well. My understanding is that there is a unanimous-consent agreement to vote at 3:30 p. m., and I understand there is to be an equal division of time.

The PRESIDENT pro tempore. That is correct.

Mr. McCARRAN. The Senator from Michigan wishes an hour at this time?

Mr. FERGUSON. Yes.

Mr. McCARRAN. Very well.

Mr. FERGUSON. Mr. President, in view of the limited time at my disposal, and for the sake of continuity, I should prefer not to be interrupted in the course of my remarks. I hope that at their conclusion I will have sufficient time to yield for any questions which Members of the Senate may wish to address to me.

Article 2, section 2, of the Constitution provides that the President of the United States "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * Judges of the Supreme Court."

Members of the Senate here and now are being called upon to give their advice and consent to the appointment of Tom C. Clark to be Associate Justice of the Supreme Court. It is a constitutional responsibility, and, as such, it is a solemn responsibility.

No man can find pleasure in standing on the floor of the Senate, and particularly in this room, with all the shades of history which gather here, to oppose the confirmation of any person nominated to the Supreme Court of the United States.

Mr. President, this is the very room in which the Supreme Court of the United States sat for many years. The junior Senator from Michigan was admitted to the bar of the Supreme Court in this very Chamber. He understands the workings and the functions of the Court, and has great respect for it. That is one reason he is taking the floor of the Senate today on the pending nomination.

As I have said, no one can find pleasure in rising to oppose the confirmation of any man nominated to be a Justice of the Supreme Court of the United States. I am nevertheless forced to take that position. My remarks today are delivered out of a sense of duty and public obligation.

If one desires to question a nominee for the Supreme Court, the place assigned for that purpose is the Committee on the Judiciary. In this case such questioning has been denied by a refusal of the committee to permit the nominee to appear before it and to testify and give evidence as to his fitness.

It is a function of the Senate Committee on the Judiciary to obtain the facts for the Senate as a whole, upon which Members may base their advice and consent to an appointment to the Supreme Court.

Regrettably, the committee in this case has not fully performed its function. As a consequence, I can raise only on this occasion the questions which I conscientiously feel should be raised.

The apathy with which this nomination has in general been accepted has been a shock to many people. It is an apathy which can be explained only by the fact that the appointment is so transparently political. It is an appalling thought that the people of the United States may be resigning themselves to a fate of being dictated to by political appointments and that in consequence they feel helpless. Yet that seems to be the prevailing attitude. It may be expressed and is expressed by some in the question, "What is the use? He is going to be confirmed anyway."

Let us in the Senate bear uppermost in our minds, however, that this is not an appointment to political office. It is to the Supreme Court of the United States, the highest tribunal in our system of justice. It is a life appointment.

It is an appointment which rightly is to be distinguished from that to a Cabinet office. Cabinet officers are arms of the Executive. Their terms expire with that of the Executive. Their function is to carry out the policies of the Executive. Any doubts which arise in connection with the nomination of a Cabinet member should be resolved, if possible, in favor of the President, to whom the appointee will be responsible. But the appointment of a Supreme Court Justice is not a matter in which the Executive should enjoy primary responsibility. It is the people's appointment. The President nominates. He appoints only after the advice and consent of the Senate has been given. The Senate in giving its advice and consent is acting for the people.

As a matter of fact, in many States judiciary appointments have been taken out of the hands of the executive and the legislature, and vacancies are filled by a vote of the people. We do not follow that practice in our Federal Government. But the existence of that practice within our governmental framework in this country reflects the basic philosophy that judiciary appointments are people's appointments.

Yet there is an appalling apathy toward them. I speak not only of the present nomination but of appointments to the judicial branch of the Government generally.

In the present case the special committee on the judiciary of the American Bar Association has replied to an inquiry from the Senate committee. A telegram from its vice chairman reads:

> The special committee on the judiciary of the American Bar Association begs to inform you that it does not oppose the confirmation of Hon. Tom C. Clark as an Associate Justice of the United States Supreme Court.

I have no intention to be critical of the American Bar Association. I have hesitated to single out that communication. But unfortunately that communication illustrates something of the apathy with which the present nomination has been accepted by the public at large.

Does that telegram mean that all the members of that committee of the American Bar Association favor this nomination? No. Does it in fact say that the committee endorses the nomination? No. Does it mean that Mr. Clark is qualified? No. Does it mean that he is unqualified? The association does not say that. It merely says that the committee is not going to oppose the nomination. It is merely a resignation to apathy, the apathy of the American people and the Senate of the United States on these nominations to the most important judicial office in the land.

This apathy which I am protesting is a reflection upon each and every one of us. It is moreover a reflection upon the Court itself.

Remember that the Supreme Court is the apex of one of the three coequal branches of the Federal Government. It is the people's tribunal and the defender of the people's rights under our laws. Its function is inscribed on that great building which houses the Court: Equal justice under law. Its function is to defend, in the name of the law, men against men and men against even their Government. It is the supreme inheritor of that concept which has raised western civilization above all others in history; the belief that we shall have a Government of law and not of men.

There can be no place for mere personal or political considerations in deliberations of this kind. Any questions of policy, of a nominee's competency and integrity, automatically acquire such weight, however, that when they arise they should be answered. If there can be no answer they must nevertheless be raised.

It is the privilege of any Member of the Senate to speak out. It is the duty of every Senator to examine the record, and his conscience, before he votes.

As an individual Member of the Senate, my failure to speak out on these vital questions, and particularly on this question, would be something for which I should have to answer to the people of my State, and to the people of the United States.

Until this moment I have withheld all comment on the nomination or the qualifications of Mr. Clark. My reason, as I have indicated, lies in a belief that the proper place to raise questions, so they may be directed personally to a nominee, is in committee.

But I, and any other Senator who might have wished to follow that procedure, was shut off by committee actions. As a matter of fact, by a parliamentary device members of the committee were not even permitted to vote on the question of requesting Mr. Clark's attendance as a witness.

As a result the questions which should properly be answered by an examination of the nominee as a witness can only be raised here. In fairness to Mr. Clark and in all sincerity I regret that fact.

In addition to the questions which I would have directed to the nominee, I have certain conclusions, drawn upon personal experience with Mr. Clark, which are apart from the questions of general interest that conceivably could have been answered by him in direct examination.

These conclusions my conscience also compels me to express at this time.

I believe the action and the procedures of the Senate Judiciary Committee warrant comment at this point. I have already called attention to the manner in which it shut off possible questioning of Mr. Clark and publicly I have called that an outrage to the American people, to this body, and to Mr. Clark himself.

At the opening of hearings on Mr. Clark's nomination the chairman announced that "the order of presentation will be that those communications supporting the nomination or speaking favorably of the nominee will be read into the record."

Such an order would be perfectly proper, except for the fact that there is in the public record of the hearings now available in a stenographic transcript no indication that there was anything derogatory or critical concerning the nominee in the committee file. I understand that within the last hour or so copies of the printed record of the hearings have been delivered.

Only upon a motion made in executive session of the committee was further material from the file ordered printed as a part of the record. I have not seen that material. I am informed, however, that it was of considerable volume. It can be fairly assumed to contain critical or derogatory comment, if it is a cross section of the information and communications individual Senators have received.

If it does contain critical or derogatory information, good procedure dictates that it should have been used as the basis of questioning the nominee, in the interest of all concerned.

The point of major interest at this moment, however, is that that portion of the record has not heretofore been available, because it has just now been delivered to the Committee on the Judiciary. The Senate is in the position of acting without even a complete record of the hearings available for study.

Worthy of comment, too, is the fact that the committee permitted a personal representative of the nominee to sit with it in its executive sessions. I cannot feel that is in the interest of orderly procedure.

Mr. Clark's representative in executive sessions did make it possible for him to report to the nominee that there was pending overnight, following one such session, a motion to request the nominee's attendance as a witness. Knowing that fact, and knowing the nature of the questions upon which such a request was based, and knowing further that those questions would have to remain unresolved if he did not appear, I should think that Mr. Clark himself would have insisted upon an appearance. But he did not, and neither did the committee.

I have said that the whole procedure was not in the public interest, nor to Mr. Clark's benefit. I think that is a fair statement. We have not had a steamroller tactic in this particular case. It has been a guided-missile tactic. The nomination is now before the Senate, and we are about to vote on it.

The open hearings before the committee were confined almost exclusively to representatives of organizations which gave the opposition a left-wing characterization. I personally disagreed with the premises of several of the witnesses, and I so stated by disagreement upon occasion. Nevertheless, there ran through their testimony a thread of just concern for the nominee's attitude on civil rights, whose reiteration raises definite question of principle.

Although I am as sincerely concerned about civil rights, I believe, as any of the witnesses who appeared in opposition to Mr. Clark, I would particularly have wished to question the nominee about what I understand to be his defense of the practice of technical surveillance which he has personally condoned and which could not be done in the Justice Department without his order.

Mr. DONNELL. Mr. President, will the Senator yield for an inquiry?

Mr. FERGUSON. I desire to complete this presentation, because of the limitation of time.

Mr. DONNELL. I was about to ask the Senator what he means by technical surveillance.

Mr. FERGUSON. Technical surveillance is wire tapping. I shall raise that question later.

A great Supreme Court Justice of another day called this technical surveillance or wire tapping "a dirty business." In the same case in which Mr. Justice Holmes made that observation his equally distinguished colleague, Mr. Justice Brandeis, condemned lawbreaking as a device to catch or prosecute lawbreakers by saying:

> Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for the law.

I would have wished to question Mr. Clark, as the principal law-enforcement officer of the Nation and a prospective Supreme Court Justice, on his reported justification of wire tapping, or technical surveillance, in the face of the Federal Communications Act of 1934 which reads in part as follows:

> No person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person.

Without prejudice to Mr. Clark's character or abilities, there is also involved in this appointment a question which I think commands the most thoughtful consideration of every Senator and every citizen, not only in connection with this nomination, but in connection with any nomination to the Supreme Court. That is the matter of going outside the judiciary to select a nominee. It is a question which should carry great weight with all who are concerned with elevating and maintaining the highest standards on the Federal bench.

Approaching the question positively one must certainly ask where better qualified personnel for the Supreme Court could possibly be found than among the experienced judiciary. Approaching it negatively, one must likewise ask himself how the best interests of justice can be served in lower courts if judges are told that as a matter of policy there is no incentive for them to distinguish themselves in their work.

That brings to mind the fact that there is a strong feeling that the courts are established only to try the Government's interest in cases, and that they are really representing the Government when the Government is on one side of the case and an individual on the other. That philosophy is too prevalent. It was brought forcibly to the attention of the Senator from Michigan when he first came to Washington, by reason of the remark of another Senator. I was told that it was understood that a certain lower court judge was to be elevated to the circuit court of appeals. That appointment was not made. Inquiry was made at the White House to ascertain why the district judge was not elevated, as it had been understood he would be. A man was placed in the position purely because of politics. It was stated that the judge of the lower court could not be elevated because he had decided against the Government in an income-tax case.

The Supreme Court and the lower courts of the United States are Government courts, in the sense that the judges are on the Government pay roll. But they are to try issues between individuals, and between individuals and the Government. We are losing sight of that viewpoint in our judiciary. Do we want men trained only in Government? Do we want them only to see the Government's side of a case? Or do we want them to look at the broad issues and the law, and try the issues between man and man and between man and Government? This is a serious problem for the people of the United States.

This whole question has been remarked upon most pointedly by Arthur Krock in the New York Times for August 2. I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a portion of his column.

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

> These statistics serve to show that the past concept of what Supreme Court material should be has come largely to be disregarded by Presidents and that Mr. Truman moved within the shadow of a forming tradition when he promoted his Attorney General. This will not diminish the regret of many, including perhaps a majority of lawyers, that men who have had long and distinguished service in the Federal and State courts can hope less and less to extend its benefits to the country on the Supreme Court and realize their most natural and worthy ambition.

Mr. FERGUSON. The point is made with equal force by columnist Thomas L.

Stokes in the Washington Star of August 1:

The designation of Tom Clark to the Supreme Court was frankly disappointing in some quarters which look for judicial distinction and broad understanding of the rare kind as the ideal on the Nation's highest tribunal, though this, admittedly, is by no means the invariable rule. Such attainments can be found in our Nation among other places on our lower Federal courts, where they have been demonstrated by long testing and experience. They have been passed over again, as so often in recent years, until it has become a habit. It does not seem a good habit.

Likewise other editorial comment reflects opinion on this subject.

I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks an extract from an editorial in the St. Louis Post-Dispatch of July 29, a Detroit News editorial of July 30 entitled "Judges Overlooked," and an editorial from the New York Sun of July 29.

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

[From the St. Louis Post-Dispatch of July 29, 1949]

The choice will dissappoint those who have hoped that the President would promote a judge.

One again the White House has passed by the bench in favor of a Cabinet member who is essentially a politician. Once more high-ranking Federal appellate and State supreme court judges are told in effect that the way to the Supreme Court is not upward through the ranks but from the top at the Cabinet level. Though Mr. Clark is regarded as a good legal technician, the fact remains that his confirmation will establish on the Supreme Court another Justice who has had no judicial experience.

[From the Detroit News of July 30, 1949]

Meanwhile, the Government maintains a great proving ground of judicial timber in the lower Federal courts. There, a genuine talent can assert itself and come to maturity. But President Roosevelt and his successor have conspicuously ignored this wealth of material.

Appointments to the Supreme Court in their time have been made for a variety of reasons, but seldom solely in pursuance of what ought to be the guiding principle on such occasions: That the highest bench in the land deserves nothing but the finest in its personnel.

[From the New York Sun of July 29, 1949]

The designation of Tom Clark stands as a warning and a notice to Federal judges in all minor courts that however great their professional attainments, however brilliant their opinions, however profound their knowledge of the law, however diligent their application to duty, they cannot hope for promotion by the present administration to the highest court in the land. It stands as a reserved-for-politics sign on the bench that should represent the best in judicial learning and experience.

Mr. FERGUSON. But we are here concerned primarily with the qualifications of Tom Clark as nominee to the Supreme Court bench. Questions in this area with respect to legal and judicial competence cannot be readily evaluated. One will draw his own conclusions on question of this kind from the nominee's record and in accordance with one's esteem for the qualifications that should be held by a member of the highest judicial office in the land.

Some newspaper editorial comment, as reflecting public opinion on this point, may be illuminating, however.

At this point I wish to have inserted in the RECORD extracts from an editorial which appeared in the Baltimore Sun of July 30; from a Boston Herald editorial of July 30, entitled "Mediocrity Wins"; from an editorial in the Chicago Tribune, dated August 1, entitled "Disgraceful Appointment"; and extracts from an editorial from the New York Mirror of August 2, an editorial from the Detroit Free Press of August 12, an editorial from the Providence Journal of July 30, an editorial from the Washington Post of July 30, and an editorial from the New York Herald Tribune of August 11, headed "No place for Tom Clark."

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

[From the Baltimore Sun of July 30, 1949]

Mr. Clark got his law education at the University of Texas, where he was probably little exposed, if at all, to the philosophical nihilism which has infected instruction at some other law schools. The Attorney General's experience in national politics will at least enhance his knowledge of how actual men really behave in practical affairs. These things, for what they are worth, Mr. Clark brings to the high court.

But the trouble is that this is shockingly meager equipment for a Justice of the Supreme Court in the year 1949.

* * * * *

For let us be clear about the Court's function in our cranky and delicately balanced Federal system. In that system it was conceived as the symbol of justice, of disinterestedness, of something above politics and expediency which could persuade powerful suitors even in their disappointment because they saw in its judgment something more than optical and temporal authority.

Nothing in Mr. Clark's record suggests that he will appreciate how much in the turbulent times ahead it will be necessary for the high court to invite not merely the respect but the reverence of the men and the groups engaged in the great affairs of the time.

Yet in the wise and solemn words of the late Alfred North Whitehead, "Those societies which cannot combine reverence to their symbols with freedom of revision must ultimately decay, either from anarchy or from the slow atrophy of a life stifled by useless shadows."

[From the Boston Herald of July 30, 1949]

Attorney General Tom Clark, who has been designated to fill the vacancy on the Supreme Court, is an amiable, well-meaning man. But he is totally lacking in that distinction which is expected of Justices of the Nation's highest tribunal.

* * * * *

It had been supposed that the President would take his time in making this selection. His two previous appointments to the Court were the result of long and careful consideration and both, when they came, proved to be nonpolitical.

The inappropriateness of the Clark appointment will lead many to wonder if the President feels so secure as a result of his election triumph that he is willing to use the Court as well as the Cabinet as a place for repaying political debts. Mr. Clark, it will be remembered, was one of the few Cabinet officers who went all out in campaigning for the President last year. He has also been helpful to the President in his handling of the Kansas City vote fraud inquiry in 1946.

Experience has taught that unpromising appointees often turn out to be good judges, and vice versa. Mr. Clark's lack of judicial temperament in his present job, his bungling of cases, his preoccupation with speech making and politics, may all be highly misleading. It is regrettable, however, that the President saw fit to pass over so many jurists and lawyers of proven distinction to take this chance.

[From the Chicago Tribune of August 1, 1949]

There must be at least 50,000 lawyers in the United States who know more law than Clark does or ever will. He has had no judicial experience. His record in public office is bad.

[From the Daily Mirror of August 2, 1949]

It used to be that when a Justice was appointed, he was a lawyer of great distinction—Edward White, Harlan Stone, Louis D. Brandeis, Benjamin Cardozo, Charles Evans Hughes, William Howard Taft, etc.

Today, the chief requisite for a Supreme Court appointment seems to be that the individual received a diploma from a law school, held some Government jobs under the New Deal, and needs to be moved out of the way to make room for some other politician's aspirations.

That is not good enough.

Tom Clark has been no better and no worse than his immediate predecessors as Attorney General of the United States. But no one would accuse him of being a great lawyer or an outstanding jurist.

[From the Detroit Free Press of August 12, 1949]

The vital need to keep the Supreme Court in the hands of good men learned in the law does not need stressing.

Yet President Truman names to it a political hack who did dirty work for him, as Attorney General, who is not learned in the law or in common ethics.

[From the Providence Journal of July 30, 1949]

* * * * *

There can be no other explanation of the Clark nomination than politics. Mr. Clark's record as Attorney General offers scant hope that he will be an asset to the high bench. Among the many qualified men available to fill the vacancy left by Justice Murphy, President Truman certainly could have found an individual of broader experience, greater acumen, and more judicial mold than the gregarious Democrat from Texas.

[From the Washington Post of July 30, 1949]

Mr. Clark has many admirable qualities, but he has not been an outstanding Attorney General. His courageous prosecution of John L. Lewis and his zeal in antitrust suits are offset by his careless handling of the Eisler case and his more serious lack of good judgment in advising the President as to his emergency powers under the Constitution. It is highly improbable that his name would have appeared on any list of distinguished jurists such as a conscientious President usually assembles before making an appointment to the Supreme Court. Mr. Truman needs to be reminded that a man's good fellowship has nothing more to do with his qualification to sit on our highest tribunal than has his faith.

[From the New York Herald Tribune of August 11, 1949]

What practically everybody knows is that Mr. Clark is unsuited for the Supreme Court.

Judicial experience, legal knowledge, and philosophic temper are plainly lacking. Special ability and educated discernment are minimum qualifications, but these Mr. Clark has never demonstrated. It may be that he has capacities for growth in a new and awesome field, but why should we take a Supreme Court Justice on speculation?

President Truman, of course, likes his appointee. Both are folksy, friendly, and politically molded. Mr. Clark has been a Truman man all the way, and there was a time when such devoted loyalty seemed little more than its own reward. But the team worked together at all costs, and it was inevitable that ambition would be suitably recognized. Promotion of Mr. Clark to the Supreme Court was strictly a personal selection, a bypass of higher responsibility. This was not an appointment of quality.

Mr. FERGUSON. This cross section of editorial opinion adds up to one conclusion:

The nomination before us is one of purely political motivation.

There is no real evidence of the legal and judicial competence which elementary—at least traditionally elementary—considerations for the character of the Supreme Bench demand.

I have noted, to be sure, observations from certain circles that "the nomination could have been worse," which observations are accompanied by an apparently hopeful expression that on the Bench Mr. Clark will show certain "conservative" tendencies, as though such tendencies by and of themselves constitute a qualification for the Supreme Court of the United States.

Should there be any in this body who might compromise their esteem for the qualifications of a Supreme Court Justice by any such contingent consideration, I wish to read from one of my favorite quotations in the Federalist Papers:

The benefits of the integrity and moderation of the judiciary have already been felt in more States than one. Considerate men, of every description, ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today. And every man must now feel, that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead universal distrust and distress.

Beyond questions of policy, such as a desire to see the elevation to the Supreme Court of men of proved judicial quality and experience, and questions of an individual's legal competence and judiical temperament, there are involved in the present nomination fundamental questions of integrity.

These are questions which the mutual interests of the public, the Senate, and the nominee demand should be put directly and openly, so that the record will be made clear. These are the questions which, as I have stated before, I should have preferred to raise in that manner, but which can now be raised only in Mr. Clark's absence

In raising these questions, I wish to assure the Senate, I have sought diligently to confine myself to matters which, from personal knowledge or the reliability of a published source, I think have both importance and credibility. I have sought to avoid the petty and I have sought to avoid the incredible.

I might remark that there have come to me recently many reports which, if they contain any veracity, would be vicious condemnations of Tom Clark's character and fitness. These reports have ranged from anonymous telephone calls and the statements of persons who "did not wish to be quoted" to seemingly reliable information giving promise of verification and documentation upon further investigation. But as we are to vote at 3:30 o'clock today, no such further investigation is possible. I have had neither the time nor the inclination to pursue such matters. I wish to confine myself to matters which I would have thought worthy of using as a basis for direct questioning in committee, had there been a chance, and to matters which already are on the public record.

The first of these relates to an investigation conducted by the Senate of the State of Texas in 1937.

I wish to read pertinent portions of the report to the Texas Legislature in 1937 by its investigating committee.

By the way, Mr. President, this Petroleum Council which is mentioned in the report was established by some petroleum interests in Texas in order that—as indicated by the report—certain favors could be done for members of the Petroleum Council, and against the independents and those who were not in the organization.

I shall read portions of the report which are pertinent to this matter. I read now from page 28 of the Texas Senate supplement containing the report:

The record reveals that there was some uncertainty on the part of the directing heads of the Texas Petroleum Council as to the duties of Mr. Tom C. Clark. Some of the witnesses testified that Mr. Tom Clark was selected because of the fact that he was the best suited man for the purpose of bringing about a coordination between the Attorney General's Department and the work of the Texas Petroleum Council.

Mr. Clark appeared before the committee as a witness. The committee was not able to determine from his testimony exactly what duties he performed for the salary of $1,000 a month that was paid him by the council. Mr. Clark testified that while he had appeared in Austin as a lobbyist for the Safeway chain of grocery stores, that his employment by the Safeway chain began before his partnership with the present Attorney General and thereafter it continued, and that employment was enjoyed by the partnership. It was his testimony that he was not employed by the Texas Petroleum Council as a lobbyist before the legislature, but that he had appeared in Austin as a lobbyist in opposition to the chain store tax bill and that so far as he knew the Texas Petroleum Council had engaged in no lobbying activities. It is known that at the time the confiscation law was being considered, other attorneys representing the Texas Petroleum Council were in Austin; that several members of the board of directors were here, but there is no testimony to the effect that the council, as such, financed any lobbying activities before the legislature of the State of Texas. However, the committee was unable to secure the minutes of the Texas Petroleum Council, and the president of the council, Mr. Wheelock, testified that all of his books and records were produced, which consisted merely of the auditor's reports made by public accountants, some correspondence from Tom C. Clark and W. F. Weeks, and expense accounts of Clark, Weeks, and Kilgore.

A little later the following is to be found on page 29:

It seems to the committee that where a former associate of the Attorney General, his former law partner, accepts such employment as did Mr. Tom C. Clark that he should be willing and eager to make a full disclosure to an investigating committee of his financial affairs, especially when his employment followed so closely upon the induction of his partner into a position of such responsibility. It is not the feeling or disposition of the committee to reflect upon the Attorney General or to suggest that there had been any undue influence, but the committee had evidence of a tremendous and startling increase in earnings on the part of Mr. Clark in 1935 over 1934. It was with the idea of clearing up any possible basis for a report that there had been any character of collusion between him and the Attorney General that the committee requested a full disclosure of his financial affairs. Mr. Clark declined to give this information to the committee and his banker refused to bring the records. The committee is unable to draw an accurate conclusion from this action on the part of Mr. Clark. His act in regard to this will speak for itself. At this juncture the committee feels that there exists public necessity for those in public position or closely associated with public officials to stand ready at any time to make a disclosure such as Mr. Clark was called upon to make. It was not the disposition of the committee to make public his private affairs unless they revealed some matter of public interest or involved public welfare or some other act contrary to a sound public policy. If there is any imputation to be drawn from his failure to make that disclosure to the committee, he has no one to blame other than himself. The committee had wholly reliable information that seemed to warrant and justify this inquiry, but they were denied access to records that would either have clarified the situation or made it even more confusing.

It has been said that these questions, as raised by the Texas Senate committee, were fully answered by the action of the United States Senate and its Judiciary Committee in passing upon the confirmation of Mr. Clark as Attorney General in 1945. I should like to ask if any Senator knew about this report concerning Mr. Clark at that time. There are possibly a few Senators who did, but the great majority of them, I am sure, had not heard of it.

I need only point out that the confirmation in 1945 was for a political office, as an arm of the appointing officer, the President. As I stated earlier, any doubts or questions raised in those circumstances are properly to be resolved in favor of the appointing officer, if possible. Of course, it would have been the desire of the junior Senator from Michigan, again for the benefit of the record and for the benefit of other Senators, to have questioned Mr. Clark about this report.

But as I have likewise pointed out, the situation at the present time is reversed. This is not an appointment to political office which we have before us. In the present circumstances only a thorough rebuttal to any doubts and questions arising from the Texas inquiry can be acceptable.

This is also a new Congress, with new members on the committee and in the

Senate. The knowledge of the few Senators on the former committee should not satisfy the Senate as a whole.

I should also have liked to question Mr. Clark concerning his handling of the Gerhardt Eisler case.

The New York Herald Tribune on July 29 remarked that—

> The Eisler case, which placed the United States in the humiliating position of receiving polite lessons in law from an English judge, was only the most striking of Mr. Clark's errors.

And the Washington Post, in an editorial July 30, said:

> His courageous prosecution of John L. Lewis and his zeal in antitrust suits are offset by his careless handling of the Eisler case and his more serious lack of good judgment in advising the President as to his emergency powers under the Constitution.

What happened in the Eisler case? What gross mismanagement could have permitted this criminal to escape to humiliate our law enforcement machinery and allow the criminal at large to taunt Mr. Clark from across the sea by calling him "a fool." And did Mr. Clark in final analysis agree that it was, after all, good riddance? What happened to the bail bond?

The Washington Post editorial I have been quoting from speaks also of "a serious lack of good judgment in advising the President as to his emergency powers under the Constitution."

I think that before any Senator acts to confirm this nomination he should know something about Mr. Clark's fundamental philosophy respecting the coequality of the three branches of our Government.

Does not his advice with respect to the President's emergency powers under the Constitution and his notable failures to cooperate with Congress in its investigating functions create a serious question of public policy with respect to the preeminence of the executive branch of the Government?

In the latter connection I recall particularly the Attorney General's failure to cooperate in the efforts of Congress to evaluate the workings of the Government's loyalty program. Upon specific advice and authority of the Attorney General, files and information were withheld from the Congress with a result that its efforts to weed out subversives in Government employ were brought to a dead halt.

I recall my comment upon the situation at that time. It bears reiteration now, for it is a fundamental issue of representative government and one of the most serious of these times.

I pointed out then that the policy of the executive department in withholding its cooperation from Congress in its essential fact-finding activities was forcing that body into the ridiculous and wholly untenable extremes of legislating in the dark or resorting to its constitutional defense of impeachment, neither of which extremes could I or any other faithful servant of representative government tolerate.

That vital issue of cooperation between the executive and the legislative, upon which the views of any candidate for the highest office of the third coordinate branch should most certainly be made clear, was also raised in connection with the investigation by the House Expenditures Committee into the paroles of four criminals known as Capone gangsters.

The part of the Attorney General in the handling of those paroles is a serious question in itself, and he should be questioned about it.

It is raised in the following account by Edwin A. Lahey in the Chicago Daily News, and other newspapers, of August 4, headed "Clark and the mob's paroles:"

> Just to refresh our recollection:
>
> The leaders of the Chicago mob were indicted in New York in 1943 for two specific crimes. One indictment charged a $1,000,000 shake-down of movie-industry leaders. Another charged that the mob stole another $1,000,000 from the members of the stagehands and movie operators' union, which they controlled.

Those were two serious crimes.

> The gangsters were convicted on the first indictment, and sentenced to 10 years. The second indictment remained on the books.

Some, I understand, were acquitted. I continue reading from the article, as follows:

> In 1947, when the gangsters had served the minimum time required before application for parole could be made, it was necessary that the still pending indictment in New York be cleared up before they asked for their freedom.

In other words, they were serving time for one crime, and there was still pending an indictment for another very serious crime. I continue reading from the article:

> Maury Hughes, an attorney of Dallas, Tex., and a friend of Tom Clark, who also hails from Dallas, was retained by a mysterious stranger, who has never been identified, to straighten out the record in New York. Actually, this was a routine legal assignment, but the mysterious friend of the Capone gang who retained Hughes seemed to make much of it.
>
> This stranger handed Hughes $14,000 in $100 bills outside the Commodore Hotel in New York on the day in April 1947, that the pending indictment against the mob was dismissed. Hughes' little chore in court, which cleared the way for the gangsters' parole applications, had been made simple by an order from Douglas W. McGregor, assistant to Attorney General Clark, to United States Attorney John F. X. McGohey, of New York, to file a nolle prosequi in the second indictment against the gangsters.
>
> The parole applications for the gangsters were then pushed. This job was handled by Attorney Paul Dillon, of St. Louis, who is on intimate social terms not only with President Truman but also with Willie Heeney, a member of the Capone mob, who comes from St. Louis. Dillon was also a social intimate of T. Weber Wilson, former Chairman of the Federal Board of Pardons and Paroles, now dead.
>
> On Federal parole applications, there is a blank in which the prisoner sets forth his own opinions as to why he should be free. Phil D'Andrea, one of the Capone gorillas, who carried a loaded pistol into the Federal court of Judge Wilkerson in Chicago during the trial of Scarface Al, listed the following arguments for granting his freedom:
>
> "The significant change that has occurred within me.
>
> "The awakening as to the true values of life."
>
> To make a long story short, the gangsters were sprung by the Department of Justice headed by Tom Clark.
>
> There are hundreds of men in Federal prison who do not have the connections that the Capone mob has. Many of them wrote letters to the Federal Parole Board after the gangsters hit the street. Most of these letters were very bitter.

What are the true facts in the gangsters' paroles? What was Tom Clark's real part in the granting of those paroles? Did he have knowledge of them? Did he have knowledge of the dismissal of the case in New York, so that the paroles could be granted?

Ed Lahey, who followed the case closely as a distinguished reporter, says:

> The gangsters were sprung by the Department of Justice headed by Tom Clark.

I can see why he drew that conclusion, because the case could not be dismissed without the consent of the Attorney General.

The House Expenditures Committee could affix no responsibility. But in announcing that its investigation had not been concluded, it made pointed reference to a lack of cooperation on the part of the Department of Justice. I read from page 7 of the report:

> The FBI refused to give the committee any information, assigning as its reason that it was an agency of the Department of Justice and that, acting under instructions from the Department, it could not and would not comply with the request.
>
> A request to Tom Clark, head of the Department of Justice, and to the Department of Justice, met with a refusal to furnish such information. No reason was given other than that the information was confidential and that the refusal was in compliance with an executive order issued by President Truman, which was based on a long-established policy of the executive departments dating back to the administration of President Washington.
>
> Subsequently, a report from the Department of Justice by Peyton Ford, Acting Assistant to the Attorney General, was filed with the committee. It did not contain any information of any value. It was negative in character, carried rumor and gossip, and some of the statements given to the Federal Bureau of Investigation and quoted in the report were an obvious attempt to discredit some who had been instrumental in giving publicity to the granting of the paroles.

That is the cooperation which the House says it received in trying to investigate these matters.

Representative Fred Busbey, at whose insistence the Congressional inquiry was undertaken, filed lengthy additional views as a part of the committee report. I quote from his statement at page 32 of the report:

> Statements emanating recently from Attorney General Clark, his subordinates, and his apologists attempt to create the impression that Mr. Clark had no responsibility for freeing the convicts. The maneuvers suggest the thought that this is Mr. Clark's alibi. Instead of meeting the facts the Clark apologists seek to divert attention from his part.

I ask that Mr. Busbey's individual views be printed in full following my remarks.

Mr. CONNALLY. Mr. President, reserving the right to object, let me ask who is Mr. Busbey?

Mr. FERGUSON. He was at the time a Representative in the Congress of the United States from the State of Illinois.

Mr. CONNALLY. Did he appear before the committee?

Mr. FERGUSON. No.

Mr. CONNALLY. Then I object. The Senator continues to talk about bringing persons before the committee. Of course I have not read that article——

Mr. FERGUSON. It is not an article; it is part of the Seventeenth Intermediate Report of the House Committee on Expenditures in the Executive Departments, Eighteth Congress, second session, House Report No. 2441.

Mr. CONNALLY. What is it about?

Mr. FERGUSON. It is about the hearing on the so-called Capone gang paroles.

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

Mr. CONNALLY. I am not asking the Senator from Michigan to yield, Mr. President. I am reserving the right to object. Did not the Senator serve on one or two committees which investigated the Attorney General?

Mr. FERGUSON. Yes. I shall speak about that later.

Mr. CONNALLY. Very much later. However, I shall not object, Mr. President. The Senator has put into the RECORD several other things, so we may as well let this go in without objection.

The PRESIDING OFFICER. Without objection, the individual views of former Representative Busbey will be printed in the RECORD.

(See exhibit 1.)

Mr. FERGUSON. Certainly there is raised in this case a question of Mr. Clark's fitness which should be answered or dispelled before confirming his nomination for the highest judicial tribunal.

There is also a question of Mr. Clark's position on the tidelands oil cases, which I should have liked to explore with him if I had been given the opportunity. The facts of those cases are of course known to all Senators. But one fact, insofar as it relates to Mr. Clark, is outstanding.

The Supreme Court has laid down a clear statement of the law. Congress has not altered that statement. The findings of the Court constitute a clear mandate to the law-enforcement agencies of the Government, and yet there have been no actions brought by the Department of Justice, under Mr. Clark, fully to carry out that mandate.

There is also a question of Mr. Clark's attitude on monopolies. He has been given some attention as an antitrust prosecutor. At the outset, there arises the question of the propriety of his sitting in antitrust proceedings.

But, assuming that he must assuredly disqualify himself in any of the 160-odd actions which he is credited with instituting, should they come before the Supreme Court, does that fact alone not impose a burden upon the judicial process.

This feature of his nomination is commented upon in a St. Louis Post-Dispatch editorial from which I have inserted portions in the RECORD, but I should like to read another part of it:

> The choice will disappoint those citizens who, as litigants, will find that Tom Clark cannot participate in many decisions.
>
> As Attorney General, Mr. Clark has already filed more than 160 antitrust suits, whereas the average per Attorney General has been 42. Though Mr. Clark has won a substantial number of consent decrees, many of these suits are pending. In time a large number will go before the Supreme Court. As a Justice, Tom Clark will have to absent himself even more perhaps than any of the several Attorneys General and Solicitors General raised to the high Bench in recent years. This will mean more 4-to-4 divisions.

But I have further questions regarding Mr. Clark's true position as a trustbuster. Do the facts really bear out his reputation in this respect? Perhaps a comment by Lowell Mellett, Washington Star columnist, on May 26, 1946, has significance. He said:

> When Mr. Arnold departed to become a judge, Mr. Clark was put in charge of the division. Within a short time he was shifted by Attorney General Biddle to another division and the reason generally given in the Justice Department was that Mr. Clark was letting the fires die down in the Antitrust Division.

Mr. Ed Harris, in a St. Louis Post-Dispatch article of August 7 which graphically and objectively reviews the Attorney General's record in office covers his antimonopoly record as well. He said:

> In his 4 years as Attorney General, Clark has had his ups and downs, but he is proud of his record. Trustbusting being popular with the public, it may be significant that a bulky publicity release issued on the fourth anniversary of his stewardship takes pains to point out that under Clark 160 antitrust cases were started, contrasted with an average of only 42 for each of his predecessors since adoption of the Sherman Act in 1890. It will be recalled that Truman campaigned last year in part on a vigorous antimonopoly platform, and those who are so crass as to impute political motives to many of Clark's actions are quick to point out that the number of antitrust cases filed surged last year as the election drew near.

The real question is, did Tom Clark, the trustbuster, let the fires go out in his antimonopoly activities until it was politically expedient and politically popular to create a contrary impression?

Finally, I would have wished to question Mr. Clark regarding his basic attitude toward the laws of the land.

The following United Press dispatch, dated September 14, 1948, would have been the basis of my questions:

[From the New York Herald Tribune of September 15, 1948]

TRUMAN AND CLARK CRITICIZE HATCH ACT—DISLIKE BAN ON POLITICS BY FEDERAL EMPLOYEES

WASHINGTON, September 14.—President Truman and Attorney General Tom Clark joined today in polite but pointed criticism of the Hatch Act, which prohibits political activity by Federal employees.

The occasion was a meeting of United States district attorneys with the Chief Executive. Mr. Clark, introducing the President, said the Hatch Act ought to be called "the hatchet act because it works as an ax on us in Government."

"Even with the Hatch Act there are a lot of things that can be done and you can be assured they will be done," Mr. Clark said.

Attorney General Tom Clark said, "Even with the Hatch Act there are a lot of things that can be done, and you can be assured they will be done."

Mr. President, why do I raise that question here? As I have said, I would have liked to question Mr. Clark himself as to his attitude on the basic laws of the land. What I have been saying is material because the order in the Attorney General's Office is and has been that there can be no examination by the FBI in regard to any of the Corrupt Practice Acts or any of the civil rights cases without a specific order of the Attorney General. Nor can the United States attorneys in the local districts make investigations without the consent of the Attorney General, and such consent can even limit the number of witnesses who can be examined. That is why it is very significant to consider this statement made by Mr. Clark to the district attorneys who were meeting in Washington, "Even with the Hatch Act there are a lot of things that can be done and you can be assured they will be done."

> As in his condonance of "technical surveillance" in the face of the statute, Attorney General Clark advises his subordinates that "a lot of things can be done," notwithstanding the purpose of the act which would take those subordinates out of the realm of political activity.

The PRESIDING OFFICER. The Chair reminds the Senator that his hour is up.

Mr. FERGUSON. I yield myself another 15 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. FERGUSON. Mr. President, where is that precious respect for the law which distinguishes the Supreme Court of the United States from other legal systems in a statement like that? We should have the answer before we pass upon this nomination. This is doubly important as I have stated, since no vote-fraud case or civil-rights case could be investigated by the FBI or local district attorney without the consent of Clark, the Attorney General, and then only as he directed.

These are all questions of record which should be directed to Mr. Clark in the public interest and which can now only be directed to his appointment.

I come now to the account of another case. It is an account based on intimate knowledge and acquaintance. It is an account which my conscience commands must be placed in the record at this time.

This is an account of the Kansas City vote-frauds case, a general history of which is familiar to most Members of the Senate. In order that the record may be complete, however, I ask that the minority report of the Senate Committee on the Judiciary on Senate Resolution 116 of the Eightieth Congress be printed in full following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. MYERS. Would the Senator agree that there be printed also the majority report?

Mr. FERGUSON. Yes. I ask that both the reports be inserted.

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

(See exhibits 2 and 3.)

Mr. FERGUSON. Mr. President, the pertinent facts in the Kansas City vote frauds case are that in August of 1946 a primary election was held in the State of Missouri. The contest for the Democratic nomination to the House of Representatives in the Fifth Congressional District, which includes a part of Kansas City, received Nation-wide attention. The contestants there included Roger Slaughter, the incumbent, and Enos Axtell. The President of the United States, Harry Truman, was a resident of Missouri and publicly announced his interest in the contest by what was widely termed a "purge" effort against Slaughter and in favor of Axtell, who also was a favorite of the notorious Pendergast machine in Kansas City. Axtell was shown on the face of the returns to have received the nomination.

Immediately thereafter reports of flagrant vote frauds in the Kansas City primary were reported to the Federal Bureau of Investigation, and in succeeding weeks the reports became current and eventually the city council of Kansas City petitioned the Attorney General of the United States and others to institute an investigation of all election law violations in the primary.

Meanwhile the Kansas City Star had undertaken a vigorous private investigation—the FBI not undertaking it—but the Kansas City Star and the House Committee on Campaign Expenditures also undertook an investigation upon a complaint of one of the defeated primary candidates—again not the FBI—because it was under the sole domination of Tom C. Clark, and could not act until he gave the order, and then could act only as he gave the order, as I shall set forth later.

On October 11, 1946, the Attorney General directed the FBI to make a preliminary investigation into the matter, and I underscore the words "preliminary investigation." This authorization was restrictive in nature and the report submitted by the FBI as a result amounted only to a summary of data developed by the Kansas City Star and the Kansas City election board. In other words, they obtained only the records of the reporters of the Star, and interviewed six people.

A synopsis of the report was submitted to three Federal district judges. The Attorney General claims it was submitted to the judges for them to determine whether there was a basis for calling a grand jury. The judges denied they were asked that question, but the Attorney General used this as one of the excuses to close the file. After it was decided there was not a basis for grand jury action, the Attorney General directed that the matter be closed.

In May of 1947, a subcommittee of the Senate Judiciary Committee conducted a preliminary investigation of the matter pursuant to its consideration of a Senate resolution which called for a full investigation, "with a view to ascertaining whether the Attorney General of the United States and officers of the Department of Justice have properly performed their duties with respect to the investigation and prosecution of any violations of law which may have occurred in connection with said primary election."

In the meantime, a State grand jury returned 81 indictments against 71 individuals and on May 27, 1947, it issued its final report, which stated its belief that a type of election fraud had been perpetrated which could only have occurred through collusion and conspiracy, that being the basis of Federal intervention in such matters, and urged the Department of Justice and the FBI to reenter the investigation.

On the same date, and a day before the Senate subcommittee inquiry was to begin, the vault door to the room in the Jackson County Courthouse in Kansas City, where the ballots were stored, was blown open with explosives and all the ballots and other papers which could have been used as evidence in the prosecution of persons indicted by the State grand jury as well as in any Federal investigation, were stolen.

The following day the Attorney General instructed the FBI to investigate the theft of the ballots and 2 days later he ordered the FBI to make a full investigation of the alleged election frauds occurring in the primary of August 6, 1946, in the Fifth Missouri District, but that was only after he had been summoned before the Senate Committee on the Judiciary.

As of the present time no arrests or indictments have been made in connection with the ballot thefts although a few minor indictments have been brought under Federal law for election frauds.

A fact stands out and should be answered, as to why the Attorney General, after complaint was filed by the Senator from Missouri [Mr. KEM], and after the investigation had been begun by the Senate Committee on the Judiciary, the Attorney General of the United States started an intensive investigation of the election of the Senator from Missouri, questioning all contributors to his campaign. Why was that action taken against the Senator from Missouri after he filed a complaint? A fair question would have been: Was it to intimidate other Senators not to question the Attorney General's actions?

The Senate Judiciary Committee failed to approve the resolution for a full investigation of the Kansas City affair and a motion on the floor of the Senate to discharge the committee from further consideration of the resolution was filibustered to death at the end of the first session of the Eightieth Congress.

As chairman of the subcommittee which conducted the preliminary study of the matter, however, I arrived at certain definite conclusions. These conclusions now reflect directly upon the fitness of Mr. Tom Clark, who was the Attorney General at the time of the Kansas City vote frauds and investigations, for the high office of trust for which he is presently being considered.

I will state those conclusions:

First. The Attorney General positively restricted the FBI in its investigation of the case and in so doing prevented the probable apprehension of any persons guilty of violating the election laws.

The Attorney General told the committee that there were only four categories which the FBI could not investigate without Attorney General's consent and then only as directed. In other words, the Attorney General came before the committee and said there were only four categories of activities to which he had to give his consent before the FBI could consider them; yet it was found in a later investigation by the Senate Investigating Committee that there are 22 such categories. What are they? They should be on record. They are as follows:

Antiracketeering.

Antitrust.

Bribery. The FBI cannot make an investigation into such cases without the consent of the Attorney General, and then only as he directs.

Conditional release and parole violators. Did that apply to the Capone gang?

Departmental applicants.

Eight-hour-day law.

Extortion.

Federal Corrupt Practices Act.

Federal Escape Act.

Federal Regulation of Lobbying Act. There cannot be an investigation made by the FBI of a lobbyist unless the Department of Justice approves it.

Fraud against the Government.

Hatch Act—the very act under which he said certain "things can be done."

Interstate transportation of strikebreakers.

Kick-Back Racket Act.

July panel investigations.

Labor-Management Relations Act of 1947.

Railway Labor Act.

Applications for executive clemency and restoration of civil rights.

Illegal wearing of the Gold Star button.

Alleged criminal offenses by highly placed Government or public officials. Think of it. The FBI must secure the consent of the Attorney General before it can investigate alleged criminal offenses by highly placed Government or public officials.

War Labor Disputes Act.

Civil rights and domestic violence: Election laws.

The inconsistency of the Attorney General in his treatment of the Kansas City case made manifest by an instruction to the FBI on November 27, 1946, that, notwithstanding the fact that there had been no such complaints or independent revelations of probable law violation as has been offered in Kansas City, an unrestricted investigation of possible election frauds should be made in neighboring Wyandotte County, Kans.

The facts are briefly these: The investigation of possible election frauds was made in a county in the State adjoining Missouri. Mr. Clark and the administration were not so vitally interested in that case. A full and complete investigation was immediately ordered in Wyandotte County, Kans., and that only on the complaint of one man.

Second. In closing its files on the Kansas City case in January 6, 1947, the Department of Justice stated that a thorough investigation of the case had been made. This was contrary to the Attorney General's knowledge that the FBI investigation has been limited by his own instructions.

Third. The synopsis of the FBI report which was shown to the three judges was itself incomplete and inaccurate. They have revealed that in any event tney did not anticipate their opinion concerning the calling of a grand jury at that time could be used as a reason for not continuing the investigation. One judge, when later given an opportunity to review the information upon which the synopsis was presumably based, said it would be evidence of a conspiracy to defraud voters and that he thought the experts in the Department of Justice would have followed such leads if they were properly exercising their duties. Another judge said "this review indicated fraud and someone ought to investigate it further." The failure to continue the investigation must be attributed to the Attorney General, who had limited the inquiry in the first instance.

Fourth. The order of May 30, 1947, to conduct a full investigation into the matter was a confession of dereliction in connection with the earlier handling of the case. I submit that the mere theft of the ballots or the holding of a Senate hearing could not have made a Federal offense out of that which was not considered a Federal offense before those events.

Fifth. In communications to a Member of the United States Senate, who was seeking information as to the progress of the investigations, the Attorney General was deliberately misleading and deceitful beyond any explanation except bad faith in the discharge of his official responsibilities. In response to two letters from Senator KEM, of Missouri, the Attorney General wrote, on January 22, 1947, that "lengthy and detailed investigations into the charged irregularities" had been made, and on February 10, 1947, that "the Federal Bureau of Investigation at my instance conducted a full investigation into the charges of fraud in this primary." The record shows that the investigation was not "full and detailed," as Mr. Clark stated, and that no such "full investigation" as he reported had been made at that time.

My personal interest in the conduct of the Kansas City vote frauds case did not cease with the failure to obtain action on Senate Resolution 116 of the Eightieth Congress, or the failure to discharge the Judiciary Committee from further consideration of that resolution.

The Senate investigating subcommittee in 1948, under the chairmanship of the junior Senator from Michigan, looked further into the Kansas City case. An extensive investigation was conducted. The results of that investigation have not heretofore been revealed because of a subcommittee rule requiring unanimous consent before undertaking public hearings on any matter, and that unanimous agreement was not obtained in the subcommittee with respect to these further hearings up to the time the junior Senator from Michigan ceased to be a member of that committee at the beginning of the present session.

Such a determination by a body of a previous Congress cannot be binding upon a subsequent Congress, however, and the present question, because of its importance, requires that pertinent information, obtained in that investigation should now be given to the Senate in order that its Members may pass upon the fitness of a nominee to the Supreme Court.

In consideration of those facts, the testimony taken in that investigation has been made available to Senators on the Committee on the Judiciary in order that they might inquire as to whether or not it has a bearing upon the fitness of the Attorney General who was in charge of the Kansas City vote fraud investigation for an appointment to the Supreme Court of the United States.

These are the questions I would have put to Mr. Clark, based on that record.

Why, on July 23 or 24, 1947, did Tom C. Clark, the Attorney General of the United States, instruct an agent of the FBI, the Attorney General being the superior officer of that agent, in the manner shown by the following testimony of Mr. D. M. Ladd before the subcommittee? I shall quote Mr. Ladd. Mr. Ladd made a memorandum of the conversation he had with Tom C. Clark:

> When I took the file of the Kansas City case to the Attorney General's office yesterday, he indicated that he did not think the committee was entitled to the file. He asked about the subsequent volumes in connection with the current investigation of the election fraud, specifically as to whether there were contained therein intra-Bureau memoranda. I advised him that there were, and he stated he certainly did not think that the committee should be entitled to these, and suggested that it might be desirable to include all such material in a separate administrative file.
>
> I talked to Mr. Tolson concerning this, and he concurs with me in suggesting that we go through the latter sections of the Kansas City file and remove everything except reports, correspondence to and from the Department, and put all intra-Bureau memoranda and other similar administrative data in a separate subsection, and that hereafter in filing material in the Kansas City election file this same procedure be followed. If you approve, this will be done immediately.

The PRESIDING OFFICER. The Senator has used an hour and 15 minutes.

Mr. FERGUSON. I will take another 5 minutes.

The Attorney General also indicated that arrangements should be made so that in the event of a call from Congress the Attorney General would have to approve the delivery of the files.

A committee of the great Senate of the United States was investigating the Attorney General's office in a case which involved him. He instructed the man who had charge of that file to strip certain papers from the file so that the committee would not receive those papers. When the committee went to the Department of Justice to examine the file, what did it find? Among the files of the Attorney General's office it found a file from which certain papers had been removed, and the serial numbers of those remaining in the file altered in a manner such as to deceive the committee. Only by the use of bright lights as a detecting device was the committee able to see that erasures had been made on those remaining, and thus confirm that certain papers had been taken from the file.

That is a record of the man who would become an Associate Justice of the Supreme Court, the Court which once sat in this room, the protector of the rights of the people.

When the subcommittee did investigate and asked for the files, they were not given the entire files, but certain papers, very material to the issue, were stripped from the file, and the serial numbers were changed on the file to make it appear that the file was in regular order and complete and all the papers there when presented to the committee. Only upon the discovery of certain erasures of certain numbers was it possible to discover the fraud perpetrated upon the subcommittee. Mr. Clark, as Attorney General of the United States, was responsible for this by reason of his instructions to an agent of the FBI. The Director of the FBI, J. Edgar Hoover, was, in the opinion of the junior Senator from Michigan, not responsible for the action taken in connection with the files in view of the specific instructions from his superior, Attorney General Tom C. Clark.

It was also the desire of the Senator from Michigan to ask the Attorney General of the United States, after he had specifically permitted tapping wires in the Kansas City matter, and after the stealing of the ballots, why the records in his office show that of four men whose wires were permitted to be tapped the wires of the one generally thought most likely to have knowledge of what had gone on were not tapped. That is a very pertinent question. It should have been asked, and it should have been answered.

The Attorney General calls wire tapping "technical surveillance." I should also have asked the Attorney General whether or not it was true that he personally told a newspaper correspondent that, in connection with the Kansas City case, he had caused the wire of that newspaper correspondent to be tapped.

Mr. President, I have no desire to injure any man. I have no desire to oppose the appointment of Tom Clark to the Supreme Court of the United States for any reason except in what I sincerely and humbly believe to be the public interest.

I cannot know what weight my statements or my opinions may have in shaping the judgment of other Senators.

I can only say that I have considered it a duty of my office to speak as I have spoken and that I shall likewise consider it my duty to vote against confirmation of the nomination of Tom C. Clark to be Associate Justice of the Supreme Court of the United States.

EXHIBIT 1

ADDITIONAL VIEWS OF FRED E. BUSBEY

Late last August the attention of this committee was directed to the release from Federal prison of four Chicago men, notorious as leaders of the Capone gang. In Chicago we were told it is a matter of common

knowledge that the Capone gang is an organization of outlaws who have amassed great wealth and tremendous political power through the use of threats, violence, money, and guns at elections in which thousands of persons have been denied the freedom of the ballot.

The men had been convicted of a gross crime—extortion of more than $1,000,000 from legitimate concerns whose business could be ruined by the gangsters who had obtained control of an international labor union. They were sentenced to 10 years' imprisonment for this crime.

In addition, they were indicted a second time at New York City on a charge of using the mails to defraud the members of the International Alliance of Theatrical and Stage Employees, the union they had seized by what they call muscle. The indictment said they took more than $1,000,000 from the workers who belonged to this union.

These men, Paul Ricca, Charles Gioe, Phil D'Andrea, and Louis Campagna, were granted paroles as soon as they had served one-third of their sentences. Paroles are legal at this time, but under orderly administration of the criminal laws they are seldom or never granted to confirmed criminals or repeaters. Parole, in theory, is for the first offender, or the young criminal who may be rehabilitated and made into a useful citizen. These men were middle-aged, and according to all reports, were steeped in crime.

Rumors were rife in Chicago that the Capone gang had paid upward of $500,000 to effect the release from prison of the men said to be of high rank in the underworld. It was being said in Chicago that some Government officials had been corrupted by the gangsters' money.

In view of these reports, the following telegram was sent to United States Attorney General Tom C. Clark:

CHICAGO, ILL., *September 8, 1947.*

Attorney General TOM C. CLARK,
Department of Justice,
Washington, D. C.:

The people of the United States are entitled to and demand a full explanation regarding the parole from Federal prison of Paul Ricca alias DeLucia, Louis (Little New York) Campagna, Philip D'Andrea, and Charles Gioe.

These men by their records were four of the most notorious criminals in the history of Chicago. The Department of Justice went to considerable difficulty and great expense in convicting them of a major crime. Because of their records as proven in court it was assumed that they would not get early and secret paroles.

I demand that you make public all records immediately involving the parole of these four men. In order that the people may know whether the public is being properly protected by your Department I respectfully ask the answer to the following questions:

1. Did you as Attorney General approve or disapprove of the paroles?

2. Did the four convicts give as part of their parole applications full and accurate data on previous arrests?

3. Did they agree to make any restitution of money extorted from the film industries?

4. Did they pay income tax on the extortion money?

5. Who checked the statements of the convicts with departmental records and gave them official approval?

6. What recommendations did Mr. Fischer, the Chicago parole official, make and what did he report regarding the past activities of these four gangsters?

7. Was any outside influence used on Parole Board members or other employees of the Department of Justice?

8. Were you as Attorney General advised in advance that the men were to be released?

Your cooperation and immediate attention will be appreciated.

FRED E. BUSBEY,
Member of Congress, Third Illinois District.

The following Saturday, Attorney General Clark replied by telephone and was asked to have the Federal Bureau of Investigation make a thorough investigation of all the circumstances surrounding the paroling of these four criminals. Notwithstanding the fact that such an investigation was ordered, to this day members of this committee have been unable to get even a hint of its results, nor what was learned from interviewing 275 or more witnesses.

Soon after the Attorney General's attention was called to the stories of corruption affecting his Department, the chairman of this committee, the Honorable CLARE E. HOFFMAN of Michigan, assigned a subcommittee to start an investigation of its own, and to hear witnesses, seeking to throw all possible light on any reason there may have been for men of such reputation—men who were branded by judge and prosecutor as menaces to society and confirmed criminals—to receive the great gift of freedom from the United States Government.

In addition to the release of these men on parole, this subcommittee has considered several related incidents, including the following:

1. The four were transferred from one Federal prison to another after the warden of the Atlanta prison had protested in these words: "It is quite evident that money is being paid to obtain the transfer of these men to Leavenworth."

2. In order to make the men eligible for parole, the indictment charging the four with using the mails to defraud was dismissed with the knowledge and consent of the Attorney General.

3. Income-tax liens gainst two of the gangsters, which might have been a bar to their parole, were reduced from approximately $670,000 to $128,000 and the Treasury Department accepted the smaller sum in full settlement of the income tax of two men whom a former Attorney General of the United States had proclaimed to be boss and treasurer of a national crime syndicate, the notorious Capone gang.

Among the men who testified before the committee and admitted a prominent part in the release of the convicts on parole were the following:

1. Paul Dillon, a lawyer of St. Louis, Mo., who boasted that he had managed the St. Louis campaigns for the United States Senate of Mr. Harry Truman, now President of the United States, and who told the committee he was paid $10,000 for his service in making one appearance before the Parole Board, and nothing for having obtained the prison transfer of the four men.

2. Maury Hughes, lawyer of Dallas, Tex., who said he has known and been friendly with Attorney General Clark since Mr. Clark was 10 years old; that he was paid $15,000 for obtaining the dismissal of the mail-fraud indictment against the men seeking parole; that he never talked to Mr. Clark about the matter but did talk to three of Mr. Clark's closest assistants.

The parolees, themselves, appeared before the committee. They were evasive, tricky, shifting, dodging, and extremely careful about the answers they gave.

Obviously they were striving to avoid giving the subcommittee any information about anything; and they were successful. The parolees were almost insolent in their persistence in trying to prevent Members of Congress from extracting the truth.

Each of the parolees had a lawyer at his elbow, whispering in his ear, as he testified before this subcommittee. There was an attitude about them that was almost defiant. Their lawyers aided in their efforts to becloud the record.

The two men, Ricca and Campagna, reputed to be the present bosses of the Capone syndicate, had the effrontery to tell the subcommittee they did not know who furnished the $128,000 with which their tax liens were settled.

This subcommittee encountered opposition and practically no help from various branches of the Government of the United States in its efforts to learn why our Government acted as it did in reference to the four convicts. In fact, this subcommittee has reason to believe efforts were made to hamper it in its work. Help from the Federal Bureau of Investigation was denied us. We were refused data on what its agents had learned in the questioning of the 275 persons who may or may not have known something of importance about the paroles. Obviously there are men in high places in our government who do not want Congress to uncover the secrets of the Capone gang paroles.

It may well be that when the facts are ascertained there will be persons who should be indicted, prosecuted, and punished for malfeasance in office.

Two Parole Board members faced the subcommittee and made a pretense of justifying their conduct. The third member of the Board which granted the paroles is dead.

The whole structure of the Federal system of law enforcement is jeopardized by this parole. The parole system is under suspicion. If men of the caliber of Paul Ricca, Louis Campagna, Charles Gioe, and Phil D'Andrea are deemed worthy of parole, there is no reason for keeping others in prison.

We have heard of the political power of this gang. There has been testimony about a "vote delivery" being made as partial payment for the paroles.

Either the Parole Board was right or wrong in freeing these men. If it was right, then our whole Federal parole system needs overhauling. If they were wrong, they were wrong for one of the following reasons:

1. Out of ignorance or misplaced sympathy which should not be part of the make-up of a member of the Parole Board.

2. For political reasons, which, if they existed, have not yet been fully disclosed.

3. On orders which could come only from a person or persons to whom they considered themselves obligated or as having the right to issue such orders.

4. For money or other reward or remuneration.

We have suspicions, and rightfully so. When professional criminals are given clemency, suspicion is ordinarily aroused. In this case convicts declared by a former Attorney General of the United States to be the head men of a national gang of ruthless criminals were treated with extraordinary kindness by the Federal Parole Board.

The present Attorney General, Mr. Clark, knew the kind of men with whom he and his subordinates were dealing. He was head of the Criminal Division of the Department of Justice when these men were prosecuted in New York in the fall of 1943.

As Attorney General, Mr. Clark was the keeper of these men after they went to prison as they were sentenced to the custody of the Attorney General of the United States. He was acting in such capacity of keeper of these convicts when they were transferred from Atlanta to Leavenworth in 1945.

Mr. Clark, by virtue of his position, selected two of the members of the Board of three which granted the paroles in question. He appointed Fred S. Rogers, of Bonham, Tex., to the Parole Board in January 1947—7

months before the men were released. Mr. Clark appointed Mr. B. K. Monkiewicz, of New Britain, Conn., to the Parole Board in June 1947—2 months before the prison delivery.

This committee has made a diligent search to date for evidence regarding any possible cash payments. Our activities brought about what appeared to be an effort to mislead us. A seeming counterattack which had for its apparent object the smearing of certain persons who had nothing to do with letting the four convicts out of prison was launched. We were handed a false scent. A hue and a cry was raised against Mr. Harry A. Ash, an official of the State of Illinois, who eventually resigned. He and several other Illinoisans were targets in the falsescent campaign of which Maury Hughes, of Dallas, Tex., was a prime mover. The chairman of the Parole Board, Mr. Daniel Lyons, joined in an attack on Mr. Ash.

Mr. Hughes, apparently, was interviewed by FBI agents on or about October 6, in Washington. How or why the FBI agents happened to interview him is far from clear, because he had operated completely in the dark until then. Hughes' name did not appear of record anywhere in the transaction that resulted in the collection of a $15,000 fee for "services rendered" to Ricca, Campagna, Gioe, and D'Andrea. Unless Hughes volunteered to talk to FBI agents, there seems to have been no reason why they would seek him out, unless they knew something unknown then to any member of the congressional investigating committee, which linked Hughes to the paroles.

Mr. Hughes testified that on the night of October 5, 1947, he was at a night club in Chicago and heard a conversation at a neighboring table in which he was the subject of the talk. In his testimony, Mr. Hughes said that four men, who were drinking, were discussing the recent paroles given the Capone gangsters and blaming him "that Texas s. o. b." for the releases. He testified the men were using his name. After he had given that testimony at a committee hearing in Washington, its credibility was challenged and the statement was made that up to that time, and for 2 weeks thereafter, the name of Maury Hughes did not appear in any newspaper in connection with the Capone gang paroles.

Mr. Hughes, according to Mr. Peyton Ford's alleged report to us on the FBI investigation, told the FBI agents that the drinkers at the next table in Chicago named Ash and three prominent men affiliated with the Republican Party as being responsible for the freedom of the gangsters. He said that Mr. Ash and the three others were in a plot to put the blame on the Democratic administration, according to the drinkers at the Chicago night club.

If Mr. Hughes told the FBI agents of the part he played in the release of the gangsters, collecting $15,000 for his services, the summary of the FBI reports made no mention of that fact to this committee. It was not until long after the connection of Mr. Hughes with the dismissal of the indictment in New York had become public property that the FBI interview with Mr. Hughes was officially admitted.

That Mr. Hughes, who has been a close friend of Attorney General Tom Clark for many years, and Parole Chairman Daniel Lyons, who had been pardon attorney in the Attorney General's office for many years, both launched an attack on Harry Ash at the same time may be significant.

It is significant, also, that on the day the committee voted to send two Members of Congress to the Atlanta and Leavenworth prisons for data and records concerning the incarceration and paroling of Ricca, Campagna, Gioe, and D'Andrea that Mr. Peyton Ford ordered a grand jury investigation of the matter to be started in Chicago.

Representative Dorn, of North Carolina, and myself, on visiting the prisons, learned that the required records had been subpenaed for the grand jury at Chicago, and that witnesses whom we wanted to question had been called to Chicago. At Leavenworth the committee members were advised that the records were impounded and the testimony of prison officials was suppressed.

The committee was hampered in being unable to question Tony Accardo, who had visited the convicts in prison eight or nine times, due to an indictment having been voted against Accardo and Eugene Bernstein, the attorney who paid the Government $128,000 in behalf of Ricca and Campagna, and didn't know where the money came from. The committee had not questioned Bernstein under oath, prior to his indictment, and was not able thereafter to question him about matters that came to light after the first hearings in Chicago when he gave voluntary testimony.

What, if anything, the FBI learned about the operations of Accardo and Bernstein was not revealed to us in the document that came from Mr. Peyton Ford—a document we termed insulting to the intelligence of the Congress. It contained no information and was built around the smear attempt against Mr. Ash and several of his friends.

Months of inquiry force the conclusion that Mr. Ash was an innocent victim of a willingness on his part to be of service to his State and Nation in looking after one of his boyhood acquaintances who was about to be let out of prison on parole. Persons interested in keeping blame from those who actually did let the four men out of prison sought to make a scapegoat or whipping boy of Mr. Ash. In this they have not succeeded because no blame whatsoever attaches to him for the obvious miscarriage of justice in the clemency extended to the Chicago gangsters.

As further proof of my contention that Mr. Harry Ash was singled out for political purposes to be discredited because he was a Republican, I cite the following facts:

Mr. Ash did not communicate with the Parole Board asking that these four gangsters be paroled, but merely offered to act as parole adviser to Charles Gioe in an effort to rehabilitate him in society; while on the other hand, the other three parole advisers, Dr. Walter Lawrence, for Louis Campagna; Mr. John Tiberia, for Phil D'Andrea; and the Reverend C. Marzano, for Paul De Lucia, not only agreed to act as parole advisers, but also wrote letters to the Parole Board asking for their release. At no time did Mr. Daniel Lyons bring any of these three names into the testimony, let alone singling them out for special attention like he did Mr. Harry Ash.

The attack on Mr. Ash and some of his associates caused this committee to waste a great amount of time. We have been unable to go into many phases of conditions in Chicago which may have had more than an incidental relation to the freeing of the men. The fact that a Federal grand jury was supposed to be making a complete and thorough investigation of the same subject caused us to wait to see what it produced.

Therefore, we made no inquiry regarding the statement that the money paid on the tax liens against Ricca and Campagna came from slot machines permitted by the authorities to be operated in Cook County for some weeks prior to the election of November 4, 1946, at which we were told, friend of Ricca, Campagna, Gioe, and D'Andrea were responsible for "herding" thousands of Italian-Americans to the polls, to vote as ordered by "the Capone syndicate."

The fact that Mr. Bernstein and Mr. Accardo were indicted was due to evidence obtained by this committee at its Chicago hearings in September 1947. When Mr. Peyton Ford ordered the grand jury inquiry in Chicago, the committee deferred further inquiry along that line.

It is noteworthy, we believe, that since that time, early in November, no other person or persons were indicted in connection with the investigation. Mr. Accardo and Mr. Bernstein have now obtained a continuance so that their trial has been postponed until sometime next November, a year after they were accused of conspiracy in connection with the illegal visits made to the prison.

This committee furnished the evidence for the only indictments resulting so far. This committee has been willing at all times to do its part in getting at the truth about this seeming miscarriage of justice. It is the opinion of the undersigned that this inquiry should be continued until every possible lead has been run down and we are able to say, positively, that money was or was not paid for these paroles to persons other than those already named. Likewise, this committee should see to it that proper punitive measures are adopted, when all the story is told. The guilty should be punished.

The Federal Government should not condone such a flagrant abuse of power as these paroles which, if we had not acted, might have destroyed respect for law and order in the minds of countless thousands or millions of our people. Congress must continue to show the way.

This committee has the right to believe that, on the basis of evidence adduced by us, the paroles should be revoked and the four men returned to prison.

After that, the committee should pursue an intense investigation to fix responsibility and ascertain what additional money was paid for these paroles, and to whom.

In order to pursue such investigation effectively there should be in the future better cooperation between the Department of Justice, the Federal Bureau of Investigation, the grand jury in Chicago, and our committee. The people are entitled to know the facts and full truth about the granting of these paroles, and this committee should not cease its efforts until all possible leads have been thoroughly investigated. There should be no more suppression of facts or evidence, and no further secrecy. The public is entitled to this, and no less.

Statements emanating recently from Attorney General Clark, his subordinates, and his apologists, attempt to create the impression that Mr. Clark had no responsibility for freeing the convicts. The maneuvers suggest the thought that this is Mr. Clark's alibi. Instead of meeting the facts the Clark apologists seek to divert attention from his part. Mr. Clark and his cohorts, by attacking the Chicago Tribune and its reporter, Mr. James Doherty, seek to create the inference that this is a matter of politics, and not an inquiry into what appears to have been a gross miscarriage of justice. Regardless of what has appeared in any newspaper, it is a fact that—

1. The Parole Board set free four men who had committed a grievous crime and who were notorious criminals.

2. The Parole Board is under Mr. Clark's control. He personally appointed two of the three men who freed the Chicago gangsters.

3. Mr. Clark paved the way out of prison for the gangsters by approving the dismissal of the mail-fraud indictment against them in New York.

4. Mr. Clark's friend, Maury Hughes, acted for the convicts.

5. President Truman's friend, Paul Dillon, acted for the convicts.

6. Mr. Clark, as superior to the head of the Federal prison system had a responsibility for the prison transfer of the men for which "it is quite evident that money is being paid," according to Warden Sanford.

7. Mr. Clark, as superior to the head of the Federal prison system, did not prevent Tony Accardo, gangster, from visiting the convicts in prison

8. Mr. Clark, after the convicts were paroled, was responsible for the order of secrecy that sought to prevent the public from learning what had happened.

9. Mr. Clark's friend, Maury Hughes, and his subordinate, Daniel Lyons, started the smear campaign.

10. Mr. Clark defied Congress and also refused to allow Mr. Hoover, head of the FBI, to give the congressional committee any information or help.

If Mr. Clark's claim that he is the victim of attack by a newspaper is his only response to this committee's request for help, and its complaint that he refused such help, it may be comforting to him—but only to him.

It should be said here, too, that Mr. Clark's control of the grand jury investigation at Chicago has been of no help to this committee. Let Mr. Clark show by some affirmative action that he is trying to bring out the truth in this investigation, instead of labeling himself the poor innocent victim of the hatred of a newspaper.

The inference of Mr. Clark and his friends that I am a party to any political attack on him appears to be only a subterfuge or alibi.

Mr. HARDY, a minority member of the committee, contends in his report that the President did not refuse to furnish the committee with information collected by the FBI; that the refusal was merely a routine procedure of the Department of Justice.

Whether the President has surrendered his prerogatives to others I have no way of learning. I do know that, on the 2d of October and again on the 4th of October 1947, the chairman of the committee addressed a letter to "The President, the White House," which was a request that the President issue an Executive order "permitting and authorizing the Department of Justice, the Federal Bureau of Investigation, and the Treasury Department to make available to the committee certain information needed in investigating the granting of paroles to Paul Ricca, Philip D'Andrea, Charles Gioe, and Louis Campagna.

But don't take my word for it. Read the letters, which are as follows:

OCTOBER 2, 1947.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: Mr. Douglas McGregor of the Attorney General's office today advised Mr. William Young of our committee which is investigating the facts and circumstances in connection with the granting of paroles to Paul Ricca, Philip D'Andrea, Charles Gioe, Louis Campagna, and which is also investigating the activities of the Parole and Pardon Board, that he could not and would not give us information contained in the records which has to do with the granting of pardons.

In that connection he gave Mr. Young a copy of a letter from Frank Murphy, then Attorney General, dated March 28, 1939, also a memorandum prepared on the same date by Golden W. Bell, then Assistant Solicitor General.

Mr. Young was also handed a copy of the "Rules Governing Petitions for Executive Clemency—Department of Justice" issued by Tom C. Clark, Attorney General, and approved by you on January 19, 1946.

Inasmuch as some members of our subcommittee and of the committee are interested in ascertaining the basis for the granting of certain pardons and particularly a pardon granted to Frank Boehm in which Paul Dillon, I am advised, appeared as his attorney, this information is sought.

Mr. Young also requested that he be permitted to examine the files in connection with the pardoning of certain individuals who were prosecuted and convicted in connection with certain election frauds in Kansas City.

Will you kindly advise whether this information is to be made available to our subcommittee or the committee?

Faithfully yours,

CLARE HOFFMAN, *Chairman.*

OCTOBER 4, 1947.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: A subcommittee of the House Committee on Expenditures in the Executive Departments is investigating the facts and circumstances surrounding the granting of paroles to Paul Ricca, Philip D'Andrea, Charles Gioe, and Louis Campagna.

The parolees named above were convicted of a conspiracy to obtain, by unlawful means, from a certain industry something like a million dollars.

The testimony already taken indicates that each had an income from a source other than legitimate business.

There is in the possession of the Bureau of Internal Revenue, information bearing upon the question as to whether the paroles were obtained by fraud and misrepresentation.

The Federal Bureau of Investigation has been, and is, making an investigation in connection with the granting of these paroles. Speaking yesterday with a representative of the Federal Bureau of Investigation, authorized to talk with the attorney in charge of the files in the Internal Revenue Bureau which contains the information the committee is seeking, the chairman of the committee was advised that it was doubtful if the information could be made available without an executive order, this notwithstanding the authority conferred upon the committee by section 105 of title 5, United States Code, section 101 of Public Law 601, section 121 of the Reorganization Act, and House Resolution 118, adopted the last session of Congress.

While not conceding the right of the Treasury Department, the Federal Bureau of Investigation or the Department of Justice to deny this information to the committee, to avoid delay and multiplicity of inquiries, this is a request that an executive order be issued permitting and authorizing the Department of Justice, the Federal Bureau of Investigation and the Treasury Department to make available to the committee investigating the above matters any and all information collected or in the possession of the agencies and departments named, so that the committee may ascertain the facts and make its report to the full committee which is charged with making a report to Congress.

Faithfully yours,

CLARE E. HOFFMAN, *Chairman.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., October 15, 1947.

Hon. CLARE E. HOFFMAN,
Chairman, Committee on Expenditures in the Executive Departments, House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your letters of October 2 and October 4, 1947, addressed to the President, have been referred to this Department for consideration and reply. The requests contained therein, and the application thereto of established legal principles, have received careful study.

With reference to your letter of October 2:

You mention that your committee is investigating paroles which were granted to Paul Ricca et al. For your information, may I point out that all duties having to do with the parole of United States prisoners are vested by statute in the Board of Parole, which acts independently of the President and the Attorney General.

You have requested that your committee be permitted to examine certain pardon files which are in the custody of the Department of Justice. May I respectfully call to your attention two letters by the Attorney General, one dated August 13, 1921, addressed to the chairman of the Committee on the Judiciary of the United States Senate and the other dated March 9, 1922, addressed to the Presiding Officer of the Senate. These letters are cited in the two memoranda dated March 28, 1939, to which you refer in your letter. They clearly show that under constitutional authority, the pardoning power vested in the executive branch is not amenable to control by either of the other branches of the Government, nor is the executive branch, in the exercise thereof, answerable to them. In this connection, I may also refer you to the principles and authorities given below.

With reference to your letter of October 4, 1947:

The substance of your letter is a request that the reports of investigative agencies of the executive departments be made available to your committee. Such reports have long been held to be of a confidential nature. I believe your attention has already been called to the opinion of the Attorney General, dated April 30, 1941, addressed to the Honorable Carl Vinson, chairman of the House Committee on Naval Affairs, setting forth the principles by which this Department must be governed with reference to the inviolability of the confidential character of investigative reports. Bound by these principles, the Department has constantly and consistently declined to allow access to such reports to the Congress or committees of that body. The decisions of the United States courts have continuously recognized the propriety of this position. And with reference to the necessity of preserving the integrity of the three great branches of our Government—legislative, executive, and judicial—free of encroachments by one upon the other, I may refer you also to an opinion of the Attorney General rendered in 1937 (39 Op. A. G. 61).

Similarly, Attorney General Mitchell, in volume 37, Opinions of the Attorney General, page 56, dated January 24, 1933, in advising President Hoover, said:

"Since the organization of the Government, Presidents have felt bound to insist upon the maintenance of the executive functions unimpaired by legislative encroachment, just as the legislative branch has felt bound to resist interference with its powers by the Executive. * * * Each President has felt it his duty to pass the Executive authority on to his successor unimpaired by the adoption of dangerous precedents."

In view of the foregoing, I feel certain that you can readily see the reasons why we cannot turn over to your committee the investigative reports or files you seek and also why we cannot advise the issuance of an Executive order to that end, although it remains our desire to cooperate with and be of assistance to the Congress and its committees at all times.

With kind regards,

Sincerely yours,

PHILIP B. PERLMAN,
Acting Attorney General.

It is rather significant that typewritten copies of the minority report supposedly prepared by Hon. PORTER HARDY, Jr., a minority member of the subcommittee, were released to the press by Mr. Leo Cadison, public relations official of the Department of Justice. Usually minority reports are released by the minority members. I leave it to those who read this report as to whether or not they think the minority report was written by Mr. HARDY or someone in the Department of Justice.

Various newspapers are to be commended for the assistance and publicity given this

investigation. The Chicago Tribune is entitled to special mention for having assigned a man in the person of James Doherty to devote all of his time to this case since September of last year. Mr. Doherty has been intimately acquainted with the operations of the Capone gang for many years and much of the evidence brought out at our hearings is due to information and leads obtained through him. The committee, Congress, and the public should be very grateful, indeed, for the service rendered society by Mr. Doherty's splendid cooperation in the investigation of the parole of these four convicts.

Special mention should also be given Lt. William Drury and Capt. Tom Connelly, and the Chicago Herald-American who gave the committee valuable assistance, and they should be commended for their services by Congress and the public. Also Mr. Theodore Link, of the St. Louis Post-Dispatch, who gave us help and is deserving of our appreciation. In addition, Mr. Edwin Leahy, of the Chicago Daily News, who covered the original trial and conviction of these four men in New York City has assisted the investigation materially.

The chairman of the committee, the members of the subcommittee who cooperated, and all who aided in the pursuit of facts pertaining to the granting of these paroles and our endeavor to ascertain whether or not money was paid in connection with the paroles and who may have received it, have earned the appreciation and gratitude of all law-abiding and patriotic citizens. Notwithstanding the fact that many obstacles have been thrown in our way in our efforts to do our duty, I heartily recommend that the committee continue its investigation until it is thoroughly satisfied it has done everything possible to uncover any and all pertinent facts surrounding the granting of these paroles.

FRED E. BUSBEY.

EXHIBIT 2

KANSAS CITY VOTE FRAUD—MINORITY REPORT TO FULL COMMITTEE (ON S. RES. 116)

STATEMENT OF HOMER FERGUSON, SENATOR FROM MICHIGAN, CHAIRMAN OF THE SUBCOMMITTEE ON SENATE RESOLUTION 116

Senate Resolution 116, which was referred to the Senate Committee on the Judiciary reads in part as follows:

"*Resolved,* That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized and directed to make a full and complete study and investigation concerning the failure of the Attorney General of the United States and the Department of Justice to act with respect to alleged irregularities in the Democratic primary election held in the Fifth Congressional District for Missouri on August 6, 1946, with a view to ascertaining whether the Attorney General and the officers of the Department of Justice have properly performed their duties with respect to the investigation and prosecution of any violations of law which may have occurred in connection with said primary election. The committee shall report to the Senate at the earliest practicable date the results of its study and investigation, together with such recommendations as it may deem advisable."

At a Judiciary Committee meeting on May 26, 1947, the above resolution was considered and referred to a subcommittee to consider this measure and to make a preliminary study of the subject matter.

As directed, preliminary public hearings were held on May 28, June 5 and 6 by your subcommittee, at which the following witnesses, among others, were heard: (1) Attorney General Tom C. Clark, (2) FBI Director J. Edgar Hoover, (3) Federal Judges Reeves, Ridge, and Collet, and (4) District Attorney Sam Wear.

As a result of these preliminary hearings, the following facts were developed:

The election

The primary election in Missouri was held on August 6, 1946, at which time candidates were to be nominated by each political party for various State offices, as well as for United States Senator and Representatives in Congress. In the Fifth Missouri Congressional District, constituting part of Jackson County, Mo., which in turn includes most of the city of Kansas City, Mo., there were three candidates for the Democratic nomination for Representative in Congress: Roger Slaughter (the incumbent), Enos Axtell, and Jerome Walsh. Axtell was shown on the face of the returns to have received the Democratic nomination for Representative in Congress from that district.

In the Fourth Missouri Congressional District, which includes the remainder of Jackson County and the remainder of the city of Kansas City, Mo., there were two Democratic candidates, and C. Jasper Bell was shown on the face of the returns to have received the Democratic nomination for Representative in Congress from that district.

Reports of fraud

On August 12, 1946, the Kansas City office of the Federal Bureau of Investigation received an anonymous telephone call, alleging that there were flagrant vote frauds in the primary election at Kansas City. This information was transmitted to FBI headquarters in Washington, D. C., and by FBI Director Hoover to Assistant Attorney General Thereon C. Caudle on August 14, 1946 (p. 49). The FBI was advised by Caudle, on September 5, 1946, that no investigation was warranted by reason of said anonymous telephone call (p. 49).

On September 16, 1946, Ludwick Graves, chairman of the Kansas City Board of Election Commissioners, called Sam Wear, United States district attorney for the western district of Missouri, and asked him if he would be willing to confer with the board because there was some suspicion there might be some election fraud (p. 483). The following day, Wear did talk to the board of election commissioners and then he, Wear, conferred by telephone with the Department of Justice, probably Caudle (p. 486), concerning the request of the board of election commissioners for aid of the Government in connection with rumored irregularities in the recent primary election in Kansas City, Mo. (p. 484). Pursuant to the information received by telephone, on September 18, 1946, Wear wrote a letter to the members of the election board, in which he stated:

"If you or any other reputable men could furnish any substantial evidence indicating any fraud, that the Department of Justice would immediately turn the matter over to the Federal Bureau of Investigation and have a complete and full investigation made. * * * from the assurance of the Department of Justice, I am confident an immediate full investigation will be made" (pp. 484, 485).

A copy of the entire letter is identified as exhibit 1, and attached hereto.

On October 7, 1946, the City Council of Kansas City, Mo., passed a resolution requesting the Attorney General of the United States, the United States district attorney, and the prosecuting attorney of Jackson County, Mo., "to proceed immediately and promptly with an investigation of all violations of election laws at the primary, August 6, 1946, to the end that all persons guilty of violating either the Federal or State laws, or both, be prosecuted in appropriate courts" (p. 132).

A copy of this resolution was sent to Attorney General Clark, Washington, D. C., and to United States District Attorney Wear at Kansas City, Mo.

Investigation by Kansas City Star

The Kansas City Star, a newspaper in Kansas City, Mo., became convinced that there were election irregularities in the primary election. It assigned 2 of its reporters to supervise a private investigation and employed 32 former servicemen to make an examination of the poll books and to interrogate election officials and voters. One thousand three hundred and twenty-seven persons were interrogated, and many news reports, articles, and editorials appeared in the Kansas City Star reporting the information concerning election frauds disclosed by the investigation.

House Committee on Campaign Expenditures

Jerome Walsh, one of the defeated candidates for nomination for Representative in Congress, registered a complaint with the House of Representatives Special Committee on Campaign Expenditures. Two investigators were sent to Kansas City. The evidence obtained by them and by the Kansas City Star was turned over to the Attorney General with a report which in part stated:

"The investigators obtained a sufficient quantity of evidence concerning improper methods of counting, coercion, and fraudulent procedures to justify the committee's referring the entire report to the Attorney General."

The members of this committee, a majority of whom were Democrats, were as follows: J. PERCY PRIEST, Tennessee (Democrat), JOHN E. FOGARTY, Rhode Island (Democrat), OREN HARRIS, Arkansas (Democrat), CARL T. CURTIS, Nebraska (Republican), and FRANK FELLOWS, Maine (Republican).

When the committee's report was delivered to the Attorney General it consisted of several envelopes containing detailed data of voting irregularities in different precincts of Kansas City. One of these envelopes, marked "Exhibit (5)," contained the following memorandum attached thereto:

"Campaign Expenditures Committee, House of Representatives. This file contains evidence of five serious offenses:

"1. Impersonation of voters.

"2. Illegal ballots cast.

"3. Ballots counted by unauthorized person, the machine precinct captain.

"4. A conspiracy to induce voters to take false oaths of assistance.

"5. Many violations of the Missouri election laws."

A second envelope, marked "Exhibit (6)," contained the following memorandum attached thereto:

"Campaign Expenditures Committee, House of Representatives. Fifth precinct, second ward.

"This file contains good evidence that the Democratic precinct workers and election officials conspired to vote the names of individuals who were not expected to vote that day. It also contains proof that votes were paid for."

Attention will be directed to items 3 and 4 on exhibit (5). Item 4 refers specifically to a conspiracy and item 3 refers to the counts of ballots by unauthorized persons including a machine precinct captain. This could only have happened as a result of an agreement or conspiracy.

Investigation by FBI

During the course of the investigation by the Kansas City Star, various articles published in that newspaper were sent to the office of Attorney General Clark by the United States district attorney in Kansas City. Caudle advised the FBI on October 2, 1946, that "if investigation was desired, the Bureau would be so informed" (p. 49). This directs attention to the fact that the FBI was not to make any investigation in this case until instructions were received from the Attorney General.

On October 11, 1946, the Attorney General, by memorandum, instructed the FBI to conduct a preliminary investigation of the allegations of the complainants in this case. The pertinent parts of this memorandum are as follows:

"A study of the material at hand indicates possible violation of sections 51 and 52, title 18, United States Code. It is accordingly requested that a preliminary investigation be undertaken along the lines indicated below. * * * reports of the investigators indicate that persons, first, are officially listed as having voted while claiming that they did not vote; or, second, are officially listed as not having voted while claiming they did vote; or, three, appeared at the polling place and found that their names had already been voted. These latter irregularities indicate a violation of section 51 for if the charge can be substantiated they would have amounted to a conspiracy to deny to qualified voters their federally secured right to vote for a candidate for Federal office, to have that vote counted as cast, and to have all legitimate ballots honestly and accurately counted free of dilution or falsification and fictitious ballots" (pp. 3, 4).

A copy of this memorandum in full is identified as exhibit 2 and attached hereto.

It is observed from a reading of the entire memorandum, that this authorization limited the witnesses to be interviewed to persons designated in the memorandum. Those designated included no person suspected or accused of crime, included no person having first-hand knowledge of possible violations, and included only those who obviously had only hearsay knowledge. It is observed that the persons to be interviewed are of only two classes; first, members of the board of election commissioners and, second, employees of the Kansas City Star. All other witnesses are excluded.

On October 17, 1946, the FBI started its investigation and concluded it on October 24, 1946 (flyleaf of FBI report). The significant fact will here be noted that it was not until this latter date, October 24, 1946, that District Attorney Wear actually received official information of the preliminary investigation, in the form of a copy of the memorandum dated October 11, 1946, from the Attorney General to the FBI. Seven men were assigned to the investigation. A total of six persons, those specifically named in the memorandum from the Attorney General, were interrogated and the FBI made an examination of the evidence of election irregularities obtained by the investigators of the Kansas City Star. A report consisting of 355 pages was prepared. Although the FBI might have, under the instructions received from the Attorney General, interviewed the 32 former servicemen employed by the Kansas City Star, the 2 Kansas City Star reporters were interviewed and these 2 men made available all material which had been obtained by the 32 former servicemen as a result of their interviews with voters in Kansas City, Mo. (FBI report, p. 4).

On October 23, 1946, FBI Agent in Charge Brantley, in Kansas City, Mo., talked by telephone to J. M. Mumford, assistant to D. M. Ladd, who is Assistant Director of the FBI, concerning the FBI preliminary report. Following that conversation Mumford prepared a memorandum to Ladd, which was, in part, as follows:

"Mr. Brantley was also instructed that the copy he sends to the United States attorney, Wear, should have a cover letter specifically and carefully pointing out that its contents do not constitute the result of an investigation but, pursuant to the specific instructions of the Attorney General, are merely a summary of the data developed by the Kansas City Star and the election board and turned over to the Bureau for the consideration of the Attorney General and the United States attorney.

"This procedure is being followed in an effort to prevent the possibility of our reports being cited as the result of investigation proving that further investigation or prosecution is not justified" (pp. 199, 200).

When this memorandum came to the attention of FBI Director Hoover certain portions of it had been underscored in red. He personally drew a line and wrote in ink:

"Were we so restricted by Department orders?" (p. 200).

He testified that he did this because—

"I sensed the necessity of meticulously following whatever the Department had instructed" (p. 62).

He was satisfied that the FBI was so restricted.

On October 24, 1946, FBI Agent Brantley in Kansas City, Mo., transmitted a copy of the FBI report to United States District Attorney Wear with a covering letter (except for caption and closing) reading as follows:

"I am transmitting herewith a copy of the report of Special Agent H. C. Boswell in the above case, dated October 24, 1946.

"I desire to advise that this report does not reflect the results of an investigation by special agents of the Federal Bureau of Investigation, and it should in nowise be considered as such. It does, however, contain information furnished us by members of the Kansas City Election Board, and information developed by investigators for the Kansas City Star. The limitations indicated herein are imposed in the instructions received by the Bureau from the Department respecting this case" (p. 56).

A copy of the FBI report was sent by FBI Agent Brantley to the FBI headquarters in Washington, which report was in turn transmitted to the Attorney General with a memorandum dated October 25, 1946, which called the attention of the Attorney General to the fact that interviews were had by the FBI with only the six persons named in the memorandum dated October 11, 1946, and that representatives of the Kansas City Star "advised that their investigation and canvass did not cover congressional and senatorial candidates to determine alleged fraud and election irregularities" (p. 184) except in a recent test check in one ward. The memorandum concluded as follows:

"You will note that only the specific investigation requested in your memorandum has been conducted, and I shall appreciate your advising me as soon as possible whether any further investigation is desired" (pp. 58, 185).

This memorandum from FBI Director Hoover to the Attorney General points out and conveys the same message as in the cover letter from Brantley to Wear, and it clearly advised the Attorney General that the FBI had completed its investigation according to instructions and would not proceed further unless it received further instructions. The Attorney General has supervision of the FBI and, if he had been of the opinion that any additional persons should have been interviewed by the FBI, he could and should have so directed. However, the Attorney General considered the investigation to be "thorough" (p. 126). This unquestionably shows that both the FBI and the Attorney General placed the same interpretation on the memorandum and both concluded that it had been fully complied with.

Preparation of synopsis of FBI report

Shortly after the receipt by District Attorney Wear of the FBI report, he prepared, in conjunction with one of his assistants, a 23-page synopsis entitled "Review of Report of Federal Bureau of Investigation, Dated October 24, 1946—Alleged Election Irregularities." This review or synopsis is not complete and is inaccurate. For example, in the FBI report, on page 68, relating to alleged election irregularities in precinct 10 of ward 1, appears a copy of a statement of Estella R. Carter.

In the review or synopsis where the evidence pertaining to this precinct and ward is summarized, there is no mention of a statement of Estella R. Carter or of the the contents of her statement. The contents of this statement were material. Commenting on it, Federal District Judge Albert L. Reeves stated that he perceived in it "a concert of action which would be in the nature of a conspiracy" (p. 411), and that he was inclined to think that there was enough in that statement to submit to a grand jury, to ask for an indictment (p. 413). District Judge Albert A. Ridge stated that while the statement "in and of itself" was not sufficient to submit to a grand jury to ask for an indictment, "there is a pattern revealed here of suspicion" (p. 432). He further stated, referring to this statement, that "There was suspicion that might require some other investigation" (p. 435). District Judge J. C. Collet indicated that he thought the "statement would call for further investigation" (p. 470).

It appears that there consistently was omitted from the synopsis reference to language used in the statements obtained by the Kansas City Star that would give rise to the probability of a conspiracy to miscount ballots, to deny a person the right to vote, or to permit or cause persons to vote who were not entitled to vote, and that numerous statements were inaccurately or incorrectly summarized by District Attorney Wear. Attached hereto and identified as "Exhibit 3" are three statements taken from the report of the FBI, from which the synopsis was made, and following each statement is the summary appearing in the synopsis prepared by Wear referring to that particular statement.

Use of the synopsis

The FBI report contained a flyleaf on which it was stated:

"Representatives of Kansas City Star state their investigation and canvass did not cover congressional and senatorial candidates to determine alleged fraud and election irregularities except in a recent test check in precinct 5, ward 2, where Kansas City Star investigators reported 14 affidavits from persons stating they voted for Roger Slaughter for Representative in Congress as contrasted with official count furnished in file of Kansas City Star of 6" (p. 81).

The same information was called to the attention of the Attorney General by FBI Director Hoover in his memorandum dated October 25, 1946 (p. 184). Attorney General Clark testified that he added the underlining shown above. In the preface of the synopsis of the FBI report it is stated that the two reporters of the Kansas City Star—"stated to the agents (five) that they made no canvass or investigation to develop information concerning fraud or irregularities which may have occurred in the United States congressional race—" and it is also stated that—"It will be observed that the information as to each precinct is incomplete, general in most instances and inconclusive as far as furnishing any certain basis for the prosecution of anyone under the provisions of section 51, title 18, United States Code" (pp. 85–86).

In spite of this, District Attorney Wear submitted a copy of this synopsis to each of the three Federal judges in Kansas City, Mo. Hon. Albert L. Reeves, Hon. J. C. Collet, and Hon. Albert A. Ridge, for an opinion whether there was evidence shown in the synopsis to justify the judges calling the Federal grand jury into session. Judge Reeves, a member of the Federal bench in excess of 24 years, stated that he could not recall ever having before been asked by a district attorney whether certain evidence should be submitted to a grand jury. Each judge was told

that a copy of the FBI report was available to him, but none read it or looked at it because they relied on the accuracy of the synopsis, and also because they did not believe that it was the proper function of a Federal judge to pass on the sufficiency of the evidence of that stage. The judges were unanimous in their opinion that the evidence shown in the synopsis did not warrant calling the grand jury into session at that time. However, all three judges testified that they either thought or assumed that the investigation would continue; that they did not know of any limitation upon the duty or authority of the FBI to make a full investigation; and that they were not asked and offered no opinion that additional investigation should not be made. Judge Reeves stated that in his opinion the statements obtained by the Kansas City Star that he heard read at the hearing would be evidence of a conspiracy to defraud voters (p. 400), and that he thought the experts in the Department of Justice would have followed such leads if they were properly exercising their duties (p. 409). Judge Collet stated that "this review indicated fraud and someone ought to investigate it further" (p. 464).

The judges never anticipated that their opinion, that there was insufficient evidence shown in the synopsis to warrant calling a grand jury at that time, could be used as a reason for not continuing the investigation by the FBI. The three judges all testified that they were never asked concerning the advisability of impounding the ballot boxes. (Since the close of the hearings before this subcommittee, District Attorney Wear "requested the Federal court to impound primary ballots and election data pending the report of the FBI and possible grand-jury action."—Kansas City Star, June 12, 1947.) In spite of this, District Attorney Wear wrote, on December 19, 1946, to the assistant to the Attorney General, Douglas W. McGregor, in part, as follows:

"I have had a long conference with our three district judges and have gone over the matter with them fully. They are unanimous in their opinion that there is not enough evidence to warrant them calling a grand jury to investigate the alleged frauds.

"I am submitting this to you so that you can have the benefit of how our three judges feel about the matter and the conclusion they have reached" (pp. 472–473).

The Attorney General informed the subcommittee that the reason he did not look into the conspiracy angle further last fall was "because the United States attorney and three Federal judges, and the Department, including the section head, and the Assistant Attorney General, the head of the Division, and the office of the assistant to the Attorney General, unanimously told me that there was not any evidence sufficient for a grand jury, for impounding the ballots, or for having further investigation" (p. 172).

Attorney General restricted investigation by FBI

The Attorney General and FBI Director Hoover both testified that the FBI had authority to make a full investigation in any case on its own initiative except in the following four classes: civil-rights cases, antitrust cases, war labor dispute cases, and election cases. District Attorney Wear added a fifth, or what is known as the criminal-flight case. In these classes of cases the FBI takes no action until directed by the Attorney General, and then takes only the specific action directed. It was testified that in election fraud cases it is now the usual procedure for the Attorney General to order the FBI to make what is termed a "preliminary" investigation in which only the complainants are interrogated. The purpose of the preliminary investigation was stated to be to determine if there were reasons disclosed justifying the making of a "full" investigation, in which case every facility of the FBI would be made available to determine if there had been a violation of Federal law. It is noted that at the time of the election fraud investigation by the FBI following the 1936 election in Kansas City, Mo., there were no restrictions by rule of the Attorney General limiting the authority of the FBI to make only the investigation specifically directed and authorized by him. In that case the FBI conducted a full and complete investigation immediately following the election and, as a result thereof, more than 250 persons were convicted in the Federal courts of illegal conduct in connection with that election. Thereafter, in 1941, the Attorney General imposed the restrictions now in force on the FBI in making investigations in this class of cases. In the instant case, acting on the instructions of the Attorney General, the FBI made only a preliminary investigation. The facts disclosed by this preliminary investigation clearly indicate to this subcommittee that there was evidence of numerous violations of Federal law. The three Federal district judges each testified that statements in the FBI report contained indications of conspiracy and that additional investigation appeared to be warranted. District Attorney Wear thought and advised the Attorney General that there were "a few things here that I thought might be investigated a little further" and that "there were probably a couple (affidavits) that would probably bear further investigation" (p. 508). Even in view of Wear's recommendation and although Attorney General Clark stated to this subcommittee that "* * * if anything showed up that the district attorney thought should be investigated, they would investigate further" (p. 31), on January 6, 1947, the investigation, on the orders of the Attorney General was stopped. Instead of using the preliminary investigation for its stated purpose, an inaccurate and incomplete synopsis of it was made and presented to the three Federal district judges for the purpose of determining if there was evidence disclosed in said synopsis to justify the calling of a grand jury at that time. The material available to the Attorney General established beyond any reasonable doubt abundant evidence of every element of a Federal crime. Attention is directed to the fact that the evidence of conspiracy in the material obtained by the Kansas City Star and made available to the Attorney General was there by accident because investigation was not directed along this line. This fact should have caused the Attorney General to have desired some investigation on this phase. No investigation as to the existence of a conspiracy was made by the FBI and none was ordered or permitted by the Attorney General. This subcommittee cannot justify (*a*) the failure of the Attorney General to cause such investigation to be made; or (*b*) the use of the report of the preliminary investigation as a report of a full investigation.

The Attorney General testified that it was "always" done, and that it was the "customary" procedure to order a preliminary investigation, and for the Attorney General to name the persons to be interviewed and to list the information to be obtained (p. 7) when complaints were received concerning election frauds.

Wyandotte County, Kans., borders Jackson County, Mo., and contains the city of Kansas City, Kans., which is considered a part of the metropolitan area of Kansas City, Mo. On November 23, 1946, the United States district attorney at Topeka, Kans., received a letter from Carl V. Rice, of Kansas City, Kans., in which it was claimed that frauds had been discovered in the recent general election in Wyandotte County, Kans.; that a county candidate had admitted that election records had been changed; and that in some precincts the total votes counted exceeded the number of voters. The letter stated that an investigation pertaining only to county officials was being conducted by the State's attorney for Wyandotte County. A request was made that the Department of Justice immediately investigate the election to determine if there had been violation of Federal laws. By telegraph a copy of the Rice letter was sent to the Attorney General on November 25, 1946, by the United States district attorney, with a request that he be directed how to proceed in this matter. It is now pointed out by the committee that in this Wyandotte County case there had been no investigation made such as made by the Kansas City Star and the complaint came from only one individual. The Attorney General sent a telegram to the United States district attorney on November 27, 1946, as follows:

"Lineation November 25, Department is today requesting FBI to investigate Wyandotte County election frauds under your direction to determine possible violations of 18 United States Code 51. Copy of authorizing memorandum follows."

The FBI was furnished a copy of the telegram from the district attorney and the above reply, and was instructed to make an investigation limited only as shown in the following instructions:

"Investigation of the charges set out above is desired to determine whether the vote for Federal candidates was nullified or diluted as a result of tampering, altering of ballots and stuffing of ballot boxes in violation of section 51, title 18, United States Code.

"It is requested that you conduct your investigation under the direction of the United States attorney."

In this Wyandotte County case the Attorney General did not instruct the FBI what witnesses only were to be interrogated. The FBI was told to make an "investigation of the charges" and the discretion as to what persons should be interrogated was left to the highly trained and expert agents of the FBI.

On December 3, 1946, FBI Director Hoover advised the Kansas City office of the FBI, in part, as follows:

"In accordance with the Department's request, you are instructed to conduct an immediate and thorough investigation and to submit a report."

Attorney General closes investigation

On January 6, 1946, by memorandum to the FBI, Assistant Attorney General Caudle ordered the file in the Kansas City election frauds case closed.

The memorandum set out at length the conclusions of the Attorney General's office, and, in part, stated:

"No evidence was uncovered to indicate a conspiracy to violate section 51, title 18, United States Code, nor is there evidence to indicate that the election judges, clerks, or anyone else, knowingly violated the Federal law. * * * No evidence is offered that anyone conspired to miscount or falsify ballots in violation of section 51, title 18, United States Code, despite the admittedly improper method of counting the ballots employed in many of the polling places.

"The investigation in this case was thorough, and we concluded that there was no certain basis for the prosecution of anyone under section 51, title 18, United States Code, for election-fraud conspiracy. This conclusion is further supported by the detailed memorandum of the United States Attorney Wear, based on the FBI report above mentioned, and submitted with his letter of November 1, 1946, to assistant to the Attorney General McGregor.

"In a supplementary letter of December 19, 1946, Mr. Wear stated that he has gone over this matter with the three judges of the western district of Missouri in a lengthy conference, and they are unanimous in this opinion that there is not enough evidence

to warrant their calling a grand jury to investigate the alleged frauds.

"Accordingly, we are closing our file, and informing you that no further investigation is desired."

The entire memorandum referred to above is identified as "Exhibit 4" and attached hereto.

Additional evidence found in files of Attorney General

Attorney General Clark delivered to this committee his official file in this matter. In it, labeled "Office memoranda," are 28 typewritten sheets of paper, each containing a summary of the evidence pertaining to election irregularities in a specific precinct. Near the bottom of almost all of these sheets are the folowing words: "Possible Federal violations—." Following this phrase appears a number or the word "None." The total of the possible Federal violations noted in the file is 173.

Attention is directed to the fact that in the memorandum from the Attorney General to the FBI directing a preliminary investigation it is stated that reports "indicate that persons first, are officially listed as having voted while claiming that they did not vote; or, second, are officially listed as not having voted while claiming they did vote; or third, appeared at the polling places and found that their names had already been voted. These latter irregularities indicate a violation of section 51."

In the above-referred-to file of the Attorney General the summaries indicate that there were 159 persons who were listed on the election records as having voted, but the evidence indicates that they did not vote; that there were 10 persons who claimed they did vote, but the election records failed to so show; and that 14 persons were not permitted to vote when they went to the polls because their names had been voted.

One page 57 of the report of the FBI it is noted that in precinct 10 of ward 1, the investigators for the Kansas City Star interviewed 121 voters of the total of 295 shown to have voted by the poll book or the 287 shown to have voted by the voting list. In the files of the Attorney General the result of the recount of ballots in this precinct by the State grand jury discloses that Axtell had been given six votes too many, Slaughter four votes too few, and Walsh three votes too few. If all the voters had been interviewed, and the same ratio of illegal votes were found, the total would have been approximately 56. There was an error of 13 in the counting, and if the same ratio were carried through, there would be a total error of 69 in the precinct. The error in this one precinct apparently is approximately 26 percent.

Numerous statements were furnished to the Attorney General by the Kansas City Star, which indicated that the election officials and others counted the ballots by stacking them into three piles of what was supposed to consist of "straight machine" ballots, "mixed" ballots, and Republican ballots. The Attorney General testified that "the agreement to count the votes that way would not be a violation of Federal law," but "if it included a miscount of votes it would be" (p. 259). In the file of the Attorney General there appears the report of the result of the recount of the ballots in seven precincts by the State grand jury, as follows:

	Official count	Grand jury count	Difference
Roger Slaughter	53	118	65
Jerome Walsh	59	185	126
Enos Axtell	1,651	1,456	195

It is particularly noted that in the memorandum of the Attorney General closing the files in this matter and directing no further investigation by the FBI, it is stated that the "investigation in this case was thorough." This obviously is an inaccurate statement. FBI Director Hoover stated that the investigation was "thorough insofar as the instructions received from the Criminal Division were concerned" (p. 68), but the instructions of the Attorney General prevented it from being a thorough investigation of the alleged violations of Federal law. Mention is made frequently in this memorandum that there is no evidence to indicate conspiracy.

It is appropriate to point out that there is evidence in the file to indicate that the investigators for the Kansas City Star made no effort to discover evidence of a conspiracy, and that the FBI investigators, within the limits of their authority, could interrogate no person, in order to obtain the original evidence of acts of conspiracy, who was present in the polling booths on election day or who likely would have reason to know of a conspiracy.

On April 29, 1947, Turner L. Smith, Chief, Civil Rights Section, sent an interoffice memorandum to Assistant Attorney General Caudle, concerning an editorial that appeared in the Kansas City Star. Smith wrote:

"If it can be established, as charged in the editorial, that certain election officials conspired to permit false votes to be cast, or conspired to make false returns, this, of course, becomes a Federal offense where a congressional candidate is involved. * * * If this can be established as a fact and responsible persons identified, we have a Federal case.

"The trouble about answering this editorial is, to date we don't have enough facts to go on."

It appears that no attempt was made by the Attorney General to obtain the original evidence of the truth of many allegations that conspiracy in violation of Federal law existed, and that as late as April 29, 1947, the Chief of the Civil Rights Section admitted that there were not sufficient facts available upon which an opinion could be based.

Nevertheless as early as January 1947, it was stated by the same department that sufficient facts were at hand for them to come to the conclusion that no evidence of conspiracy existed. This is set forth in the following section:

Senator Kem requests Attorney General to take action

On January 14, 1947, Senator JAMES P. KEM, of Missouri, wrote the Attorney General requesting "a detailed report of what you have done and expect to do to bring to justice all those guilty of the violations of the statutes enacted by the Congress."

On January 22, 1947, the Attorney General replied to Senator KEM that—

"The Criminal Division has carefully considered all information and material submitted by the House Investigating Committee to Investigate Campaign Expenditures for 1946 and the Federal Bureau of Investigation, which conducted lengthy and detailed investigations into the charged irregularities. Information compiled by the Kansas City Star upon which was predicated the original complaint to the Department has also been thoroughly analyzed.

"It is our conclusion that no basis exists for prosecution of anyone for violation of the Civil Rights Statutes."

A copy of this letter was sent to District Attorney Wear and he approved it (pp. 116, 527).

On February 10, 1947, Attorney General Clark wrote a second letter to Senator KEM, a portion of which is as follows:

"As I previously advised you, the Federal Bureau of Investigation at my instance conducted a full investigation into the charges of fraud in this primary. A careful and thorough review of the results of this investigation has been made and no evidence of a Federal violation was established."

It is noted that the Attorney General stated that, at his instance, the FBI had made a full investigation of the alleged vote frauds in Kansas City, Mo., when in truth and in fact, at his specific direction, the investigation made was something less than full, and he had specifically directed that a full investigation not be made.

In the opinion of the chairman of this subcommittee, the replies of the Attorney General were phrased in such language as are likely to mislead a Senator of the United States. In answer to an official inquiry, the Attorney General assured Senator KEM of Missouri, that the investigation was "lengthy and detailed." It was not. The Attorney General also wrote Senator KEM that the—

"Federal Bureau of Investigation, at my instance, conducted a full investigation into the charges of fraud in this primary."

No such full investigation was conducted.

State grand jury

Subsequent to the time that the Attorney General closed his files in this case and informed the FBI that no further investigation was desired, a State grand jury returned 81 indictments against 71 individuals. On May 27, 1947, the State grand jury made its final report, a portion of which is as follows:

"In our investigation it was revealed that in some precincts ballots were deliberately miscounted and false returns made of the election results to the election commissioners. We also discovered wrongful, illegal, and wholesale marking of ballots, vote buying and bribery, and illegal participation of party workers who were not polling officials in the counting of votes, gross negligence, carelessness, and indifference on the part of judges and clerks in the performance of their duties.

* * * * *

"The grand jury subpenaed the ballots, tally sheets, poll books, and other records from the election commissioners and recounted the ballots in certain precincts. Miscounts of shocking proportions were revealed. A significant fact is that where a sizable miscount of votes was found the count invariably was in favor of one factional slate of Democratic candidates. In not one instance in which a consequential miscount was found was the miscount in favor of a candidate other than the candidates upon that particular factional slate.

"The grand jury recommends further investigation including a complete recount of all ballots in the race for the Democratic nomination for Representative in Congress for the Fifth District of Missouri, by the proper authorities. It is our belief that Roger C. Slaughter, in this race was deprived of the nomination by a fraudulent miscount of votes and by other types of fraud.

* * * * *

"Our investigation revealed that in certain precincts the names of some registered voters were voted by impersonators and in some instances payments were made to the impersonators. This type of fraud can only be perpetrated by collusion and conspiracy.

* * * * *

"Our investigation and indictments further reveal that improper and unauthorized persons were wrongfully permitted by the precinct officials to handle ballots and count votes, and otherwise participate in the preparation of the official returns as certified to the election commissioners. In certain precincts watchers and challengers, usually precinct captains, unlawfully and wrongfully took charge of the ballots after the polls closed and after the ballot boxes were opened through collusion with, or intimidation of polling officials. In all precincts where this

was permitted there was a wide discrepancy between the official returns as certified by the polling officials and the true count as determined by the grand jury.

* * * * *

"In our investigation of vote frauds we have confined our efforts, of necessity, largely to a recount of the ballots. The grand jury strongly stresses the fact that in an investigation of vote frauds and irregularities the great majority of the fraud can only be substantiated and proved by a thorough, scientific examination of the ballots and records by competent scientific methods by trained men. There were definite indications of conspiracy and irregularities requiring such expert services bearing on the identity of handwriting, pencil marks, fingerprints, etc. It is a matter of general knowledge that the Federal Bureau of Investigation, United States Department of Justice, has such expert examiners and facilities to carry on such an investigation. We strongly urge that the United States Department of Justice and the FBI enter this investigation."

Ballots are stolen

On the night of May 27, 1947, less than 24 hours after the report of the State grand jury, from which the above quotations were taken, was made public, and less than 24 hours before the beginning of the hearings before this subcommittee, the vault door to the room in the Jackson County courthouse in Kansas City, Mo., where the ballots were stored, was blown open with explosives and all or substantially all the ballots which could be used as evidence in the prosecution of persons indicted by the State grand jury were stolen. These stolen ballots have not been recovered. On May 28, 1947, the Attorney General ordered the FBI to investigate the theft of the ballots, and on May 30 the Attorney General ordered the FBI to make a full investigation of the alleged election frauds occurring at the primary election held August 6, 1946, in the Fifth Congressional District in Missouri. Newspaper reports indicate that the FBI investigation has twice since May 30 been enlarged to include other areas in Missouri. FBI Director Hoover stated to this subcommittee that—

"There is no question, now that the ballots, or some of them, at least, have been stolen, that our investigation will be seriously handicapped; and it will probably require much longer time to conclude and will not be as complete as it would have been if we could have had the examination of the ballots for our investigation" (p. 131).

Recommendation

The chairman recommends that the preliminary study by this subcommittee warrants the following action:

(1) Senate Resolution 116 be reported favorably to the Senate, without amendment; and

(2) A full and complete investigation by the Senate Committee on the Judiciary be authorized and conducted.

EXHIBITS

EXHIBIT 1

SEPTEMBER 17, 1946.

Hon. LUDWICK GRAVES,
Hon. RICHARD C. JENSEN,
Hon. WILLIAM DAVIS,
Hon. JOSEPH R. STEWART,
Members of the Board of Election Commissioners, Jackson County Courthouse, Kansas City, Mo.

GENTLEMEN: I want to thank you and have you understand that I appreciate very much your calling me into conference yesterday at your office, seeking my advice and the aid of the Government in connection with rumored irregularities in the recent primary election in Kansas City, Mo.

Immediately after the conference I communicated with the Department of Justice in Washington and was advised by that Department that while they could not act upon unsupported rumors, that if you or any other reputable men could furnish any substantial evidence indicating any fraud, that the Department of Justice would immediately turn the matter over to the Federal Bureau of Investigation and have a complete and full investigation made.

I will be glad to confer with you at any time and if any new developments occur which are indicative of evidence of the violation of any Federal statute, I will be glad to have you advise me and from the assurance of the Department of Justice, I am confident an immediate full investigation will be made.

Respectfully,

SAM M. WEAR,
United States Attorney.

EXHIBIT 2

OCTOBER 11, 1946.
TCC:WJH:mab
72-43-23

Director, Bureau of Investigation.
The Attorney General.
Unknown subjects: Kansas City, Mo.
Primary election, October 6, 1946.
Election laws.

Reference is made to Assistant Attorney General Caudle's memorandum of October 2, 1946, in the above-captioned matter. As indicated in that memorandum, United States Attorney Wear at Kansas City, Mo., on September 25, 1946, forwarded to the Department investigative reports of the Kansas City Star, indicating election irregularities during the August 6 primary in the following four precincts of the Fifth Congressional District: Fourteenth ward, first precinct; nineteenth ward, second precinct; tenth ward, first precinct; first ward, twenty-fifth precinct.

These reports were submitted to the United States attorney by the Kansas City Board of Election Commissioners, who requested that he take steps to initiate an investigation of alleged violations of Federal law in the contest in the Fifth Congressional District. Since that time Mr. Wear has forwarded clippings of articles from the Kansas City Star, reporting these same and additional irregularities in the above-mentioned district. Mr. Wear has informed us that the Star investigation is continuing and the irregularities have been uncovered in some 26 precincts in addition to the 4 on which he submitted material.

A study of the material at hand indicates possible violations of sections 51 and 52, title 18, United States Code. It is accordingly requested that a preliminary investigation be undertaken along the lines indicated below. While many of the irregularities charged amount at most to violations of State law, such as assistance by election officials to voters in marking ballots without filling out necessary oaths of assistance, improper selection of election officers, improper methods of tallying and counting ballots in the absence of a showing of actual miscounting, nevertheless reports of the investigators indicate that persons (1) are officially listed as having voted while claiming they did not vote, or (2) are officially listed as not having voted while claiming they did vote, or (3) appeared at the polling place and found that their names had already been voted. These latter irregularities indicate violations of section 51, for if the charges can be substantiated they would amount to a conspiracy to deny to qualified voters their federally secured rights to vote for a candidate for Federal office, to have that vote counted as cast, and to have all legitimate ballots honestly and accurately counted, free of dilution by false or fictitious ballots. Possible violations of section 52, title 18, United States Code, are indicated if election officials, acting under "color of law" in officiating at a primary election which is an integral part of the State's electoral process, either alone or with others perpetrated denials of the rights mentioned above.

It is, therefore, requested that the following persons be interviewed and such information elicited from them as will determine (1) the identity of qualified voters who were deprived of the right to vote for a Federal candidate and (2) the identity of persons with their official position, if any, who stuffed ballot boxes with false or fictitious ballots or failed to count ballots for Federal candidates honestly or accurately; together with all circumstances surrounding the violations: (1) Ludwick Graves, Richard C. Jansen, William Davis, Joseph R. Stewart, members of the board of election commissioners, Jackson County courthouse, Kansas City, Mo.; (2) Ira B. McCarty and John P. Swift, reporters for the Kansas City Star, who have written articles on the above-described matters, and such other of the Star employees as participated in the Star investigation.

Please give this investigation your special attention and submit reports to me as promptly as possible. Please conduct your investigation in cooperation with the United States attorney at Kansas City, Mo., and furnish him copies of your reports.

EXHIBIT 3

SEPTEMBER 22, 1946.

"My name is Ida Shoats. I live at 627 East Fourteenth Street, Kansas City, Mo.

"I was a Democratic judge in the nineteenth precinct of the second ward on August 6, 1946.

"I know that the way the ballots were counted and tallied was as follows: All of the judges separated the Republican and Democratic ballots. Then the Democratic judges counted and arranged the Democratic ballots into straight-machine ballots and split ballots and the Republican judges counted the Republican ballots. We finished counting and tallying all votes in about 2 hours, to the best of my knowledge. Many voters came in and said they wanted to help and that they wanted to vote the straight Democratic ticket. If they said this we voted them or marked their tickets or ballots for the machine-backed candidates. The other Democratic judge marked the ballots; I didn't as I worked on the books. This was my first time working in this precinct although I've worked in other precincts in other elections.

"To the best of my knowledge these statements are true.

"IDA SHOATS.

"Witness:
"J. P. SWIFT, Jr.
"DWIGHT M. SMITH, Jr."

Ida Shoats, a Democratic judge (267), made a statement which does not indicate there was any intentional misconduct by the judges.

(The following is the last sentence in the summary of the evidence pertaining to precinct 19, ward 2:)

"There appears to be no substantial evidence of an election-fraud conspiracy in this precinct."

EXHIBIT 4

KANSAS CITY, MO., *September 24, 1946.*

"My name is Louise Foster. I live at 1007 Vine, Kansas City, Mo. I was a Republican challenger in the fifth precinct of the second ward in the primary election on August 6, 1946.

"I was on the inside of the polling place at 1006 Vine from about 6 a. m. until about 3 p. m. I saw that the Democratic judge, Marchese, I believe, was acting in a manner

that to me seemed wrong. On many occasions during the day, I would estimate in case of at least one-half of all the Democratic voters that came in the polls, Marchese would ask the voters name, then Marchese would take the ballot and mark it to suit himself and put in the box. The voter had no chance to vote himself. Marchese marked the ballot and asked no questions of the voter after hearing his name. I saw that Marchese never had the voter fill out an oath of assistance.

"In one case I became suspicious of the way Albert Cecils, of 915 Pasco, acted when he came to vote. So I checked later, and found that Albert Cecils, the real one, had been dead long before the primary election. I remember objecting to the Democratic judges before Cecils voted and either Marchese or Willie Costellow, said 'We know him, let him pass.' I remember that during the day several persons came in to vote and could not remember their names. They would go back outside and return immediately and say their names and vote. I believe they were not the real voters and were prompted by someone outside. In all these cases the Democratic judge marked the ballots and the voters had nothing to do with it. I remember that one of these voters came in and said 'My name is Daily.' She couldn't remember her last name and went out and came back saying 'Daily Goodspeed; I live at 1021 Paseo.'

"About 2:30 p. m. I went across the street to my home to get something to eat. I stopped in the doorway and looked across at the polling place. I saw the Democratic precinct captain, 'Jack,' hand some money in folded bills, to a voter just coming out of the polls. I know this man was a voter. I saw that Ollie Harris, the other Republican challenger, who substituted for me, following after this voter and she told me she wanted to ask him how much 'Jack' gave him. She was prevented because Jack ran down and told the voter to go on, 'that that was all right.'

"After the election, I went around the precinct to check to see if all the voters actually lived in the precinct. The following I know voted as I checked them off my list at the time they voted. What follows their name is what I was informed by inquiry at the residence.

"Walter Rattler, 1414 East Twelfth, moved 6 months ago.

"Joseph Harper, 1115 Lydia; moved 1 year ago.

"Jewell Harper, 1115 Lydia; moved 1 year ago.

"Alice E. Walker, 1115 Lydia; moved away January 1946.

"Dennis, Ace, 1123 Lydia; moved since November 1945.

"Ida Mae Shields, 1108 Vine; moved February 1946.

"I know from observing the conduct of the poll, where I served as Republican challenger, that it was not conducted honestly due to the fact that the voters did not cast, mark, or vote their ballots in over half of the votes cast, as this was done by the Democratic judge, Marchese.

"LOUISE FOSTER.

"Witness:
"DWIGHT M. SMITH, Jr.
"R. A. ERICKSON."

Louise Foster, a Republican challenger, made a statement to the newspaper investigators relating some instances of what appeared to be persons attempting to vote the names of oher persons. She claimed that one of the Democratic judges marked over half of the ballots.

"George L. Numer states that he is 57 years of age and is a postal clerk at the United States post office at Kansas City and has been such since 1911.

"Affiant states that in the last primary election on the 6th day of August, 1946, he was one of the judges in the tenth precinct of the second ward in Kansas City, Jackson County, Mo. The voting place being at 1013 East Thirteenth Street.

"Affiant states that the other judges in this voting precinct were Nathan Price, William Holmes, and Ruth E. Leamer, and the clerks were Thelma Bennett and Walter Blair.

"Affiant states that he worked as ballot-box judge.

"Affiant states that during the day when voters entered the voting headquarters that Nathan Price would frequently ask the voters if they desired help in marking their ballot and, in many instances where the voters indicated the desire for such help, Nathan Price would mark the ballot as he saw fit without asking the voter for whom he or she desired to vote.

"Affiant states that during the day Ruth E. Leamer, one of the ballot judges, would say to the voter 'Do you want a Democratic ballot?' and would not ask the voter which ballot they wanted, and, as the day progressed, would frequently just hand the voter a Democratic ballot without asking them anything about how they desired to vote.

"Affiant states that repeatedly during the day the Democratic precinct captain would come into the voting headquarters, and when the polls closed he stayed in the headquarters. I do not recall the name of the precinct captain.

"Affiant states that after the polls closed supper was brought in and that, while the others were eating, he and his precinct captain counted the number of ballots to see that they tallied and then counted the votes on the Democratic ticket for candidates for United States Senator and gave the total number of votes for each of the candidates for United States Senator to the clerks and that he and the precinct captain then counted the Republican ballots and counted the number of votes for each candidate on the Republican ballots and gave the numbers to the clerks.

'Affiant states that as soon as this was completed, the precinct captain stated 'We will not count the Democratic votes for the other candidates because it will take too long,' and the ballots were then turned over to William Holmes, who fastened them together and put them in a sack and the Democratic ballots for candidates other than United States Senator were never counted.

"Affiant further states that he makes this statement of his own free will and that he has been apprised of and knows that any statements herein contained are subject to use against him.

"GEORGE L. NUMER.

"Subscribed and sworn to before me, a notary public, this 21st day of August 1946.

"CARL E. ENGGAS, *Notary Public.*

"My commission expires October 19, 1949."

There is a statement by one George L. Numer, Republican judge, who says that the votes on the Democratic ticket for candidates for United States Senator were counted but as to the other candidates they were not counted. He must mean "Representative" instead of "Senator." He also claims that Nathan Price, Democratic judge, would assist voters in marking their ballots and would often mark them as he [Price] saw fit, without asking the voter for whom he or she desired to vote.

EXHIBIT 5

JANUARY 6, 1947.

The Director, Federal Bureau of Investigation.

Theron L. Caudle, Assistant Attorney General.

Unknown subjects; Election irregularities in Primary election; election August 6, 1946, Kansas City, Mo.

Election laws.

Reference is made to your memorandum of October 25, 1946, and report of Special Agent Boswell, dated October 24, 1946, in the above-entitled matter.

A carefully study of the report indicates that irregularities attending the primary held in the Fifth Congressional District of Missouri in Kansas City on August 6, 1946, amount to violations of State law at most. Only the following two instances of irregularity were found to concern directly the congressional race. In the fourth precinct, first ward, investigators from the Kansas City Star secured statements from three persons who claimed that they voted for Walsh, one of the candidates for Democratic nomination for Representative from the Fifth District, while the official tally credits Walsh with only one vote. No evidence was uncovered to indicate a conspiracy to violate section 51, title 18, United States Code, nor is there evidence to indicate that the election judges, clerks, or anyone else knowingly violated the Federal law. In the fifth precinct, second ward, Star investigators submitted statements of 14 persons who claimed that they voted for Slaughter, also a candidate for the same nomination, while the official total credited him with only 6. Here, too, there was no evidence of conspiracy. It is also noted that the members of the board of election commissioners, who initially requested United States Attorney Wear to investigate the conduct of the primary, informed Bureau agents that they had no information on the following matters:

Allegations of contributions to individuals to vote or not to vote; the changing or destruction of ballots after they were cast; election officials knowingly allowing persons to intimidate registered voters; election officials knowingly permitting repeaters to vote; election officials intentionally counting illegal ballots; election officials counting votes not actually cast; election officials knowingly permitting false registrations. The same officials also informed Bureau agents that they had no information with respect to any possible ballot-box stuffing during the primary election except for the information concerning five voters who contended that they had not actually voted and who, after complaining to the election officials, were permitted to vote. Here, too, there was no evidence to indicate conspiracy or election fraud.

We have further given careful consideration to the file submitted by the Special Committee to Investigate Campaign Expenditures for the House of Representatives. The file consists of a report dated October 28, 1946, of J. Raymond Hoy and Arthur T. Allen, investigators for the committee, and affidavits and statements gathered by them and attached to the report as exhibits A through M. The committee's investigation was predicated upon a complaint from Jerome Walsh, a defeated candidate for the Democratic nomination, that excessive campaign expenditures have been made, and upon the same Kansas City Star, material which formed a basis of the original complaint to the Department and which is fully set out in the above-mentioned report of Special Agent T. Boswell. The committee investigators directed much of their attention to the question of campaign expenditures which entails no violation of the Federal Corrupt Practices Act, since that act specifically excludes primaries from its operation (sec. 241, title 2, U. S. C.). Irregularities in the method of counting ballots were uncovered, but these are, at most, violations of State laws which set out the manner of counting "straight" and "split" ballots and the persons who shall count ballots. No evidence is offered that anyone conspired to miscount or falsify ballots in violation of section 51, title 18, United States Code, despite the admittedly improper method of counting ballots employed in many of the polling places.

The investigation in this case was thorough and we conclude that there is no certain basis for the prosecution of anyone under section 51, title 18, United States Code, for election fraud conspiracy. This conclusion is further supported by the detailed memorandum of United States Attorney Wear, based on the FBI report above-mentioned and submitted with his letter of November 1, 1946, to assistant to the Attorney General McGregor. In a supplementary letter of December 19, 1946, Mr. Wear stated that he has gone over this matter with the three judges of the western district of Missouri in a lengthy conference and that they are unanimous in this opinion that there is not enough evidence to warrant their calling a grand jury to investigate the alleged frauds.

Accordingly, we are closing our file and informing you that no further investigation is desired.

KANSAS CITY VOTE FRAUD—REPORT TO THE FULL COMMITTEE [ON S. REC. 116]

Your subcommittee, to whom was referred the resolution (S. Res. 116) to investigate the nonaction of the Department of Justice in connection with the alleged irregularities in the Democratic primary election in the Fifth Missouri Congressional District on August 6, 1946, having considered the same, report unfavorably thereon to the full Committee on the Judiciary and recommend that the resolution do not pass, but that it be indefinitely postponed by the full committee.

CONCLUSIONS

It is the conclusion of the subcommittee that the investigation proposed by Senate Resolution 116 would be fruitless and productive of no good result; that it would duplicate without reason the activities of other agencies; that it would amount to political harassment; and that for these and other good reasons the proposed investigation is wholly unjustified.

STATEMENT OF WILLIAM LANGER, SENATOR FROM NORTH DAKOTA

Because of the grave importance of the charges against the Attorney General of the United States reflected in this resolution, I have read the testimony with unusual care. Certain facts stand out with startling clarity. One is that the Attorney General has been terrifically burdened as an aftermath of the war. The record shows that there are about 100,000 cases a year in the Department of Justice for his supervision (R. 74). As a result the Attorney General must of necessity place Assistant Attorneys General in charge of the various divisions, including the Criminal Division, which had charge of prosecuting election frauds including the Kansas City election.

The head of any governmental department is properly held responsible for the actions of his department and for the efficiency of his assistants; but, having been myself attorney general for the State of North Dakota during the period of World War I and experienced with the duties of attorney general in a single State both during and after the war, I can well understand the multitudinous and varied matters that project themselves into the office of the Attorney General of the United States.

It is with this background that we must consider the approach of the Kansas City case to the attention of the Department of Justice. Because of the possible involvement of the President of the United States, the Attorney General must have known how highly important this election was—not only to the Republican and Democratic Parties, but to the people of the country at large. In my opinion, for such reason it would have been the part of wisdom for the Attorney General to have undertaken charge of that complaint himself rather than to have delegated the authority to an assistant, even though the latter course would have been in conformity with the usual practice. The record shows (p. 53) that the policy followed by the Attorney General was established by former Attorney General Robert Jackson on the recommendation of the Honorable Maurice Milligan, the United States district attorney at Kansas City, who himself in 1936 prosecuted the Pendergast machine for election frauds and who prosecuted Pendergast himself for income-tax violations (F. 53). Mr. Milligan, under Attorney General Murphy, was responsible for the adoption of the policy which required specific authority from the Attorney General and the initiation of a preliminary investigation where vote frauds were claimed in violation of Federal statutes (R. 54, 65). The Department of Justice followed that practice in this case. In my opinion, however, for reasons stated, the Attorney General should have himself taken personal charge of this investigation. However, I can readily conceive that during these months there were many problems facing him—strikes (including the legal proceedings involving the mine workers), important litigation involving billions of dollars (such as the notable Tidelands suit), lynchings in the South, serious immigration problems, important war-assets investigations, claims against the Government—that he could have in all honesty felt were so important to the people that they required his general supervision to the same extent as that required by violation of Civil Rights Statutes, including election irregularities.

From the Attorney General's testimony (R. 74, 75), he evidenced the fact that in his judgment this case should be handled as any other, regardless of the individuals or personalities involved.

In addition to the foregoing, the State of Missouri was undertaking a serious investigation of its own through the county grand jury which returned indictments against 78 persons because of these self-same election irregularities. Criticism has been leveled at the Attorney General because the Department of Justice did not step in and seize the ballots, some of which were stolen. Had he done so, the charge might well have been made that the Department of Justice was trying to get physical possession of the ballots for sinister purposes by impounding them and preventing their use by the county grand jury.

The Attorney General did order the Federal Bureau of Investigation to make a preliminary investigation; and, unquestionably that being a preliminary one, was subject to the same type of instructions as has been given in all other election cases. The testimony of J. Edgar Hoover, Director of the Federal Bureau of Investigation, so states (R. 50–55). Here are his words:

"Mr. HOOVER. No; I would not consider that in any way out of line, because that has been the practice in practically all of the preliminary investigations of election frauds. We have received many cases where they outline specifically whom to interview and exactly what steps we are to take.

"Senator FERGUSON. Under these instructions?

"Mr. HOOVER. Under these instructions. That is correct."

In a communication of June 18, 1947, addressed to the subcommittee, Mr. Hoover has set forth his views specifically. His impartiality and integrity are well known to all the Senate and to the American people. He would know better than perhaps any other whether there was partiality or favoritism or deliberate disregard of duty on the part of the Attorney General of the United States. He states in his letter:

"I think that in all fairness both to the committee and to the Attorney General, I should elaborate upon the specific items which appear to be in issue."

He says:

"The fact that we were ordered to make a preliminary inquiry in this case was not unusual. In the summer of 1941 Mr. Maurice Milligan, who you will recall prosecuted the original Kansas City vote fraud case in 1936, as a special assistant to former Attorney General Robert H. Jackson, instituted the policy that unless advised to the contrary in election fraud cases, preliminary inquiry was to be made only upon departmental instructions, after which the facts were to be submitted to departmental attorneys who would study the facts for decision as to further action. This same policy is followed in other classes of cases."

He further states:

"I think in all fairness I should make the observation that in the years the present Attorney General, Tom C. Clark, has been associated with the Department of Justice, I have had the opportunity of working with him in innumerable cases and I am glad to state that he has not in any way taken any action to prevent any investigation being conducted to its logical conclusion."

In determining whether more investigations should be undertaken, let us look at the record. At the present time there have been instituted the following investigations in the Fifth Congressional District in Kansas City, Mo.:

1. An investigation by the Kansas City Star with 2 experienced reporter-investigators and over 30 assistants. They have interrogated more than 8,000 people.

2. An investigation by a committee of the House of Representatives.

3. An investigation by the grand jury of Jackson County, Mo., which has returned 78 indictments.

4. An investigation under the direction of Richard K. Phelps, who was a former United States attorney in the western district of Missouri, and was chief assistant to Maurice Milligan in the prosecution of the Kansas City vote fraud when 250 persons were convicted.

5. A Federal special grand jury has been summoned to inquire into this matter. This committee has already taken the testimony of J. Edgar Hoover, Director of the Federal Bureau of Investigation; Daniel Milton Ladd, assistant director; Attorney General Tom C. Clark; Sam M. Wear, United States attorney, Kansas City, Mo.; Albert J. Reeves, Albert Ridge, J. Collett, all United States district judges for the western district of Missouri; and Allen Stokka, an employee in the office of Senator KEM.

It is difficult to overemphasize the importance of maintaining our elections free from fraud and corruption. However, I cannot in good conscience hold that the foregoing will not fully insure adequate protection of all civil rights, including those guaranteed under our Federal constitutional statutes to our citizens.

I can, therefore, see no need for further expense and effort.

I have always favored State law enforcement where the interests of the citizens could be adequately protected.

In addition, I have the strongest belief in the integrity and the honesty of the Attorney General of the United States. All of the testimony presented in this record has not changed that opinion. Had his work allowed it, I believe that he could have better served the people by giving more of his personal attention to the direction of this matter, but I can better understand his difficulty in not so doing, considering the other burdens he bears in the performance of this high office, especially in these unusual times.

I have never willingly confused criticism of a man's judgment with questioning his integrity.

I think that at no time in our history is it more important to refrain from unjust criticism, especially involving charges of lack of integrity, than today. Not only do I feel that another investigation added would produce no good; I fear it would do harm. There are stern duties facing the Attorney General

of the United States in protecting the people from other wrongs. I refer particularly to protection against plundering cartelists, racketeers, and their brethren.

The Attorney General some months ago brought to his side a new Assistant Attorney General, John F. Sonnett, who has announced for the first time since the passage of the Sherman Antitrust Act of 1890 that corporations and individuals that violate the antitrust laws are going to be arrested and prosecuted in the same manner as other criminals. This, to my mind, is one of the very important duties resting upon the Department of Justice. It has been the failure of all Attorneys General, Republican and Democratic, since 1890, to sternly enforce antitrust laws and to seek terms in prison for those involved therein. This lack of law enforcement has led to abuses in the formation of billion-dollar trusts, cartels, and monopolies.

These for a long period have borne down and burdened the American people. Never was it more important than today that these antitrust laws be rigorously and effectively enforced. We owe this to all our citizens, to the veterans returning from the war to start businesses of their own, and to others who have suffered by having competition stifled in private enterprise to such an extent that it has made it almost impossible for a small-business man to hope to compete with these vast aggregations of wealth. If our entire way of American life is to be preserved, these duties must be performed, and I have full confidence that the Attorney General will carry them out faithfully, vigorously, and effectively. It is strange, indeed, that immediately after he, for the first time in the history of the United States, as Attorney General announced that these monopolists and cartelists would be prosecuted and jailed when found guilty that he should be harassed by an investigation of this type. Nothing would give more comfort or more smug satisfaction to the heads of these giant cartels and combinations than to see the efforts of the Attorney General of the United States thus diverted from them, while they continue their practice to the detriment of millions of wage earners and millions of housewives trying to squeeze out an existence on a budget rapidly diminishing from day to day.

There are many people, according to the views expressed by the Senator from Nevada, who will feel that a continuation of such investigation and pressing of these charges are political and that those that make them have an eye to the election just around the corner, that they are made more to influence election results than to contribute to the common welfare of the people.

The Attorney General has demonstrated that he is no respecter of persons, parties, or groups.

He has proved his mettle. Witness his impartial record, whether sending prominent men of his own party to jail or battling for the common people by sternly enforcing all laws, civil and criminal, whether saving billions of dollars in oil lands or protecting the rights of the humblest citizen, regardless of race, color, or creed.

Finally, other issues facing us are of such vast importance, the people of the United States expect the undivided attention of their Senate to solve them. With the whole world prostrate, with the eyes of millions of starving people in other countries looking anxiously and hopefully to us for help and guidance, with the President of the United States confronted with one bewildering public problem after another, with the whole system of economy and our way of life being challenged here and abroad and perhaps being weighed in the balance—in these very critical days, I cannot faithfully under my oath ask this Government to expend its energy, time, and money on an investigation of this sort.

If we ever could have risked the danger of being charged with playing politics—even risk the danger of being suspected thereof—we cannot do so now. The perilous times in which we live demand nothing less than our very best. We are compelled by a common interest of survival to stand shoulder to shoulder and make our Government succeed. We certainly must not discourage those bearing these heavy burdens. For such reasons, I regret—very sincerely regret—the necessity of differing with one of my colleagues in voting against this resolution.

STATEMENT OF PAT MCCARRAN, SENATOR FROM NEVADA

Having concurred in the report of the majority of the subcommittee, I also concur generally in the statement of my colleague, the Senator from North Dakota.

In further support of my position, I submit the following discussion of the record in this matter, together with my personal findings and conclusions.

I. SUBCOMMITTEE HEARINGS PURSUANT TO SENATE RESOLUTION 116

The subcommittee to whom was referred Senate Resolution 116, first met on May 28, 1947. Subsequent meetings were held on June 5 and 6. Evidence was taken with respect to the Department of Justice's handling of complaints concerning the primary election in the Fifth Congressional District, Kansas City, Mo., held on August 6, 1946.

In the course of these hearings a number of witnesses appeared and testified in reference to the subject matter, among whom were: J. Edgar Hoover, Director, Federal Bureau of Investigation; Daniel Milton Ladd, Assistant Director of the Federal Bureau of Investigation; Attorney General Tom C. Clark; Sam M. Wear, United States attorney, Kansas City, Mo.; Albert J. Reeves, Jr., Albert A. Ridge, and J. Caskie Collet, United States district judges for the western district of Missouri; and Alden A. Stockard, an employee in the office of Senator KEM, appearing in the dual capacity as assistant to Senator KEM and as a witness in these proceedings.

In addition to the testimony of these witnesses, a number of interoffice communications between the divisions, the United States attorney, and the Federal Bureau of Investigation, all of the Department of Justice, were introduced in evidence. A report compiled by the Federal Bureau of Investigation, consisting of 355 pages and legal memoranda, and briefs covering same were received. The subcommittee also reviewed the investigation of this matter by the Special Committee to Investigate Campaign Expenditures of the House of Representatives, 1946.

II. CONCLUSIONS

1. The jurisdiction of the Federal Government over election irregularities committed in connection with primary elections for candidates for Federal office has been limited since 1894, when the Federal election statutes were repealed. Since that time it has been the duty primarily of the several States to deal with such problems, and Missouri, among others, has statutes covering the primary election irregularities indicated by this evidence. The State authorities are currently conducting prosecutions under State law upon these irregularities.

2. The Federal statutes do not provide for Federal enforcement with respect to irregularities in elections in the following situations:

(a) They do not make it a Federal crime to accept or pay a bribe in connection with a primary election, or to conspire to do so (*United States* v. *Bathgate*, 246 U. S. 220).

(b) They do not cover a private individual who, without conspiring with others, votes in the name of another person, living or dead, or otherwise votes falsely, stuffs a ballot box, or otherwise commits or aids the commission of election irregularities (*United States* v. *Mosley*, 238 U. S. 383; *United States* v. *Classic*, 313 U. S. 299; *United States* v. *Saylor*, 322 U. S. 385).

3. In dealing with the numerous election irregularities complaints which have been received by it in the past, the Department of Justice, since 1940, has consistently and properly followed a policy of conducting preliminary investigations to ascertain whether enough evidence of violation of Federal statutes appears to warrant full investigation. The Criminal Division of the Department of Justice, after receiving orders from the Attorney General that this matter be investigated, followed the regular policy in such matters. The evidence clearly establishes that the initial instructions of the Criminal Division for investigation were entirely proper and called for a preliminary investigation, typical of instructions given to the Federal Bureau of Investigation by the Department of Justice in prior election irregularity cases. Conclusive evidence that the Department's investigation of this matter was not improperly limited and further that the Attorney General has never prevented any investigation from being conducted to its logical conclusion, is furnished by the letter of the Director of the Federal Bureau of Investigation to the chairman of the subcommittee, under date of June 18, 1947, clarifying portions of his testimony. The letter in part reads:

"I think in all fairness I should make the observation that in the years the present Attorney General, Tom C. Clark, has been associated with the Department of Justice, I have had the opportunity of working with him in innumerable cases and I am glad to state that he has not in any way taken any action to prevent any investigation being conducted to its logical conclusion."

4. In conducting this investigation, agents of the Federal Bureau of Investigation interviewed all members of the election commission and the chief investigators of the Kansas City Star from whom were procured approximately 1,400 statements based upon 8,000 interviews which had been conducted by some 30 or 40 investigators of the Kansas City Star. In addition to the 355-page report by the Federal Bureau of Investigation, dated October 24, 1946, covering the above, the Criminal Division of the Department of Justice had the benefit of the report of the Special Committee To Investigate Campaign Expenditures for the House of Representatives, 1946, which had conducted an independent investigation. Thus, it is clear that the investigation in this case went far beyond the usual preliminary investigation conducted in this type of case.

5. The three United States district judges at Kansas City were furnished by United States Attorney Wear with a comprehensive report of the results of the preliminary investigation and were advised that the Federal Bureau of Investigation report was available to them and asked whether a grand jury investigation was warranted. After thorough consideration and during December 1946, they each testified, they advised the United States attorney that they were unanimously of the opinion that there was insufficient evidence for presentation to a grand jury. These judges testify to their confidence in the United States attorney at that time and now.

6. After thorough review of the files in the entire matter by the United States attorney, the Civil Rights Section of the Criminal Division, and the Assistant Attorney General in charge of the Division, it was concluded by each that no violation of Federal law was disclosed. Accordingly, in conformity with the usual practice in the Department of Justice, the Assistant Attorney General

in charge of the Criminal Division, on January 6, 1947, informed the Federal Bureau of Investigation that no further action was warranted, and that therefore no further investigation was desired.

7. In view of the theft in May 1947 of some of the ballots, the Attorney General personally ordered a full investigation of the theft and of the election irregularities, which investigation the Federal Bureau of Investigation is currently conducting. The State authorities had the opportunity to use the expert services of the FBI in connection with these ballots prior to the theft and failed to take advantage of it. It would have been improper for the Federal Government to have taken the ballots from the State officials, in whose custody they were, and who were using them in the State investigation. It is presumed, however, although some of the ballots have been stolen, the results of the State grand jury investigation with all of the information gathered as a result thereof, will be made available to the Federal grand jury in Kansas City when it meets. In the event that evidence of a conspiracy is obtained, this secondary evidence developed before the State grand jury in conjunction with the evidence of conspiracy, if any, developed before the Federal grand jury, would be sufficient for successful prosecution under Federal law.

8. The Attorney General appointed on June 17, 1947, Richard K. Phelps, a former Assistant United States attorney in the western district of Missouri as a special assistant to the Attorney General with full and complete authority to prosecute any Federal law violations arising out of the alleged irregularities in the primary of August 6, 1946, in the Fifth Congressional District, Kansas City, Mo. Mr. Phelps, as a prominent member of the United States attorney's staff, was active in all of the prosecutions of the so-called Pendergast election cases which resulted in the conviction of some 250 persons, including the one against William J. McMahan. He handled all of the cases on appeal. The Attorney General has requested Mr. Phelps to confer immediately with the Federal judges in the district relative to the summoning of a special grand jury to inquire into the matter. Mr. Phelps is authorized also to engage such assistants as he may require, either inside or outside the Government. He will devote his entire time to the assignment.

9. It is concluded that the Department of Justice and the Attorney General throughout this matter have acted promptly, in good faith and in the public interest, and have properly discharged their duties with reference to the subject matter of the aforementioned resolution.

III. FINDINGS

1. Scope of the Federal law relating to election irregularities and policy of the Department of Justice

The jurisdiction of the Federal Government over election irregularities committed in connection with primary elections for candidates for Federal office has been limited since 1894, when the Federal election statutes were repealed. Since that time it has been the duty primarily of the several States to deal with such problems, and Missouri, among others, has statutes covering the primary election irregularities indicated by this evidence. The State authorities are currently conducting prosecutions under State law based upon these irregularities.

At the present time it is a Federal criminal offense to conspire to deprive a person of any right secured to him by the Constitution or laws of the United States (18 U. S. C. 51). It is also a criminal offense for any State or Federal official, acting under color of law, to deprive a person of any right secured to him by the Constitution or laws of the United States (18 U. S. C. 52). These two provisions, which are known as the Civil Rights Statutes, have been held by the Supreme Court to be applicable to the right to vote for a candidate for Federal office (*United States* v. *Moseley*, 238 U. S. 383).

The Federal Statutes, however, do not provide for Federal enforcement with respect to irregularities in elections in the following situations:

(a) They do not make it a Federal crime to accept or pay a bribe in connection with a primary election, or to conspire to do so (*United States* v. *Bathgate*, 246 U. S. 220).

(b) They do not cover a private individual who, without conspiring with others, votes in the name of another person, living or dead, or otherwise votes falsely, stuffs a ballot box or otherwise commits or aids the commission of election irregularities (*United States* v. *Mosley, supra; United States* v. *Classic*, 313 U. S. 299; *United States* v. *Saylor*, 322 U. S. 385).

In dealing with the numerous election irregularities complaints which have been received by it in the past, the Department of Justice, since 1940, has consistently followed a policy of conducting preliminary investigations to ascertain whether enough evidence of violation of Federal statutes appears to warrant full investigation.

The practice of the Department of Justice has been for attorneys of the Civil Rights Section of the Criminal Division of the Department to screen such complaints carefully before requesting the Federal Bureau of Investigation to conduct even a preliminary investigation. After such screening, and before final determination to expend large sums of money and to involve large numbers of highly trained investigative employees in an investigation of this difficult and controversial type, a preliminary investigation would be directed for the purpose of ascertaining whether or not there existed a probability of establishing a violation of Federal law.

It is necessary for the Department of Justice to maintain a consistent national policy with reference to such civil rights cases, since (1) Federal jurisdiction is based on very tenuous statutes (secs. 51 and 52 of title 18 U. S. C.); (2) there are ever present difficulties when Federal authority is invoked in the regulation of State and local affairs; (3) there would be unnecessary expenditure of money and time in conducting further investigation if the preliminary investigation does not indicate the probability of violation of Federal law; and (4) the full investigation by the Federal Bureau of Investigation of all complaints regarding State primary and general elections would place a substantial if not impossible additional burden upon the resources of the Department of Justice.

Mr. Hoover testified that this policy of preliminary investigation and review has been followed in War Labor Disputes Act cases, war frauds cases, and in antitrust cases, as well as in civil rights cases (R. 51). The policy has been of long standing, having been followed in civil rights cases since 1940 (R. 52).

The necessity for this practice, which had been established when Mr. Justice Murphy was Attorney General, is clear from the testimony of Attorney General Clark, who pointed out:

"And I would like to say this: Take this year, up to June 1. We had 9,356 complaints like these, elections and cases involving civil rights.

"Last year we had fifty-thousand-some-odd. So it would be impossible if we used all the FBI men, the 3,200 of them, to just investigate these matters, to have a full investigation of every complaint that we get" (R. 118–119).

2. The investigation directed by the Department of Justice

About the middle of September 1946, United States Attorney Sam M. Wear of the western district of Missouri, Kansas City, conferred with members of the Jackson County Election Board, at their request, concerning rumored irregularities in the primary election held in August 1946 (R. 483). He communicated with the assistant attorney general in charge of the criminal division, and was advised, and so informed the board that if "substantial evidence" of the violation "of any Federal statute" were received, a "full investigation" would be made by the Department of Justice (R. 481–486).

Thereafter, United States Attorney Wear, pursuant to request of the election commissioners, met with two investigators for the Kansas City Star, who furnished information of irregularities in some wards and advised they were conducting a continuing investigation. This information Mr. Wear analyzed and forwarded to Washington with newspaper clippings (R. 494). This was done in order to inform the Department of Justice exactly what the Kansas City Star investigation showed (R. 498).

This information was furnished to the Assistant Attorney General in charge of the criminal division of the Department of Justice in September and early October 1946 (R. 524).

The Attorney General was informed of this matter in early October 1946 and directed that it be investigated (R. 77).

On October 11, 1946, a memorandum prepared by the Criminal Division of the Department of Justice was forwarded, in the name of the Attorney General, to the Director of the Federal Bureau of Investigation, a copy of which has been furnished to the subcommittee (R. 4, 32).

This memorandum outlined possible violations and requested that a "preliminary investigation be undertaken along the lines indicated below." The memorandum then stated (R. 78, 500):

"It is, therefore, requested that the following persons be interviewed and such information elicted from them as will determine, (1) the identity of qualified voters who were deprived of the right to vote for a Federal candidate, and (2) the identity of persons with their official position, if any, who stuffed ballot boxes with false or fictitious ballots or failed to count ballots for Federal candidates honestly or accurately; together with all circumstances surrounding the violations; (1) Ludwick Graves, Richard C. Jansen, William Davis, Joseph E. Stewart, members of the board of election commissioners, Jackson County Courthouse, Kansas City, Mo.; (2) Ira B. McCarty, and John P. Swift, reporters for the Kansas City Star, who have written articles on the above-described matters, and such other of the Star employees as participated in the Star investigation.

"Please give this investigation your special attention and submit reports to me as promptly as possible. Please conduct your investigation in cooperation with the United States attorney at Kansas City, Mo., and furnish him copies of your reports."

On October 16, 1946, a teletype was sent by the Federal Bureau of Investigation to the special agent in charge at Kansas City, which read as follows (R. 1.):

"Election irregularities in primary election, August 6, Kansas City, Mo., election laws.

"Confirming telephone conversation today, re above cases, Department has advised that investigative report of Kansas City Star indicate irregularity in following four precincts of Fifth Congressional District, namely, fourteenth ward, first precinct; nineteenth ward, second precinct; tenth ward, first precinct; and first ward, twenty-fifth precinct. Possible violations of sections 51 and 52, title 18, indicated. Department requests preliminary investigation along lines indicated below, advising that while many of irregularities charges amount at most to violations of State law such as assistance by

selection officials to volunteers in marking ballots without filling out the necessary oaths of assistance, improper selection of election officers, and improper methods of tallying and counting ballots, nevertheless reports of Kansas City Star indicate that persons officially listed as having voted while claiming they did not vote, or officially listed as not having voted while claiming they did vote, or appeared at the polling place and found that their names had already been voted.

"These later irregularities indicate violation of section 51 in that it may be found that there was a conspiracy to deny to qualified voters their federally secured rights to vote for a candidate for a Federal office, to have that vote counted as cast, and to have all legitimate ballots honestly and accurately counted, free from any dilution by false or fictitious ballots.

"Possible violations of section 52 is election officials acting under color of law either alone or with other perpetrated denials of the rights mentioned above.

"Department requests that the following persons be interviewed and such information elicited from them as will determine, first the identity of qualified voters who were deprived of the right to vote for a Federal candidate and, second, the identities of persons with their official position who stuffed ballot boxes with false or fictitious ballots or failed to count ballots for Federal candidates honestly or accurately, together with all circumstances surrounding the violations.

"Persons to be interviewed are: Ludwick Graves, Richard C. Jansen, William Davis, Joseph E. Stewart, members of the board of election commissioners, Jackson County Courthouse; Ira B. McCarty and John P. Swift, reporters for the Kansas City Star, who have written articles on the above-described matters; and such other of the Star employees as have participated in the Star investigation.

"You are instructed to immediately assign a sufficient number of experienced and thoroughly qualified agents to this investigation to insure completion at earliest possible moment. This case to receive your personal supervision.

"Daily teletypes are to be submitted setting forth progress being made. Expedite submission of report and furnish copy to U. S. A."

3. The preliminary investigation ordered was entirely consistent with usual practice and not restricted by the Department of Justice

The Director of the Federal Bureau of Investigation testified concerning the directions for investigation, dated October 11, 1946:

"I would not consider that in any way out of line, because that has been the practice in practically all of the preliminary investigations of election frauds. We have received many cases here that outline specifically who to interview and exactly what steps we are to take (R. 55).

* * * * *

"This is what we would call a preliminary investigation or inquiry, typical of what we have made in dozens of election-fraud cases" (R. 65).

It is apparent from the foregoing that the Criminal Division suggested investigation to the Federal Bureau of Investigation, along the lines indicated in the memorandum of October 11, requested that interviews be conducted to ascertain what voters rights were impaired, and who impaired them, together with all circumstances surrounding the violation, and specifically requested that the election commissioners and principal investigators for the Kansas City Star be interviewed and such other of the Star employees as participated in the Star investigation.

Had the memorandum been followed literally it would have involved the interview of some 40 persons. Mr. Hoover testified the circumstances were such, however, that the Federal Bureau of Investigation determined that it was only necessary to interview six. The reason for this, he stated, was the fact that the individuals interviewed, the four election commissioners and the chief investigators of the Kansas City Star, had in their possession the accumulated evidence of the other persons. This evidence consisted of approximately 1,400 affidavits and statements based upon approximately 8,000 interviews (R. 80).

In compliance with the instructions of the Department and the later teletype of October 16, 1946, the Kansas City office of the Federal Bureau of Investigation assigned seven agents, who worked intensively on the investigation for 12 days (R. 526.)

The evidence shows that while this preliminary investigation was in progress and until October 23, when it was completed, no one suggested that the investigation had been restricted.

On October 23, however, Mr. Mumford assistant to Mr. Ladd, who in turn is an assistant to Mr. Hoover, at Washington headquarters of the Federal Bureau of Investigation, being advised that the Kansas City investigation was about to be reported by that office to the Department, instructed the special agent in charge at Kansas City to inform the United States attorney there that the contents of the report were not the results of an investigation but, pursuant to specific instructions of the Attorney General, were merely a summary of data developed by the Kansas City Star and election board. This procedure, Mr. Mumford said, was to be followed to prevent the possibility of the FBI report being cited as the result of an investigation proving that further investigation or prosecution would not be justified.

This action by Mr. Mumford was taken without the prior knowledge of either Mr. Hoover or Mr. Ladd, and was based upon Mr. Mumford's interpretation on the October 11, 1946 memorandum prepared by the Criminal Division which Mr. Hoover has characterized as typical and in accord with usual practice in all such cases.

Mr. Mumford wrote a memorandum in this connection to Mr. Ladd on October 23, 1946, which later came to Mr. Hoover's attention. He by written note inquired whether the Federal Bureau of Investigation had been so restricted (R. 23). Mr. Ladd responded by memorandum to the Director, dated October 25, 1946, discussing the Criminal Division's October 11 memorandum and stating that specific investigation was therein requested and had been performed (R. 27). This was not completely in accord with the Department's memorandum since only the named individuals had been interviewed and none of the Star investigators, except the two chief investigators, had been interviewed. The reason for this has been previously mentioned but was not set forth in the memorandum to the Director at the time.

It is apparent that the Director of the Federal Bureau of Investigation did not share the fears of Mr. Mumford as to any possible misrepresentation or misuse of the Federal Bureau of Investigation report and found no facts indicating that the report would be used later as a whitewash. The record states:

"Senator FERGUSON. Now, there is one thing in there, to which I should like to call your attention. This is from Mumford, now, to his superior, Ladd:

" 'This procedure is being followed in an effort to prevent the possibility of our reports being cited as a result of investigation proving that further investigation or prosecution is not justified.'

"Did you get any facts to indicate that these men thought that these reports would be used later to whitewash the Attorney General's office?

"Mr. HOOVER. Most certainly not."

The United States attorney at Kansas City was given a letter on October 24, 1946, along with the FBI report of that date, covering the preliminary investigation, which letter stated that the report did not reflect an investigation by the FBI and that the limitations indicated were imposed in the instructions received by the Bureau from the Department (R. 56). This letter was never furnished to the Criminal Division of the Department of Justice or to the Attorney General. Nor was Mr. Mumford's memorandum brought to the attention of either the Criminal Division or the Attorney General.

On October 25, 1946, there was forwarded to the Criminal Division the FBI report of October 24, 1946, consisting of some 355 pages, with a cover memorandum that only the specific investigation requested had been conducted and requesting advice as to whether any further investigation was desired (R. 58). Thus, the Criminal Division of the Department was not advised that the Federal Bureau of Investigation did not regard the activities covered in the report as an investigation by the Federal Bureau of Investigation or that those activities were thought to have been restricted. Nor was the Attorney General so advised.

Conclusive evidence that the Department's investigation of this matter was not improperly limited and, further, that the Attorney General has never prevented any investigation from being conducted to its logical conclusion, is furnished by the letter of the Director of the Federal Bureau of Investigation to the chairman of the subcommittee, under date of June 18, 1947, clarifying portions of his testimony. The letter reads:

JUNE 18, 1947.

Hon. HOMER FERGUSON,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: Since reviewing my testimony before your committee on the Kansas City election situation, comments have been made indicating that portions of my testimony have been misinterpreted and I think that in all fairness both to the committee and to the Attorney General, I should elaborate upon the specific items which appear to be in issue.

As you recall, the departmental instructions ordering the preliminary inquiry specified specific persons to be interviewed and stated that in addition other employees of the Kansas City Star were to be questioned. As I pointed out in the latter part of my testimony, the some 30 Kansas City Star investigators were not interviewed inasmuch as we had secured their statements from other employees of the Kansas City Star and it was not believed by the agents conducting the inquiries that any purpose would be served in personally contacting these investigators whose statements were incorporated in our report. However, at the very beginning of my testimony, I indicated to the committee that we had interviewed only the specified persons and had not gone beyond this inasmuch as we were not instructed to do so. As indicated, this was later clarified and the testimony as revised, deleting the phrase "and no one else" on page 58, and the phrase "we were not told to interview them" on page 66, expresses the true facts in the matter.

The fact that we were ordered to make a preliminary inquiry in this case was not unusual. In the summer of 1941 Mr. Maurice Milligan, who you will recall prosecuted the original Kansas City vote-fraud case in 1936, as a special assistant to former Attorney General Robert H. Jackson, instituted the policy that unless advised to the contrary in election-fraud cases, preliminary inquiry was to

be made only upon departmental instructions, after which the facts were to be submitted to departmental attorneys who would study the facts for decision as to further action. This same policy is followed in other classes of cases.

With regard to the Mumford memorandum referred to before the committee, I wish to advise that I used the word "restricted" in my longhand note on the memorandum as a definitive term of my own to determine whether the Bureau's inquiry had been limited to specified interviews. I did not intend my inquiry as an indication that I had any question in my mind that an ulterior motive had actuated the Attorney General or the Department of Justice with respect to the scope of the preliminary inquiry ordered under the established policy.

I think in all fairness I should make the observation that in the years the present Attorney General, Tom C. Clark, has been associated with the Department, I have had the opportunity of working with him in innumerable cases and I am glad to state that he had not in any way taken any action to prevent any investigation being conducted to its logical conclusion.

I trust that the foregoing may be helpful to you and the members of your committee in clarifying any misinterpretation which may have arisen with respect to my testimony.

With expressions of my highest esteem and kind personal regards,

Sincerely yours,

J. EDGAR HOOVER.

4. The Federal Bureau of Investigation report and evidence submitted

The October 24 report supplied by the Federal Bureau of Investigation to the United States attorney at Kansas City and to the Department of Justice in Washington set forth the results of interviews with the two Star investigators and the four election-board members and covered the information in the possession of the Kansas City Star and the election board. In addition thereto the Department of Justice had also been furnished the files and report of the Special Committee To Investigate Campaign Expenditures for the House of Representatives, 1946. That committee during a lengthy investigation had interrogated 37 witnesses at Kansas City.

The information submitted to the Department of Justice through the Federal Bureau of Investigation included, in addition to interviews of the two chief investigators of the Kansas City Star and the four election commissioners of Jackson County, Mo., a detailed analysis of their files. The two chief investigators, who had some 30 to 40 other investigators working for them, submitted to the Federal Bureau of Investigation the results of some 8,000 interviews, approximately 1,400 statements, which had theretofore been prepared for and signed by voters or nonvoters, and statements of witnesses purportedly having knowledge of certain facts which occurred during the August 6, 1946, primary. These statements or digests of the same were incorporated in the Federal Bureau of Investigation's report to the United States attorney and to the Attorney General.

There is in evidence in this record a sample copy of the instructions which had been given to the investigators of the Kansas City Star to guide them in obtaining evidence (R. 71). These were detailed instructions and directed that special effort be made to obtain evidence from voter for Slaughter or Walsh. They read in part:

"Seventh precinct, second ward: This is a precinct in Judge McKissick's ward, where the count was probably bad. Also, it is very likely that they voted the names of people who didn't show at the polls, had moved away, or had died * * *. Try hard for affidavits of those who voted for Slaughter or Walsh (each congressional candidate), get oral statements, and make notes where you can't get them to sign. Don't press too hard. If, in your first few calls you find some McElroy and O'Hern voters, change tactics and work for those. Five such affidavits from each team will do the job."

The wide scope of this investigation, as reflected in the FBI report, was pointed out by the Attorney General in his testimony:

"Senator LANGER. The only question I wanted to ask you was this: Did you do as much in this investigation you have had, even with election cases, or did you do less?

"Mr. CLARK. We did more, sir. We had a more thorough investigation here, reflected by this 355-page report that was sent to me, than any preliminary investigation, I will wager, since I have been in the Department of Justice, for 10 years. I can give you the numbers, Senator, of many cases that the boys took down, where it was asked that the FBI investigate specific matters by interrogating specific persons in elections, and in civil rights" (R. 118).

5. Consideration of evidence by United States attorney and three Federal judges

Upon receipt of the FBI report of October 24, United States Attorney Wear and his assistant, Thomas Tello, separately reviewed the evidence contained therein. Assistant United States Attorney Tello, whose previous experience in election irregularity prosecutions included active participation in the 1936 Kansas City vote-fraud cases was instructed to examine the report and prepare an analysis of it (R. 505). This he did (R. 506). In the view of United States Attorney Wear the analysis was done "fairly and conscientiously" (R. 507).

The United States attorney furnished a copy of this analysis, consisting of some 23 pages, to Federal District Judges Reeves, Ridge, and Collet, the three Federal judges for the district, and advised each that the FBI report was available to them. After examination each was of the opinion that the evidence was insufficient to warrant grand jury proceedings.

In this connection the judges testified:

"Senator FERGUSON. And did you read that synopsis?

"Judge REEVES. Yes, sir.

"Senator FERGUSON. From that synopsis, were you asked to determine whether a grand jury should be called?

"Judge REEVES. I was.

"Senator FERGUSON. What was your answer?

"Judge REEVES. That it did not indicate violation of Federal law (R. 362).

* * * * *

"Senator MCCARRAN. Now, the FBI report was placed before you?

"Judge REEVES. No, Senator, it was not. It is my recollection that I did not see it. It was made available to me.

"Senator MCCARRAN. It was made available to you?

"Judge REEVES. Yes; I think it was made available, if I wanted to see it. I had the greatest confidence in Mr. Wear; and have yet.

"Senator MCCARRAN. Did you consult with the other judges on the matter of calling the grand jury?

"Judge REEVES. Yes, sir; I did.

"Senator MCCARRAN. And did you confer with them together, in your chambers?

"Judge REEVES. We did, Senator.

"Senator MCCARRAN. What was the opinion of the other judges?

"Judge REEVES. The same as mine, Senator; that there was no factual basis for a grand jury, in this report here.

"Senator MCCARRAN. At that time, I take it, you were naturally considering whether or not a Federal law had been violated.

"Judge REEVES. That is correct, Senator.

"Senator MCCARRAN. You were not, and could not be, concerned with the matter as to whether or not a State law had been violated.

"Judge REEVES. No, Senator.

"Senator MCCARRAN. It was the unanimous opinion of yourself and the other judges of that district you are sitting here now, that no Federal law had been violated, sufficient to warrant the calling of a grand jury?

"Judge REEVES. That is right, Senator; that is, there were no facts stated here that warranted it.

"Senator MCCARRAN. No facts stated there that warranted it. And you did not go beyond that, to bring in the FBI report, although the FBI report was, you knew, available to you at that time?

"Judge REEVES. We did not. The other judges may have, but I do not think they did; I don't think any of us asked for it.

"Senator MCCARRAN. But you knew it was available to you?

"Judge REEVES. Yes, Senator; we knew that (R. 374–376).

* * * * *

"Senator LANGER. I was interested in your observation of a moment ago when you said you had every confidence in the district attorney, Mr. Wear. That is right; is it?

"Judge REEVES. Yes, sir; I have.

"Senator LANGER. And has anything occurred at all in this matter to change your mind on that?

"Judge REEVES. No, sir.

"Senator LANGER. And as far as you know, there has been no attempt made of any kind to deceive you or any of the other judges in this matter?

"Judge REEVES. Not so far as I am concerned, and I think that is true as to the other judges.

"Certainly, Mr. Wear has not; he never does.

"Senator LANGER. There was no reason that you or the other judges could not get the FBI report if you wanted it?

"Judge REEVES. That is right. Mr. Wear told us it was available to us.

"Senator LANGER. And if you got that report and read it, and went over these affidavits that have been described, you could have called a grand jury if you wanted to?

"Judge REEVES. Well, we could have, Senator, at our discretion, under the statute.

"Senator LANGER. Mr. Wear said to you, 'Now, gentlemen, the FBI reports are available to you if you want them,' and if you had taken them and read them and become convinced that there was a conspiracy to violate a Federal law, you could have called a grand jury if you wanted to, you and the other three judges.

"Judge REEVES. Yes, sir; we could have done that.

"Senator LANGER. As a matter of fact, one of the three judges could have called a grand jury; is that not right?

"Judge REEVES. That is right (R. 377–378).

* * * * *

"Senator MCCARRAN. Judge Reeves, there could be any amount of violation of State law, and yet no violation of a Federal law, is not that true?

"Mr. REEVES. That is true, Senator" (R. 423).

United States District Judge Ridge and United States District Judge Collet testified to the same effect (R. 424, 458). The judges clearly understood, as the analysis submitted by United States Attorney Wear showed on its face, that the information therein contained came from the election commissioners and the investigators for the Kansas City Star. As Judge Ridge testified:

"Senator FERGUSON. But you assumed, I take it, that when this synopsis was given to you, that it was a true picture of the entire investigation or full investigation of the FBI.

"Mr. RIDGE. No, I did not, Senator; because the first page there told me that it

was not that; that it was a limited investigation" (R. 431).

The latter two judges also shared the conclusion reached by Judge Reeves. As Judge Ridge said:

"Senator McCARRAN. The fact that a number may have been indicted for violation of a State statute does not itself carry weight with you to the effect that a Federal grand jury should indict for a Federal violation.

"Mr. RIDGE. To this hour no concrete evidence has been submitted to me that would warrant the calling of a Federal grand jury, Senator" (R. 455).

On December 19, 1946, the United States Attorney wrote the assistant to the Attorney General, informing him of these conferences with the judges and stated they were unanimously of the opinion that there was no ground for a grand-jury investigation.

During the course of these hearings reference was made to the affidavits or statements of certain persons, who had been interviewed by investigators of the Star, which had not previously been read by the three Federal judges. It was asserted that these statements, such as the statement of the one Estella Carter, were either not expressly mentioned or were inadequately summarized in the analysis which had been prepared in United States Attorney Wear's office and submitted to the Federal judges.

The fact is that each of the Federal judges testified that they knew the FBI report itself, containing such statements, was available, that each judge was confident that United States Attorney Wear was honest and frank with the judges, and that appropriate reference to the important statements was made in the analysis. Moreover, after listening to these affidavits during the course of these hearings the Federal judges were still of the view that none showed a violation of Federal law. Thus, Judge Reeves testified:

"Senator McCARRAN. In other words, assuming that the facts stated therein were true, it would not have been a violation of the Federal statute.

"Judge REEVES. I did not notice anything in the letters that would indicate a violation of the Federal statute; that is, in itself, Senator (R. 398).

"Senator McCARRAN. You have already stated to me that taken by themselves, the letters read here this morning did not, so far as you were able to discern, from hearing them read, constitute a violation of a Federal statute.

"Judge REEVES. Not within themselves, Senator" (R. 400).

* * * * *

"Mr. REEVES. Maybe I should say that I find some serious violations of the State law, and I perceive in that a concert of action which would be in the nature of conspiracy, but I would be doubtful as to whether or not upon this letter [Estella Carter] alone there was testimony that would show an offense under that statute, that is, section 51 (R. 411).

* * * * *

"Senator McCARRAN. Is there anything in there that indicates the violation of a Federal act?

"Mr. RIDGE. None at all" (R. 434).

6. Analysis of evidence and action by Criminal Division of Department of Justice

Following the analysis of the evidence by United States Attorney Wear, and his recommendations and his report of the unanimous opinion of the three Federal judges, the Civil Rights Section of the Criminal Division of the Department of Justice thoroughly analyzed the 355-page Federal Bureau of Investigation report of October 24, 1946, which included the approximately 1,400 afore-mentioned affidavits and statements, and the report of the Special Committee To Investigate Campaign Expenditures for the House of Representatives, 1946, and all other files relating to this matter.

The Civil Rights Section found that the irregularities in connection with the primary held in the Fifth Congressional District of Missouri in Kansas City amounted to violations of the State law of Missouri and that there was evidence directly relating to only two instances of irregularities concerning the congressional race:

With respect to the fourth precinct, first ward, statements from three persons indicated that they had voted for Walsh, one of the candidates for the Democratic nomination, whereas the official tally credited Walsh with only one vote. The Civil Rights Section found no evidence indicating a conspiracy in this connection, or that the election judges, clerks, or anyone else knowingly violated the Federal law.

In the second instance involving the congressional race, relating to the fifth precinct, second ward, 14 persons had submitted statements claiming that they had voted for Slaughter, also a candidate for the Democratic nomination, whereas the official tally credited him with six votes. The Civil Rights Section found no evidence indicating a conspiracy in this connection.

The Civil Rights Section of the Criminal Division, in addition to reviewing the information contained in the Federal Bureau of Investigation report which had been supplied to the Federal Bureau of Investigation by the Kansas City Star, also reviewed the information contained in that report which had been supplied by the members of the board of election commissioners. The only affirmative information from such officials related to five voters who contended that they had not actually voted and who after complaining to the election officials had been permitted to vote, but the Civil Rights Section found no evidence of conspiracy in connection with these incidents or any election violation.

In addition to its review of the Federal Bureau of Investigation report, the Civil Rights Section of the Criminal Division also carefully considered the file submitted by the Special Committee to Investigate Campaign Expenditures for the House of Representatives, 1946. It was found that that committee's investigation was directed largely to the question of campaign expenditures, a matter outside of the Federal jurisdiction, since the Federal statutory provision relating to such expenditures specifically excludes primary elections from its scope (sec. 241, title 2, U. S. C.). Certain irregularities in the method of counting ballots were referred to by that committee, which were found at most to constitute violations of State laws regulating the manner of counting ballots. The Civil Rights Section found no evidence that anyone conspired in this connection to miscount or falsify ballots.

In view of its findings, and after consideration of the findings of United States Attorney Wear that no Federal violation appeared, and in view of the fact that the preliminary investigation in this matter was thorough, and having given due weight to the fact that the three Federal judges at Kansas City were of the view that a grand jury was not warranted, the Civil Rights Section reported to the Assistant Attorney General in charge of the Criminal Division that there was no evidence of violation of Federal law and therefore no further investigation was warranted.

Upon review of this matter by the Assistant Attorney General in charge of the Criminal Division, he approved the conclusions reached by his assistants of the Civil Rights Section of the Division, by United States Attorney Wear, and by the Federal judges, and on January 6, 1947, informed the Federal Bureau of Investigation that no further investigation was desired (R. 10).

On April 22, 1947, after having been advised by the United States attorney at Kansas City, Mo., that the State grand jury was at that time investigating the Kansas City election, the Attorney General issued, through the Criminal Division of the Department of Justice, a memorandum directing the Federal Bureau of Investigation to be alert in reference to the investigation being conducted by the State grand jury in Kansas City, Mo., and stating in the event there was disclosed in the progress of these investigations by the State grand jury any evidence of interest to the Department of Justice which might in anywise indicate a violation of Federal law, that further consideration be given to the question of reopening the initial investigation. In response to that memorandum the Federal Bureau of Investigation, on May 22, 1947, made a report which advised of the counting of the ballots in certain precincts by the State grand jury and incorporated this significant paragraph:

"No information has been developed in contact with Mr. Kimbrel, the prosecutor of Jackson County, as to evidence independent of the count made by the country grand jury as to any conspiracy existing to violate Federal election laws."

7. Theft of ballots, and action by the Attorney General

While the hearing before the subcommittee was in progress word was received from Kansas City, Mo., on May 28, 1947, that some of the ballot boxes then in the hands of the State authorities had been stolen. The Attorney General, who was present at the hearing, immediately directed the Federal Bureau of Investigation to fully investigate the same.

Thereafter, at the request of the Attorney General, the Federal Bureau of Investigation reported to the Attorney General that two of the three judges were presently of the opinion that a full investigation should be had in view of the theft of the ballots, and he, thereupon, on May 30 also ordered a full investigation of the election irregularities. These investigations are now in progress.

Mention has been made during the hearings of the fact that the expert services of the Federal Bureau of Investigation would have been valuable in connection with a scientific examination of the ballots, prior to their theft.

It is noted that Mr. Hoover testified that in March 1947, while the ballots were in custody of the State officials, and several months prior to the theft, the Federal Bureau of Investigation advised the State prosecutor that expert examination of the ballots would be made at Washington, and the prosecutor stated that if he needed to have such examination he would let the FBI know. But the FBI heard no further from the State prosecutor in connection with this (R. 146).

Further, it is important in this connection, as developed by Senator LANGER during the hearings, that the ballots were in the custody of State authorities during an investigation being conducted by them, that the State authorities were responsible for the safety of the Government to have interfered with the State government by seizing the ballots then in the custody of State officials (R. 452, 477).

Lastly, the State prosecutions, and the pending Federal investigation of election irregularities, will not be prevented by the theft of the ballots, since only some were stolen and the testimony of the grand jurors who counted the stolen ballots may be used, if the ballots are not recovered, as secondary evidence of their content (R. 510).

8. Appointment of special prosecutor by Attorney General on June 17, 1947

Attorney General Clark appointed on June 17, 1947, Richard E. Phelps, a former United States attorney in the western district of Missouri, as a special assistant to the Attorney

General with full and complete authority to prosecute any Federal law violations arising out of the alleged irregularities in the primary of August 6, 1946, in the Fifth Congressional District, Kansas City, Mo.

The special prosecutor selected by the Attorney General is fully qualified to handle this matter and has been given full and complete authority by the Attorney General to do so. It is clear, therefore, that the further investigation of this matter by the Federal Bureau of Investigation and the Department of Justice, with the assistance of a grand jury, will be in the hands of a fully qualified prosecutor responsible directly to the Attorney General, and that prompt investigation and prosecution of any Federal violation which may be discovered will be had.

IV. RECOMMENDATIONS

In view of the conclusions and findings reached, it is hereby recommended—

(a) That the Judiciary Committee of the Senate be advised that the Department of Justice and the Attorney General, throughout this matter, have acted promptly, in good faith and in the public interest, and have properly discharged their duties with reference to the subject matter of Senate Resolution 116.

(b) That the Judiciary Committee of the Senate be advised that the regulation of elections and the detection and prosecution of irregularities in elections has been primarily the duty of the several States, and that this subcommittee does not believe that any extension of Federal jurisdiction and further abridgment of States' rights and duties in this connection is warranted by reason of the evidence developed in these hearings.

(c) That Senate Resolution 116 be disapproved.

The PRESIDING OFFICER (Mr. STENNIS in the chair). The Senator has 22 minutes left.

Mr. McCARRAN. Mr. President, do I understand that the opponents have 22 minutes?

The PRESIDING OFFICER. Yes.

Mr. McCARRAN. I yield 10 minutes to the Senator from Maryland [Mr. TYDINGS].

Mr. CONNALLY. Mr. President, the Chair said that the Senator had 22 minutes left. He had only an hour and a half to begin with.

The PRESIDING OFFICER. He had an hour and 42 minutes to begin with.

Mr. McCARRAN. Each side had an hour and 42 minutes.

The PRESIDING OFFICER. Each side had an hour and 42 minutes.

Mr. TYDINGS. Mr. President, I am not familiar with the facts adduced by the committee in support of or in opposition to the pending nomination; but I wish to use this opportunity for a few moments to recall one other contest, which occurred in the Eightieth Congress concerning a nomination to high judicial office, and to present the record of the nominee on that occasion since his nomination was confirmed.

In many respects I was shocked by the attitude of those who opposed this nomination. The nominee was Mr. Philip B. Perlman, who had been nominated Solicitor General of the United States.

There was submitted to the subcommittee headed by the junior Senator from Michigan [Mr. FERGUSON] a list of some 70 cases in which Mr. Perlman had represented one party or the other—not in the district courts of Maryland, not in the United States district courts, but in the Supreme Court of the United States, the United States Circuit Court of Appeals, and the highest court in the State of Maryland. As I have said, the list included some 70 cases—an impressive record. In the face of those facts it was asserted over and over again, in the bitterness of the last night of the Eightieth Congress, that Mr. Perlman had not been identified with the trial of cases in the highest courts of the land. Moreover, for weeks, that information was in the hands of the investigating committee headed by the junior Senator from Michigan, and was not even placed in the record.

On the floor of the Senate, on the last night of that session, the senior Senator from Maine [Mr. BREWSTER] had the effrontery first to say that this man was unfit to hold the high office of Solicitor General of the United States, and then to offer to make a trade which would permit his confirmation assuming that a certain resolution pending in connection with an election probe would be allowed to go through as a part of the deal.

This so outraged the sense of fairness and the judicial mind of the eminent Senator from Missouri [Mr. DONNELL], as the RECORD will show—and I have it before me—that he said that it was a most outrageous proceeding; that Mr. Perlman's nomination should be considered on its merits, and not made the measure of a political deal.

The Senator from Maryland, then in the minority, was placed under the injunction of not being able to rise and refute these false allegations and assertions lest the Senate adjourn before a vote was taken. He had to sit silently in his seat and see this whole tirade, which was beneath the dignity and standing of the United States Senate, smeared forever upon the RECORD of the Senate.

Let us see what the record has been since the 70 cases which Mr. Perlman tried in the United States Circuit Court of Appeals, in the Supreme Court of the United States, and in the highest court in Maryland, which were ample justification of his legal attainments. Let us see how he has performed as Solicitor General. I asked Mr. Perlman to send the record to my office, which he did about 3 weeks ago. I was waiting for this opportunity to correct the unjust accusations which were spread on the RECORD in the last night of the Eightieth Congress. I have prepared this statement based upon the record which Mr. Perlman has furnished me.

Last year about this time, I called the attention of the Senate to the record made by Solicitor General Philip B. Perlman, of Maryland, during his first term before the Supreme Court as the law officer of the United States Government.

I did this in view of the fight made by the junior Senator from Michigan [Mr. FERGUSON] and the senior Senator from Maine [Mr. BREWSTER] to prevent and defeat his confirmation.

I now desire to call the attention of the Senate to Mr. Perlman's record during the past term of the Supreme Court. He appeared in that Court 13 times. Twelve of the cases he argued have been decided, and one has been removed from the docket without decision. Of the 12 cases decided, there were 11 decisions in favor of the Government and but one against—a very impressive record.

The cases successfully argued by Mr. Perlman during the last term included the opposition by the Government to the effort to have the Supreme Court inquire into the legality of the conviction of the Japanese war criminals convicted by the International Court at Tokyo; the conviction of Carl Marzani, former State Department employee, for making false statements as to his Communist affiliations; the case involving the constitutionality of the act giving the residents of the District of Columbia and the Territories the right to maintain suits in other Federal jurisdictions; the cases involving the right of the Government to sue Louisiana and Texas to determine paramount authority over the submerged lands in the marginal sea, the so-called tidelands cases; and a case reversing a large judgment by the Court of Claims against the United States in favor of a railroad's claim for additional compensation for carrying mail.

In addition to his 13 arguments in the Supreme Court, Mr. Perlman argued a case in the United States Court of Appeals for the District of Columbia, appearing at the request of and on behalf of all the 12 judges of the United States District Court for the District of Columbia.

During the 1947 term in the Supreme Court, Mr. Perlman argued 12 times before that body. One case was not decided in that term; and of the 12 others, he was successful in 8. The total for the two terms shows 25 appearances, and 23 decisions, in which he was successful in 19 and lost but 4.

The Solicitor General, with but few exceptions, has charge of all Government litigation in the Supreme Court, reviews all briefs, and determines who shall argue each case. During the 1948 term just ended, out of 91 decisions, the Government views prevailed in 71 cases and were rejected in but 20. In 1947, the result was 51 successes out of 69 cases, the unsuccessful ones numbering 18. During the two terms, out of 160 cases decided on the merits, the Government's views prevailed in 122 cases, and were rejected in but 38 cases.

Mr. President, these are facts. These are not wild assertions or calumnies as to collusion, fraud, near fraud, or influence. These are facts, and they testify more eloquently than any Senator will be able to argue as to the character and legal ability of Philip B. Perlman.

During the 1948 term just ended, the Solicitor General, in addition to the cases before the Supreme Court, handled more than a thousand matters involving decisions as to whether or not to file petitions for certiorari, whether or not to file appeals from the district courts, and a variety of motions and other miscellaneous matters, including the conduct of the Government's case before the special master appointed by the Supreme Court to make recommendations as to the determination of the boundary questions in

the California tidelands case. The care and discrimination exercised in deciding what cases the Supreme Court should be asked to review is indicated by the fact that out of 62 petitions for certiorari acted upon, 50 were granted, and but 12 were denied.

On May 9 last, the Solicitor General personally took the whole assignment in the Supreme Court, and argued all three cases scheduled for that day.

Mr. President, I do not pretend that the nomination now before the Senate is on all fours with the matter I have just discussed, but I am somewhat disappointed when the eminent junior Senator from Michigan tells of the intrigues, and so on, which went on, whereas when one of his colleagues, the senior Senator from Maine [Mr. BREWSTER], offered to barter the confirmation of the nomination of Mr. Perlman, when it was pending on the last night of the session, as the RECORD shows, the Senator from Michigan did not then rise to denounce that conduct. In other words, the Senator from Maine offered us the proposition that he would vote to confirm the nomination of Mr. Perlman, notwithstanding all the assertions that had been made about him, if a resolution offered by the Senator from Missouri [Mr. KEM] were adopted as a part of the trade. The eminent Senator from Missouri [Mr. DONNELL] had the courage, the fairness, and, I may say, the complete mental integrity, for which I shall never forget him, to rise and denounce that proposal, and to say that the Senate should consider each of these propositions on its own merits. He saved the day, in my opinion, because he rose above any pettiness. But his was the only voice that was raised in that way; he was the only one among those who were interested in this whole matter who acted in that way.

Therefore, Mr. President, when I hear a review made of matters similar to those we heard discussed before, and when I think about the trade which was offered on the floor of the Senate the last night of the session, I take such statements with a little more salt than I would have taken them if we had passed on each of these matters as we should, without reference to any deal or trade on the floor of the United States Senate.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial appearing in the St. Louis Star-Times for June 27.

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

SOLICITOR GENERAL PERLMAN MAKING GOOD, SO SCALP KNIVES ARE SHEATHED

(By Harry D. Wohl)

WASHINGTON.—The scalp knives that were bared for Philip B. Perlman a couple of years ago are sheathed today. For Perlman has demonstrated by victory in court that he is more than well equipped for his job as solicitor general of the United States.

Perlman, whose confirmation was blocked for months by Senator HOMER FERGUSON, Republican, of Michigan, has a perfect score so far in this term of the United States Supreme Court. Of the 13 cases he has argued personally, opinions have been handed down in 10. All have been in favor of the Government.

During the previous terms of the court, Perlman argued 12 cases personally. Eight opinions were in favor of the Government, three were against it, and one case was held over for reargument. Of 69 cases handled through the Department of Justice that term and decided by the court, the Government was successful in 51. That, it is said, is as good as the Government has ever done.

The Solicitor General, under the direction of the Attorney General, represents the Government before the Supreme Court. He is not required to go into court himself, but may assign members of his staff to do the arguing. Perlman, however, seems to love to get deep into the details of a complicated case, then demonstrate his talents before the high tribunal. Few of his predecessors have made as many personal appearances.

In an accomplishment rarely equaled, Perlman argued the whole assignment before the court one day last month. During a 4-hour session he argued three cases. One involved the Federal Communications Commission; the other two dealt with the Government's right to sue Louisiana and Texas in the tidelands oil dispute.

When the tall, graying Perlman, who is 59, goes before the court, he wears a cutaway and striped trousers. Although he can lash out dramatically when the occasion requires, he customarily speaks in clear, restrained tones. He uses words like building blocks, each carefully chosen to cement into the structure he is rearing.

Perlman is a worker enamored of his work. When other men go home from their day's work, Perlman, a bachelor, comes to his second wind.

Perlman was named Solicitor General by President Truman on January 31, 1947. Senator FERGUSON, chairman of the Senate Judiciary subcommittee dealing with the matter, delayed for 3½ months before opening hearings. That was in the last week of the first session of the Eightieth Congress. Senator FORREST DONNELL, Republican, of Missouri, voted for Perlman's confirmation. The full Judiciary Committee voted 10 to 1 for confirmation.

FERGUSON had scoured Maryland to find something detrimental to Perlman. Then, still trying to block Perlman, FERGUSON and Senator OWEN BREWSTER, Republican of Maine, attempted, by filibuster, at 4 o'clock in the morning on the last day of the congressional session to prevent action. But Perlman was confirmed.

Perlman says he still doesn't know the reasons for what he terms Ferguson's "vendetta."

Attorney General Tom Clark inscribed an old print—a birthday gift:

"To Phil Perlman, Solicitor General of the United States, of whom I am most proud for his outstanding accomplishments in protecting, maintaining and enlarging the concept of individual rights under our American system—from his friend Tom Clark."

Perlman had argued for the Government that racial restrictive covenants, including one that came to the court from St. Louis, were unenforceable. The court gave a 6-to-0 decision for the Government. Perlman also argued that the Rent Control Act was valid—and won. His victory in the case involving the validity of the postwar Renegotiation Act meant that the Government could collect legally more than $10,000,000,000.

Intense application is habitual to Perlman. It started years ago. While a reporter on the Baltimore American, he took political economy and English at Johns Hopkins University. While on the Baltimore Star he studied law at the University of Maryland.

In 1910 Perlman moved over to the Baltimore Evening Sun, working with such men as H. L. Mencken and Frank R. Kent. In 3 years he was city editor. In 1917 he went to the Maryland State law department under Attorney General Albert C. Ritchie. In 1920, when Ritchie became governor, Perlman was named secretary of state.

Then Perlman served as city solicitor of Baltimore, as general counsel of the Baltimore Housing Authority, as special counsel for the Baltimore Transit Co., as special counsel for the Home Owners' Loan Corp., and in other capacities too numerous to list. He is on the boards of four art museums, on the board of the Associated Jewish Charities of Baltimore, and is one of the founders of the Baltimore Symphony Orchestra.

In 1932 Perlman was a delegate to the Democratic National Convention in Chicago and handled publicity for the Franklin D. Roosevelt campaign in Maryland. He was active at subsequent conventions.

Occasionally Perlman goes to his farm in Baltimore County to ride horseback or to relax with his fine collection of early American furniture.

He doesn't stay away from his work very long. He wants to make good at the job. Oh, yes, he has made good; but Phil Perlman wants to do even better than good.

Mr. McCARRAN. Mr. President, I yield 20 minutes to the junior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 20 minutes.

Mr. JOHNSON of Texas. Mr. President, the junior Senator from Texas does not pose as an expert on the qualifications essential to Supreme Court Justices. If I were to do so, I would be venturing into uncharted seas, guided solely by my own passing preferences, opinions, and prejudices. That I refuse to do.

Except for the fundamentals of age and citizenship, specific qualifications for the personnel of the three branches of our Government—legislative, executive, and judicial—are not stated in the Constitution. The authors of that document wisely reasoned that qualifications are elusive, intangible standards, better entrusted to the judgment and experience of succeeding generations than to the rigidity of inflexible Constitutional law. Representative democratic government differs from aristocratic monarchial government on this fundamental principle.

Under our system, men to whom high office is entrusted are judged on their individual merit by their contemporaries. Because of this, it is not necessary in this great Nation of ours for a man to acquire a certain margin of wealth, a specific quantity of property, or even a designated amount of formal education to qualify for service in a position of public trust. Such standards are wholly inconsistent with our democratic principles.

Furthermore, in those instances, such as this, where the Senate is required to give its consent to appointments made by the Chief Executive, it is not our obligation to sponsor other men as candidates. The privilege of selection is not mine, nor is it that of the junior Senator from Michigan. The Senate's proper duty is confined to a judgment of the nominee himself. I say this for the purpose of emphasizing that we cannot cloak our prejudices or our partisanship, pro or con, in the robes of nonexistent tradition,

and pretend that the judgment we exercise is any judgment except our own. There is no law, there is no tradition which compels or authorizes any of us to say that a justice of the supreme court must meet these qualifications or those qualifications. There is no such convenient and expedient route of retreat from the great responsibility of resting our decision solely upon the character and the capabilities of the nominee himself.

Today we are here to judge Tom Clark, nothing else. We are not here to determine the philosophy of the highest court of the land, as the junior Senator from Michigan indicates he would like to do. It is not properly within the province of the legislative body to add to or subtract weights from the scales of justice. We are here only to preserve the integrity of the court, not the composition of the court. Integrity is the sole tradition with which we should concern ourselves, for traditions are often treacherous.

I speak now because I know Tom Clark. I think I know him well. He is and long has been one of my closest friends, and of that friendship I am enormously proud. Because I know him, I feel no compulsion to argue the merits of the man's character and capacity which, to those who know him, are unquestioned. The case for Tom Clark does not need to be proved on the floor of the Senate of the United States; it has been clearly and permanently established by Tom Clark's own deeds in the service of the Nation. I could not add to that record, nor can critics detract from it.

The nomination of Tom Clark has evoked some curious and disturbing suggestions and reasonings. I shall examine some of them. I have no wish to quarrel or debate here with honest opinions thoughtfully reached. I do not wish however to pass by without acknowledgment the growth of concepts which I believe are ill-founded and ill-considered.

I shall deviate for a moment to refer to some of the statements made by the junior Senator from Michigan. I do not expect to refer to the innuendos and the implications and the mud which were brought before the Judiciary Committee of this body by Communists, crackpots, and their coconspirators. But while a Member of this body, an eminent Senator from a sovereign State, spent more than an hour asking this body to refuse to consent to the nomination of a great man who has served his country well, I attempted to enumerate the reasons the Senator gave to the judicious Members who listened to him.

As I wrote them down, the Senator's first criticism was that he did not have an opportunity personally to interrogate the nominee; that he was not afforded the right to have the nominee for the Supreme Court brought before him to answer his questions. Whatever criticism may properly be directed to that point, none of it should fall upon the shoulders of Tom Clark. It is my understanding that the Judiciary Committee, composed of the Senator's colleagues, by a vote of 9 to 2, voted to report Tom Clark's nomination to this body. I am informed, although I have been a Member of the Senate but a very short time, that the request of the Senator from Michigan came late in the hearings, after many hours of testimony had been taken, rehashing old charges which the Senator himself had investigated day after day, month after month, in a Republican Congress with a Republican majority, with Republican votes, charges which finally the Committee on Expenditures in the Executive Departments rejected by a vote of 11 to 1.

I am informed that in the only case in recent history when the Judiciary Committee has requested that a nominee for the Supreme Court appear before it, the nominee appeared, just as I am sure Tom Clark would have welcomed an opportunity to appear if nine Members of this body had not voted to report the nomination to the Senate. But when the last nominee appeared he presented a statement to the Judiciary Committee. I shall only read it in part, because my time is limited. He said:

> I, of course, do not wish to testify in support of my own nomination. Except only in one instance involving a charge concerning an official act of an Attorney General, the entire history of this committee and of the court does not disclose that a nominee to the Supreme Court has appeared and testified before the Judiciary Committee. While I believe that a nominee's record should be thoroughly scrutinized by this committee, I hope you will not think it presumptuous on my part to suggest that neither such examination nor the best interests of the Supreme Court will be helped by the personal participation of the nominee himself.
>
> I should think it improper—

Evidently the great majority of the Judiciary Committee agreed.

> I should think it improper for a nominee no less than for a member of the court to express his personal views on controversial political issues affecting the court. My attitude and outlook on relevant matters have been fully expressed over a period of years and are easily accessible. I should think it not only bad taste but inconsistent with the duties of the office for which I have been nominated for me to attempt to supplement my past record by present declarations.

Therefore, Mr. President, I repeat, it may be an error was committed in not summoning the Attorney General to appear before the junior Senator from Michigan, but, if so, the error is chargeable to nine of his colleagues, not to the Attorney General.

On the next point, the Senator from Michigan makes much of a political investigation we had in the State of Texas in 1935, some 14 years ago. I know nothing about the investigation at the time. It has received much more prominence during the Eightieth Congress and during the hearings on this nomination than it ever received in Texas. But I was informed that during the Eightieth Congress the Judiciary Committee had brought before it material which attempted to question Tom Clark's conduct, and to indicate the Texas Senate had found something wrong with his law practice in 1935 and 1936. I have been informed, and I have read the record, that the Senator from North Dakota [Mr. LANGER] stated in committee hearings, I believe, at page 67 of the record, that the Judiciary Committee went into that charge thoroughly in 1945.

I am informed that Tom Clark has served under four or five distinguished Attorneys General, and that when he first came to the Department, his political enemies brought to the attention of the Attorney General the same old charge, as read here this morning, prepared by a member of the committee, and the FBI was asked to investigate it.

Tom Clark subsequently was appointed to a minor legal position. He served under Attorney General Cummings, Attorney General Jackson, Attorney General Murphy, and Attorney General Biddle. In the case of every job to which he was assigned, it was found that he was too big for the job. He was promoted by each and every one of those Attorneys General during the course of time, as he was elevated to Assistant Attorney General in charge of the Antitrust Division, and to Assistant Attorney General in Charge of the Criminal Division. The FBI made its regular reports, and, as I say, none of those reports indicated that Tom Clark had done anything morally wrong or anything legally or ethically wrong.

But when I saw some of the testimony, some of the sly references, and some of the smear, dirt, and mud thrown into the hearings in an attempt to reflect on Tom Clark and his lovely family, I did not go to the attic or down to the basement or through the back door. I asked who was chairman of the Texas Senate investigating committee. I learned, as the junior Senator from Michigan could have learned, if he wanted the facts, that the chairman of that investigating committee sits as an honored Member of this Congress, only a few steps down the hall in the other body. So I sought him out yesterday and asked him to give me any facts he had concerning the investigation of Tom Clark's conduct 14 years ago. I have here a letter which he addressed jointly to the two Senators from Texas. That letter is as follows:

> CONGRESS OF THE UNITED STATES,
> HOUSE OF REPRESENTATIVES,
> *Washington, D. C., August 17, 1949.*
>
> Hon. TOM CONNALLY,
> Hon. LYNDON B. JOHNSON,
> *United States Senators,*
> *Washington, D. C.*
>
> DEAR SENATORS: In response to your inquiry concerning the findings of the Texas State Senate General Investigation Committee during the years of 1935 and 1936, I am glad to give you my recollection of the findings. I served as chairman of this committee during those years.
>
> Certain rumors were reported to the committee concerning the activities of Hon. Tom C. Clark, then a practicing attorney at Dallas, Tex. The committee did investigate these rumors. I am pleased to be able to advise you in response to your inquiry that such investigation developed nothing which in my opinion justifies any criticism, either moral or legal, against Mr. Clark. About all that was shown was that he was a successful lawyer and enjoyed a far better than average practice at that time.
>
> While he has necessarily made certain enemies through the discharge of his duties as Attorney General, it seems quite clear that his present critics are simply trying to produce a ghost where there is no substance to their charges. My investigations and my

observations throughout the years convinced me that Mr. Clark possesses both the legal and moral background to make an outstanding Justice of the Supreme Court.

Very sincerely,

W. R. POAGE,
Congressman, Eleventh Texas District.

Prior to his coming to Congress, the people of Mr. POAGE'S area had honored him with service in the State house of representatives, promoted him to the State senate, and for seven terms he has served in the Congress of the United States. So he who wants the facts has them, without going from the basement to the attic to find them.

I recognize that the criticism voiced against this nomination before the Judiciary Committee came, primarily, from sources long since discredited by their own deeds and words, as sterile, intellectually barren mimics. They speak because they must speak, they act because they must act, they do not think because they must not think. I am not concerned about the opinions these sources express.

I wish to make it clear that I am talking about the original group, which I characterize generally as crackpots and Communists and fellow conspirators.

My great concern is for the opinions expressed by men who have retained their personal liberty and intellectual integrity, but who, unwittingly, forfeit those values because of prejudices or because of mental laziness which compels them to evaluate issues in terms of convenient, adaptable stereotypes. When men who have retained their independence of intellect are willing to content themselves with stereotyped thinking, then I fear we are misusing the freedom of thought which we are determined to preserve in the present conflict of philosophies.

The charge has been made, for example, that this appointment is improper because Tom Clark has been a conspicuously loyal member of his party. Personally, I fail to see the impropriety of loyalty to a chosen political faith. Expediency may have its rewards and vacillation may have its opportunities, but, to me, these traits are unwise and unwanted among members of the Court. If a man possesses sufficient conviction, courage, and consistency to remain loyal to the principles of a political faith—in adverse times as well as favorable times—then such a man, in my opinion, is a reassuring choice for a judicial position.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. JOHNSON of Texas. Will the Senator from Nevada yield me five additional minutes?

Mr. McCARRAN. I yield five additional minutes.

Mr. JOHNSON of Texas. Furthermore, I believe it is a tedious, arbitrary, and peculiarly unjustifiable argument to contend that the President, in the intests of impartial justice, should strive to assure a certain amount of bias and partiality on the Court. I cannot concede that the President of the United States should use the appointive powers of his high office to assure the advocacy of a Republican Party point of view or a Democratic Party point of view in the deliberations of the highest court of the land. The Supreme Court is not the property or the province of our political parties; but it would soon become so if the President, whoever he might be, should yield to these incessant demands that one party or another be assured of a certain number of advocates on the Court.

When thinking men fall victims to the belief that the Supreme Court, like Congress, should be judged by the apportionment of votes, then I must conclude that such men are misconceiving the purpose of the Court and are misusing their intellectual liberty. They are not judging the nomination now before us; they are simply exposing their own prejudices and arguing that the Court should be created in their own image.

I hope that the Senate will never fall into the error of such ways by perverting the powers of confirmation to usurp the independence and integrity of the Court. Such a course would be a far greater threat to the Republic than could be any one individual appointment of a loyal American.

Some may feel—and some have said—and the Senator from Michigan has indicated—that vacancies on the Supreme Court should be filled by promotion from the lower courts. The logic and necessity for such a course eludes me. Quite often, if not always, judges on the lower courts are chosen primarily for their regional or local prominence. The luster and sanctity which enshrouds such judges often are measured by their consistent espousal of a sectional viewpoint. It seems much more logical to me to place on the Court men of outstanding national service which has afforded them the opportunity to grasp a national viewpoint rather than a sectional or local viewpoint. Charles Evans Hughes, for example, was such a man; his rich experience in national affairs enhanced his service as a justice. McReynolds, Brandeis, Sutherland, Butler, Stone, and Roberts—these justices came to the Court through the avenue of public service, not up the ladder of judicial promotions. The quality of their service certainly was not diminished by their broad and useful experience.

Mr. President, after all, why have we, through custom and through law, surrounded the Supreme Court with provisions for security, stability, and immunity which are enjoyed by no other public servants? We have done so in the belief that such provisions will enable men of capacity to rise above their antecedents and serve the cause of justice impartially and without intimidation. In the ordinary course of events, men do not reach such a pinnacle of security and immunity. This aura of security and immunity has been created as a challenge, designed to nurture and develop the highest degree of wisdom and impartiality that a man can impart. This condition was not conceived as a reward or as a cloak of protection to give a man free rein in expounding some preconceived concept of justice or philosophy.

Tom Clark has shown himself to be a man who responds to challenges with courage, with honesty, and with real ability. Because I know Tom Clark, as a man and as a public servant, I am confident that he will be equal to the challenge and will grow in stature as he meets and masters this new challenge. I know that Tom Clark will not prostitute this challenge by carrying to the Court fixed opinions and preconceived concepts of justice.

This is my judgment of Tom Clark; I am here for no other purpose. I have no desire to remake the Court in the image of my own preferences and my own philosophy; I do not conceive that to be a proper part of my duty here.

I have no desire to apportion the prejudices of the Court among various groups or parties according to some numerical balance. I prefer to place my trust in men who are unburdened with prejudice and who will dispense justice on the basis of the law and the facts rather than on the basis of the plaintiff's reputation.

For this duty and this responsibility I know of no happier selection that could have been made than the nomination of Tom Clark. I commend him to the Senate. I know he will serve the cause of justice well.

Mr. McCARRAN. Mr. President, I yield 10 minutes to the Senator from North Dakota [Mr. LANGER].

Mr. LANGER. Mr. President and fellow Senators, I do not rise to the defense of Tom Clark, because in my opinion he needs no defense. Since I have been a Member of this body I have been for Republicans and Democrats who were nominated for office when I thought they were good men, and I have been against them when I thought they were not. I spoke for 3 hours against Mr. Stettinius, who later became Secretary of State.

What we are interested in today is the facts. In March 1945, Mr. Clark was nominated to be Assistant Attorney General to have charge of the antitrust division. I was tremendously interested in that nomination. Up to that time there had not been even a pretense that the criminal provisions of the Sherman antitrust law and the Clayton Act should be enforced. I demanded that Mr. Clark appear. I call the attention of every Senator upon this floor to the fact that one week's notice was given that Mr. Clark would appear before the Committee on the Judiciary on the 22d day of March 1943, prepared to answer any questions. Frankly, although I had never met him, I was opposed to him.

There were present at that meeting the then Senator from Indiana, Mr. Van Nuys, the Senator from Texas [Mr. CONNALLY], the Senator from Arizona [Mr. MCFARLAND], the Senator from Michigan [Mr. FERGUSON], the then Senator from West Virginia, Mr. Revercomb, the then Senator from Connecticut, Mr. Danaher, the then Senator from New Mexico, Mr. Hatch, the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Wisconsin [Mr. WILEY], the Senator from Nebraska [Mr. WHERRY], the Senator from West Virginia [Mr. KILGORE], the then Senator

from Vermont, Mr. Austin, the Senator from Nevada [Mr. McCARRAN] and the present speaker.

We examined Mr. Clark all forenoon. We did not get through with the examination, so we arranged to examine him further in the afternoon. In the afternoon we met again in special session. There were present at that time the then Senator from Indiana, Mr. Van Nuys, the Senator from Texas [Mr. CONNALLY], the Senator from Arizona [Mr. McFARLAND], the Senator from Michigan [Mr. FERGUSON], the then Senator from West Virginia, Mr. Revercomb, the then Senator from New Mexico, Mr. Hatch, the Senator from Nebraska [Mr. WHERRY], the Senator from West Virginia [Mr. KILGORE], and myself.

The then Senator from Connecticut, Mr. Danaher, the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Wisconsin [Mr. WILEY], the then Senator from Vermont, Mr. Austin, and the Senator from Nevada [Mr. McCARRAN] did not attend.

Again we interrogated Tom Clark on his fitness and as to his integrity, to ascertain whether or not he should be confirmed as Assistant Attorney General to head the Antitrust Division. When we got all through, on the motion of the distinguished senior Senator from Texas [Mr. CONNALLY], Mr. Clark was unanimously recommended for confirmation.

Two years went by and in June 1945 Tom Clark was nominated to be Attorney General. I wanted to find out for sure whether, as Attorney General, he would enforce the criminal parts of the Sherman Antitrust Act, and the record shows that I again demanded that he appear personally. Mr. Clark appeared on June 13. At that time there were present the Senator from Nevada [Mr. McCARRAN], the Senator from Wisconsin [Mr. WILEY], the Senator from North Dakota [Mr. LANGER], the Senator from Michigan [Mr. FERGUSON], the Senator from Wyoming [Mr. O'MAHONEY], the then Senator from New Mexico, Mr. Hatch, the then Senator from Oklahoma, Mr. Moore, and the then Senator from Utah, Mr. Murdock. Again we went into the minutest detail about the Texas matter, just as we did the first time. I did most of the interrogating myself, and I was so merciless that I was cautioned by one of the Senators. I wanted to know why a man who had made five or six thousand dollars before his law partner was elected attorney general of Texas would be making sixty or seventy thousand dollars a year or two later. Mr. Clark gave us the name of every single client from whom he had received more than a thousand dollars. He also told of the work he did to earn his fees.

At that time every opportunity was given to every single Senator on the Judiciary Committee to interrogate him, to ask him about any employment he had, or about anything else. When all got through, he had made such a good impression that the record shows when the motion was made by myself and other Senators to report the nomination he was unanimously for the second time recommended, with the unanimous approval of the committee.

Mr. President, it seems to me that when a man has twice submitted himself to the Committee on the Judiciary, when he has twice voluntarily come forward and said, "You can examine me as to anything from the time I was born," and when it is found there is nothing new in the entire record, with one exception——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LANGER. May I have 1 minute more?

Mr. McCARRAN. I yield further time to the Senator.

Mr. LANGER. As I was saying, there was nothing new with one exception, namely, the matter of wire tapping, and when I read the Yale Law Review, and later the letter from J. Edgar Hoover, Director of the FBI, I became satisfied that Mr. Clark had done nothing illegal in the matter of wire tapping and that had been done exactly by all his immediate predecessors.

So, Mr. President, I intend to vote for the confirmation of the nomination of Tom Clark to be Associate Justice of the Supreme Court of the United States and I predict that he will be an outstanding, honest, capable, fearless, and liberal Judge and one of whom the common people of the United States will be proud.

Mr. McCARRAN. I yield 6 minutes to the Senator from Pennsylvania.

Mr. MYERS. Mr. President, the Committee on the Judiciary held public hearings on three consecutive days last week. It is a matter of public record that the nomination was supported by hundreds of letters and telegrams, including communications from past presidents of the American Bar Association, Federal and State judges, distinguished educators, labor leaders, and prominent citizens in every walk of life. The communications in opposition were almost without exception from groups which most of us would regard as of subversive or at least dubious character, or from persons knowns to be connected with such groups. Not one new fact was brought out. Not a single charge was made which merited further investigation. Following these public hearings, the committee held an executive session at which nine members of the committee voted to report the nomination favorably. The motion was made by a member of the Republican Party and support for the motion was bipartisan. Two Senators opposed the motion. But nine Senators voted to confirm, because they evidently felt that the nomination was a good one and deserved confirmation and, second, that no useful purpose would be served by holding further hearings.

We have been told that the hearings should not have been concluded without testimony from the nominee himself. That is a subject which has been passed on by the Judiciary Committee, and should be left to the best judgment of that committee. Mr. Clark advised the chairman of the Judiciary Committee that if his presence was desired he would be glad to attend and testify before the committee. But the question whether or not he should be called was decided by the committee itself. It was their determination that testimony from the nominee was not necessary. In reaching this conclusion they were acting in line with the vast body of precedent. Under our system of government the advice and consent of the Senate is required to every major appointment whether in the judicial or the executive branches of the Government. That is as it should be. The requirement of the Senate's advice and consent has been through the years a most healthy check on the appointive power. But this body has always recognized that appointments to the Supreme Court of the United States fall into a special category. The Senate has the duty of considering with the utmost care the integrity and fitness of the appointee. But the Senate should not ask a nominee to our highest court to come forward and support his own nomination, nor should it ask him his views on questions which he may be called upon to consider when and if he becomes a member of the Supreme Court. It is best to let testimony as to his past record come from his friends and enemies, and to allow him to maintain silence on the great issues which may come before him for decision. In pursuance of this tradition nominees to the Supreme Court have almost never been called before the Judiciary Committee for questioning. Only a few cases in the entire history of our country may be cited to the contrary. But even then the questioning brought out nothing that was not already known, and served only to delay the confirmation of nominees who later were confirmed, and whose records on the Court subsequently justified their nomination and confirmation. There is no occasion to ask Tom Clark any questions. His official acts are well known. In the last Congress every charge against him that could possibly be alleged was minutely investigated by those hostile to him, and after exhaustive investigation no report of criticism was filed in either House. What better testimonial could there be to the fitness of Tom Clark to become an Associate Justice of the Supreme Court of the United States?

The one thing that is good about the affair is that out of the mass of misrepresentations, of innuendoes, insinuations, and in some instances I might say almost falsehoods which have characterized it from beginning to end, there emerges the figure of Attorney General Clark, straight and true, his stature as a capable, honest, and conscientious public figure enhanced, his character unsullied and his record unblemished. He has triumphed over his enemies. They have failed to besmirch him.

When those closest to him throughout these attempts to ruin him and destroy the record of his great achievements as the head of the Department of Justice were infuriated at the unfair methods used against him, he remained calm and unruffled, certain that the truth would prevail. In this, as in other things, he has demonstrated that he possesses the

knowledge, the wisdom, and temperament not only to sit on the Supreme Court of the United States, but to become, as his judicial experience ripens, one of the greatest of the Justices of that Court.

Mr. FERGUSON. Mr. President, the Senator from Missouri [Mr. DONNELL] desires to speak at this time.

The PRESIDING OFFICER. How much time does the Senator desire?

Mr. DONNELL. Twelve minutes, Mr. President.

The PRESIDING OFFICER. The Chair will indicate to the Senator when 1 minute remains of his time.

Mr. DONNELL. Mr. President, the vote of the Senate Committee on the Judiciary on the motion of the Senator from North Dakota [Mr. LANGER] to recommend confirmation of the nomination of Mr. Clark occurred on August 12. On that day I issued a statement which I desire to read into the RECORD, as it sets forth the facts surrounding my vote in opposition to that motion:

By my negative vote, on the motion made by Senator LANGER to recommend confirmation of the nomination of Hon. Tom C. Clark to be an Associate Justice of the Supreme Court of the United States, I was not expressing opposition to such confirmation.

Senator LANGER'S motion was a substitute for a motion previously made by myself. I did not favor adopting his motion in place of the one which I had made. The only means by which I could voice my opposition to defeat of my own motion was to vote against the Langer motion.

The motion which I had offered was one by which:

1. Certain letters and telegraphic messages in opposition to the confirmation of the nomination would have been required to be read in an open meeting to be held by the committee, in which meeting representatives of the press would, if they cared to be there, be among those persons present.

2. The members of the committee would, at a public hearing, have had the opportunity to ask questions of Mr. Clark.

That portion of my motion which would have required the reading, in an open meeting, of certain letters and telegraphic messages in opposition to the confirmation arose from the fact that there had previously been read in open meeting, attended by representatives of the press, numerous letters and telegraphic messages in favor of such confirmation, and also one from the Vice Chairman of the Special Committee on the Judiciary of the American Bar Association by which last-mentioned message the chairman of the Senate Committee on the Judiciary was informed that said committee of the American Bar Association does not oppose the confirmation.

I think that inasmuch as messages favoring, and the one just mentioned by which the American Bar Association Committee informed the Senate committee chairman that the American Bar Association does not oppose, confirmation had been thus publicly read, it would have been only fair that there should, with equal publicity, have been read those letters and telegraphic messages in opposition to the confirmation which my motion would have required to be so read.

I understood from the chairman of the Senate Committee on the Judiciary that all letters and messages were ordered to be placed in the record but I think that, in addition to the making of such an order, it was important that the same public reading of adverse communications should occur as was carried out in the case of communications favorable to confirmation and as in the case of the above-mentioned message from the vice chairman of the previously mentioned committee of the American Bar Association.

That provision in my motion which would have enabled members of the Senate Committee on the Judiciary to ask questions of Mr. Clark in open hearing was based on my view that such members and the people of the United States should be permitted to have Mr. Clark's statement with respect to any subjects on which committee members might desire to interrogate him. Various points, both for and against confirmation, had been presented in open hearings. I think it important both to Mr. Clark and to the people of the Nation that they know what Mr. Clark might say with respect to any of such points and to such other matters, if any, as to which any committee member might think it desirable to question him.

So important did I consider the principles embraced in my motion that I was not willing to abandon them. To have voted in favor of Senator LANGER'S motion would have been to vote in favor of such abandonment. I accordingly voted against his motion but I informed the committee, after casting my vote, that said vote did not indicate that I was either for or against the confirmation of the nomination.

I think the committee should have followed the procedure specified in my motion.

Mr. President, some of the matters as to which I think it would have been important to interrogate Mr. Clark were:

First. His views on what is called technical surveillance, or, in other words, wire-tapping.

Second. Methods used with approval of Mr. Clark in the determination of what organizations are to be included in lists of subversives.

Third. In connection with the investigation of the conduct of the Department of Justice with respect to the alleged irregularities in the Democratic primary election in the Fifth Missouri Congressional District, August 6, 1946, whether suggestions were issued by Mr. Clark to Mr. D. C. Ladd of the FBI on July 23 or 24, 1947, to the effect that it might be desirable to include certain material in a separate administrative file, and if so, the reasons for the issuance of such suggestions to Mr. Ladd, of the FBI.

Fourth. The subject of inquiry which was made in the Texas Legislature as appeared in the Senate Journal of January 25, 1947, and the matter relative to the increase in the income which has previously been referred to today in the arguments.

Fifth. The participation by Mr. Clark, if any, concerning the Capone gangster paroles.

Sixth. His conduct with respect to the Kansas City investigation.

Two members of the Judiciary Committee requested, or at least by their votes upon the motion showed their desire for, the opportunity to question Mr. Clark. In the statement which was issued to the press I have given my reasons for the action which I took on that date.

Today we are asked to vote on the nomination of Mr. Clark on what I consider to be incomplete evidence. I wish to say in connection with Mr. Clark first, that I personally like him very much indeed. Second, his courtesies to me have been numerous. Third, to my mind his ability is very great. I have observed Mr. Clark, particularly in connection with the matter of the tidelands situation, the question as to who should own the so-called tidelands, and I have been very much impressed with his alertness and participation, and the views he has expressed. However, in view of the fact that we are today asked to vote on this nomination on incomplete evidence, as I see it, I have concluded that I shall vote against the nomination of Mr. Clark.

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

Mr. DONNELL. I yield.

Mr. CONNALLY. The incompleteness of evidence to which the Senator referred was not Mr. Clark's fault. The committee cut that off.

Mr. DONNELL. I appreciate the fact that the committee was the body which did that. Nevertheless, I think we are today called upon to vote on incomplete evidence. To my mind the appropriate procedure today would be to recommit the nomination to the Committee on the Judiciary, although I judge that is parliamentarily impossible. I realize that by my own consent yesterday I concurred in the course of action to be taken today. To my mind the proper course of action would be to recommit the nomination to the Judiciary Committee for further examination and study, and the examination of Mr. Clark. Were it in order, I would certainly move to do so at this time.

Mr. FERGUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FERGUSON. Under the existing parliamentary situation is it in order to move to recommit the nomination to the committee?

The PRESIDING OFFICER. The unanimous-consent agreement specifically provides that there shall be a vote on the nomination. The Chair therefore holds that a motion of the kind mentioned would not be in order.

Mr. FERGUSON. Mr. President, I ask unanimous consent that the unanimous-consent order be changed so as to permit a motion to recommit the nomination to the committee.

The PRESIDING OFFICER. Is there objection?

Mr. McCARRAN. I object.

Mr. McKELLAR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DONNELL. Mr. President, let me say——

Mr. McCARRAN. Mr. President, we are operating under a time limit.

Mr. DONNELL. I do not think I have exhausted my time.

The PRESIDING OFFICER. The time of the Senator from Missouri has not expired.

Mr. DONNELL. Let me say to Members of the Senate that if this nomination should not be confirmed this afternoon, it is my purpose then to move to recommit it. I do not know whether even then such a motion would be in order, because I assume the procedure with respect to the nomination would have been exhausted. I submit to the Chair a parliamentary inquiry. In the event confirmation should be refused,

would it be in order to move that the entire subject matter be referred to the committee, or would the procedure have been exhausted at that time?

The PRESIDING OFFICER. The Chair holds that that question could arise only in connection with a motion to reconsider the vote on the nomination.

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

Mr. DONNELL. I yield.

Mr. MAGNUSON. The Senator has listed four or five reasons why he is opposed to this nomination. Among them he has cited lack of sufficient evidence as to the subjects which he has mentioned. I ask the Senator whether or not it is true that, with respect to the five or six subjects mentioned by the Senator, there are complete printed records which have been made public. For example, I believe that in 1938 the Committee on the Judiciary itself considered the so-called Texas legislative matter. The record is available. The question of the Kansas City vote frauds was gone into. I know that I participated in several of those hearings. The subject of paroles is also a matter of public record in the Department of Justice, and the record is available in the committee files. I wonder if the Senator could not read that evidence, which is all available.

Mr. DONNELL. Let me answer the Senator in this way: In the first place, I have assigned only one reason for opposing the nomination of Mr. Clark, namely, the fact that we are asked to vote on the nomination on the basis of incomplete evidence. I have cited approximately six illustrations of points on which I think the evidence is incomplete. The record with respect to some of those points may be available. So far as I know, such matters as the views of Mr. Clark with respect to wire tapping are not a matter of public record.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Nevada yield to me for a unanimous consent request?

Mr. McCARRAN. Mr. President, does the Senator from Michigan wish to assign time?

Mr. FERGUSON. Not at this time.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield to me for the purpose of making a unanimous consent request?

Mr. McCARRAN. I yield.

Mr. JOHNSON of Texas. I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a statement released by the Department of Justice on March 31, 1949, with reference to wire tapping, and the policy of the Deparment throughout the years in that connection.

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

Attorney General Tom C. Clark announced today that there is no justification for the criticism made earlier today by certain officials of the Americans for Democratic Action and the American Civil Liberties Union concerning the policies and practices of the Department of Justice with respect to wire tapping.

The Attorney General further pointed out that after joint conferences some 2 weeks ago between officials of the Department and members of the Senate and House Judiciary Committees, section 5, the wire-tapping provision, of the internal security bill (S. 595), was by agreement eliminated entirely from the provisions of the internal security bill. The Department does not intend to press for this section and the committees were so advised at that time.

The Department of Justice has not violated section 605 of the Communications Act of 1934, Mr. Clark stated. The policy followed today has been followed for many years and was established by the highest authorities in the executive branch of the Government. It has been scrupulously followed by the Department of Justice and the Federal Bureau of Investigation.

The statutes and the decisions of the courts, including the Supreme Court, concerning wire tapping do not prohibit the tapping of wires, but rather the divulging or publishing of information and use of it as evidence when obtained by wire tapping.

The late President of the United States, Franklin D. Roosevelt, on May 21, 1940, in a memorandum to the then Attorney General, Robert H. Jackson, approved wire tapping when necessary in situations involving national defense.

President Roosevelt, again in a letter dated February 25, 1941, which was given wide circulation, in response to a congressional inquiry, outlined policies followed by the FBI when he said:

"I do not believe it should be used to prevent domestic crimes, with possibly one exception—kidnaping and extortion in the Federal sense.

"There is, however, one field in which, given the conditions in the world today, wire tapping is very much in the public interest. This Nation is arming for national defense. It is the duty of our people to take every single step to protect themselves. I have no compunction in saying that wire tapping should be used against those persons, not citizens of the United States, and those few citizens who are traitors to their country, who today are engaged in espionage or sabotage against the United States."

The views of Supreme Court Justice Robert H. Jackson, when Attorney General, on wire tapping were expressed in a letter he sent to the chairman of the House Judiciary Committee on March 20, 1941, as follows:

"A short time ago a small child was kidnaped in California. There was reason to expect that demands would be made upon the parents by telephone. If the voice making such a call were recorded, preserving its accents, its peculiarities of speech, and its exact words, it would be a scientific means of identification not subject to the faults of hearing or of memory which so often make identification weak. * * * Of course, I directed Mr. Hoover to put a recording device on that line."

Former Attorney General Francis Biddle advised the press on October 8, 1941:

"The stand of the Department of Justice would be, as indeed it had been for some time, to authorize wire tapping in espionage, sabotage, and kidnaping cases when the circumstances warranted."

The policies of the Attorneys General concurred in by the former Chief Executive of the United States have continued to be the policies of the Department of Justice and have been clearly and publicly stated. There has been no concealment of the fact that wire tapping has been used in limited cases with the express approval in each individual instance of the Attorney General.

There has been no new policy or procedure since the initial policy was stated by President Roosevelt and this has continued to be the Department's policy whenever the security of the Nation is involved.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a letter from Joe L. Hill, ex-State senator, of Texas, and a member of the investigating committee previously referred to.

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

SEPTEMBER 22, 1941.

Mr. W. H. CLARK, Jr.,
Attorney at Law,
Dallas, Tex.

DEAR MR. CLARK: As a member of the senate general investigating committee which made an investigation of the operation of several State departments in the years 1935–36, I am pleased to confirm to you in this manner that such investigation and the evidence thereat constituted in my opinion no basis for any charge or complaint, either moral or legal, against the conduct of your brother, Tom C. Clark.

Very respectfully yours,

JOE L. HILL.

Mr. McCARRAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCARRAN. Must the side which has time to assign either assign or relinquish its time?

The PRESIDING OFFICER. The Senator's inquiry is, Shall the Chair force them to assign or relinquish time?

Mr. McCARRAN. Either assign or relinquish the time entirely.

The PRESIDING OFFICER. The Chair has no control over the disposition of the time. It belongs to the parties, by unanimous consent.

Mr. McCARRAN. I ask the Senator from Michigan, then, to assign time. It is his turn to assign time.

Mr. FERGUSON. Mr. President, I do not understand that the unanimous consent agreement says anything about taking turns in the assignment of time.

Mr. McCARRAN. The time was to be divided equally.

Mr. FERGUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FERGUSON. How much time has the junior Senator from Michigan?

The PRESIDING OFFICER. The junior Senator from Michigan has 10 minutes.

Mr. FERGUSON. How much time has the Senator from Nevada?

The PRESIDING OFFICER. The Senator from Nevada has 54 minutes.

Mr. McCARRAN. Mr. President, I yield 5 minutes to the Senator from Connecticut [Mr. McMAHON].

Mr. McMAHON. Mr. President, I thank the Senator from Nevada for yielding 5 minutes to me. I do not believe I shall speak that long—not because I could not speak for 5 minutes about a friend of mine whose nomination to our highest Court is before us for consideration, but because his overwhelming confirmation is assured.

I have known Tom Clark for about 15 years. I was in the Department of Justice as Assistant Attorney General when he came to work there. He did not come

to a high position. He was a worker in the ranks. By his diligence, intelligence, and devotion to duty he rose in that organization until he became Assistant Attorney General, and later Attorney General of the United States. His nomination to the highest Court of the land is a natural development of the distinguished career which he commenced in the Department of Justice.

Tom Clark is a calm man. He is a friendly man. In all the years I have known him I have never known him to do a selfish or petty thing. I have always found him thoughtful. I have found him devoted to his duty. I have found him to be courageous. When he was under attack—and men who occupy high offices are frequently under attack, for motives good and otherwise—he behaved like a gentleman of courage. He maintained his equanimity because he had justified confidence in his own integrity.

He has been fair and judicious in the offices which he has occupied; and I predict that his career on the bench will demonstrate that he will be a fair and judicious judge.

I was happy to hear the Senator from Missouri [Mr. DONNELL] pay tribute to his ability. The Senator from Missouri is no easy judge of lawyers, as Members of this body know.

Mr. President, I could continue further. I merely wished to place myself on record in plain and unmistakable terms.

I thank the Senator from Nevada, and I surrender the remainder of my time.

Mr. McCARRAN. I yield 3 minutes to the Senator from Tennessee [Mr. KEFAUVER].

Mr. KEFAUVER. Mr. President, I am glad to have this opportunity to say a word in behalf of a great public servant, an outstanding lawyer, and a friend. The life, character, and work of Tom Clark, whose nomination to the Supreme Court is being considered here today deserves high commendation and unanimous approval.

During the 10 years I had the pleasure of serving in the House of Representatives, I was a member of the Committee on the Judiciary. During that time there were three different Attorneys General of the United States—Mr. Jackson, Mr. Biddle, and Mr. Clark. During that time I had the opportunity to serve on many subcommittees of the Judiciary Committee which were considering proposed legislation in which Mr. Clark was interested, and with respect to which he was called upon to report and to give the viewpoint of the Department of Justice.

To my mind Mr. Clark is a very able, conscientious lawyer. As has been stated by the distinguished Senator from Connecticut [Mr. MCMAHON], I think Mr. Clark is a courageous man. I have always observed that when any issue came before the House Committee on the Judiciary, regardless of the sectional viewpoint or of any peculiar interest which Mr. Clark may have had by virtue of the fact that he came from the Southland, he always took the national viewpoint and he did this courageously. He has made an excellent Attorney General.

It is true, as has been stated, that Mr. Clark has taken an active part in politics. But, Mr. President, when did active participation in politics disqualify a man from holding this great and high position? I have always thought it was to a man's credit to take a part in politics; to assert himself, to say where he stood on important issues, and to take a part in issues which were before the public. Yes, Mr. President, interest in political matters is a credit to any citizen. No one can say that Mr. Clark has ever made a policy decision to favor a friend or a political ally. He has enforced the laws fairly and fearlessly.

It has been said that Mr. Clark is a friend of President Truman. Why should not the President appoint a man in whom he has confidence, a man who, as he knows, and as I do, will decide cases in that high Court judiciously, courageously, and from the national viewpoint. Mr. President, I commend and compliment the President upon his selection of a friend in whom he can have full and complete confidence.

It has been my pleasure to know Mr. Clark socially. It has been my observation that by disposition and nature during his service he has endeavored to maintain the closest possible cooperation and understanding between the Congress and his Department of the Government, the closest I have known in my service in the Congress. He has always maintained a friendly contact between the House, the Senate, and his Department of the Government.

Mr. Clark is a man of calm and judicial temperament. He is able, upright, and honest. He is a hard worker and is by birth, training, and experience imbued with those qualities of Americanism which have made our country great. I predict that he will make one of the great Justices of the highest Court of our land.

Mr. McCARRAN. Mr. President, again I call upon the opposition to the nomination to assign time.

Mr. FERGUSON. The Senator from Nevada has 50 minutes remaining, and the junior Senator from Michigan has 10 minutes.

Mr. McCARRAN. Very well.

Mr. CONNALLY. The only difference is that he has already had his.

Mr. McCARRAN. Well, it seems not.

Mr. McKELLAR. Mr. President, will the Senator from Nevada yield 2 minutes to me?

Mr. McCARRAN. Very well; I yield 2 minutes to the distinguished senior Senator from Tennessee.

Mr. McKELLAR. Mr. President, I have known Mr. Clark only since he has been Attorney General, but I think I have never known a more delightful, attractive, fine man than Attorney General Tom Clark. He is able, he is kindly and judicially minded, and in every way qualified and fitted to occupy this exalted position. I have had a great deal of business with him since he has been Attorney General. He has succeeded in turning me down more often than perhaps any other Cabinet officer I have ever known to do. Not only has our friendship not been disturbed by his actions in turning me down, but it has become stronger and better all the time. In my judgment it takes a real man to do that.

He is a lawyer of distinguished ability. He is a graduate of the University of Texas, with both academic and law degrees. He has made a wonderful success as an attorney. He stands as high personally as any man. He is the very soul of honor. He is courageous. In my judgment he will make one of the best Justices of the Supreme Court of the United States, and that is the greatest court in all the world at this time. Its history, prestige, and honor will not be lessened when Tom Clark takes his place in that body.

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

Mr. McKELLAR. Certainly.

Mr. KEFAUVER. I wish to call the Senator's attention to the fact that among all the letters and telegrams on this subject, some of which are from persons who do not know anything about the matter, and some of which are from persons who are crackpots or what not, many of the important telegrams and letters are printed at the back of the hearings. I call the Senator's attention to page 343 of the hearings, and ask him if he knew that the Tennessee Bar Association endorsed the appointment of Attorney General Clark to be a member of the Supreme Court of the United States.

Mr. McKELLAR. I did not know that until——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McKELLAR. Mr. President, will the Senator from Nevada permit me to have a minute further?

Mr. McCARRAN. Very well.

Mr. McKELLAR. I did not know that the Tennessee Bar Association had endorsed Tom Clark for this appointment, until the Senator from Texas first called my attention to it a moment ago. I thank my colleague for his confirmation.

I wish to congratulate the Tennessee Bar Association for its endorsement of Mr. Clark. I think nothing is plainer than our duty to confirm his nomination by an overwhelming vote this afternoon. I am sorry some of my good friends here have seen fit to oppose him. I hope they will withdraw their opposition, and that this body will add to its great honor, just as the Tennessee Bar Association has done, by unanimously confirming the nomination of Mr. Clark for this high office. He is justly entitled to be unanimously confirmed. I believe he will make a great Justice of the Supreme Court of the United States.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD communications on this subject from the Bar Association of Tennessee.

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

KNOXVILLE, TENN., *August 11, 1949.*

PAT MCCARRAN,
Committee on Judiciary,
United States Senate:

As vice president, Bar Association of Tennessee, recommend confirmation Tom Clark, Supreme Court.

JOHN H. DOUGHTY.

NEW YORK, N. Y., *August 11, 1949.*
Senator PAT MCCARRAN,
Committee on Judiciary:
For the Tennessee lawyers I wholeheartedly endorse the appointment of Attorney General Clark.

W. RAYMOND DEMNEY,
President, Bar Association of Tennessee.

Mr. McCARRAN. Mr. President, I assign 15 minutes to myself.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 15 minutes.

Mr. McCARRAN. Mr. President, in order that the Senate may know and may fully understand what transpired in the Judiciary Committee, it will do no harm to devote a minute or two to that matter.

The nomination of Tom C. Clark came to the Senate and was immediately referred to the Committee on the Judiciary. Pursuant to the rule of the Judiciary Committee, a notice was published in the CONGRESSIONAL RECORD 1 week in advance, notifying the Senate, the House, and all members of the public who might be concerned, that on Tuesday of the following week public hearings would be held on the nomination. On the day and at the hour assigned, there was before the committee a concourse of people ready to testify. We called for their names and their residences, and asked them when they could best appear. The chairman of the committee read nearly all the letters and telegrams supporting the nomination. Then he called upon, one by one, those who saw fit to oppose the nomination. For a part of 3 days and 1 night we continued with those hearings, until all who cared to be heard were heard, so far as we know. We called upon any others who might care to be heard. No one responded. We then called an executive meeting of the committee, to ascertain what the committee wished to do. After a discussion in the late afternoon, a motion was made by the Senator from Missouri [Mr. DONNELL]. It was a double motion. One part of the motion was that the chairman of the committee read aloud in public all letters, telegrams, and other communications which he had received against the nominee. The other part of the motion was that Mr. Tom Clark should be requested to come before the committee for interrogation. Later, the Senator from Missouri divided the motion. The matter was discussed at length that afternoon. The chairman thought it best that members of the committee sleep on the proposition and take their time to consider it. I suggested that the matter go over to an hour certain the following day. The hour was selected by the members of the committee. On the following day the full committee assembled, as I recall, at the hour of 10 o'clock. But before adjourning that night, the Senator from North Dakota [Mr. LANGER] offered a preferential motion, which was that the committee vote to conform. Then, when the committee was about to adjourn, the Senator from North Dakota drew the attention of the Chair to the fact that his motion would be the pending question the following day.

On the following day, when the committee assembled, the discussion turned on the motion of the Senator from North Dakota. It was a preferential motion, a substitute for the motion of the Senator from Missouri. There was considerable discussion, during which the Senator from Michigan [Mr. FERGUSON] stated he wished to bring before the committee the records and files of the Kansas City case and other matters which he thought should come before the committee, and the Senator from Missouri [Mr. DONNELL] made suggestions as to what he might want to bring before the committee if Mr. Clark were brought before it. After discussing those subjects at length, the Chair put the question on the preferential motion of the Senator from North Dakota. As I recall, the vote stood 9 to 2, which disposed of the entire matter.

The Chair again, of his own accord, placed in the record, he having made known to the committee that he would do so, all the files, all the letters, and other communications which had been received. Those have been printed, and they are on the desks of the Senators.

Mr. President, perhaps it might be considered that the chairman of the Committee on the Judiciary would be opposed to Mr. Tom Clark. Only a few months have passed since Tom Clark and the chairman of the Judiciary Committee, on an entirely different matter, had, to use the language of the street, a rather serious run-in. But one could not come out of that situation without admiring the courage and determination of Mr. Tom Clark. I was opposed to the policy which has been adhered to by every administration since I have been in the Senate, of refusing to allow Members of Congress to go into the files of the FBI. Mr. Clark has adhered constantly, as did his successors, to the idea that Members of Congress could not go into the files of the FBI. It became a matter of controversy between Mr. Clark and myself. One cannot but admire an opponent who meets him toe-to-toe, looks him in the eye, and opposes him in some particular matter. I emerged from that contest admiring Mr. Clark even more than I had before.

Mr. President, regarding the matters which have been brought up in the Senate against Mr. Clark, growing out of what are termed the Kansas City cases, let me say that during the Eightieth Congress, while I was the ranking minority member of the Committee on the Judiciary, I sat for days and days and days with the able Senator from Michigan while he called witness after witness before the subcommittee and while hearings were conducted. Finally, when the Senator was satisfied with the hearings he called an executive meeting of the subcommittee for the purpose of writing a report. He submitted a report against Mr. Clark. Mr. President, the vote of his own committee was against him. The adverse report was then submitted to the full committee, and again the vote did not approve the report. The matter was brought to the floor of the Senate, it will be recalled, where no action was taken.

In the second session of the Eightieth Congress the able Senator from Michigan took the matter from the Judiciary Committee to the Committee on Expenditures in the Executive Departments. There, for days, as I am advised, the matter was considered. I shall stand corrected, if I am in error, but I am advised that in the Committee on Expenditures in the Executive Departments there was but one vote against Mr. Clark or to hold public hearings.

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

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Michigan?

Mr. McCARRAN. I yield for a question.

Mr. FERGUSON. I should merely like to advise the Senator that that is not the fact.

Mr. McCARRAN. Very well, I stand corrected, if that is not the fact. It is the advice I have had. At any rate, it will be admitted that, after long hearings in both sessions of the Eightieth Congress, neither the Committee on Expenditures in the Executive Departments nor the Committee on the Judiciary saw fit to report anything condemnatory of Mr. Tom Clark.

That is not all, Mr. President. It is not all, by any means. Mr. Tom Clark has been before the committee of which I happen to have been a member since I have been in the Senate. He has been before that committee before on two occasions, once when he was nominated to be Assistant Attorney General, in charge of the Antitrust Division, and again when he was nominated to be Attorney General. In both instance the Committee on the Judiciary, after going into the matter of the career of Mr. Clark and his official acts—indeed, after going into his private life, if you please—reported favorably on the nomination of Mr. Tom Clark.

If this were something new, if Mr. Tom Clark were springing up out of the woods, so to speak, unheard of before, Senators might hesitate to confirm his nomination. But the Senate of the United States, through its committees, its Judiciary Committee, on the one hand, and its Committee on Expenditures in the Executive Departments, on the other, have had Mr. Clark on the griddle, to use the vernacular of the street, time after time. He has come out first, best, and clean on every occasion.

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

Mr. McCARRAN. I yield for a question.

Mr. LANGER. Is it not a fact that on both occasions when he appeared before our committee he received unanimously the vote of every Republican and every Democrat on the committee?

Mr. McCARRAN. The Senator is correct. I may add, he received the vote of the able Senator from Michigan [Mr. FERGUSON] on at least one of those occasions; I think, on both of them.

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

Mr. McCARRAN. I yield.

Mr. McKELLAR. I do not recall that Mr. Clark, as the head of the Department of Justice, ever appeared before the Senate Appropriations Committee seeking more money for his Department. Other Senators who are members of that committee may recall that he was before it. I do not think he was, and I think it is greatly to his credit.

Mr. McCARRAN. The Attorney General may not have been before the Appropriations Committee of the Senate. As a rule, he takes the appropriations given him by the House.

Mr. McKELLAR. That is correct.

Mr. McCARRAN. Let me draw the attention of the Senate to another matter, namely, the propriety of bringing a nominee for the Supreme Bench before a committee. Only three nominees for the Supreme Court have ever appeared before the full Judiciary Committee. They were, in order, Mr. Justice Stone, Mr. Justice Frankfurter, and Mr. Justice Jackson. While Mr. Stone's nomination was pending he wrote to the late Senator Walsh that he intended to present a case against former Senator Burton K. Wheeler before a grand jury in the District of Columbia, seeking an indictment. Mr. Wheeler was then under indictment in Montana. The Senate was much exercised about this stand, and the committee called Mr. Stone to question him about his announced intention to seek an indictment of a United States Senator.

When Mr. Frankfurter appeared before the commitee he told the committee he would not make a statement. He said that he did not think it proper for a judicial nominee to take any part in the proceedings with respect to the confirmation of his nomination.

Mr. Jackson was called by the committee because the Senator from Maryland [Mr. TYDINGS] insisted, as a matter of personal privilege, that he be questioned as to why he had not proceeded against Drew Pearson for statements which Pearson had made against the Senator from Maryland.

On only those three occasions has any nominee for the Supreme Court of the United States been called before the Judiciary Committee in the history of that committee, so far as we know.

Mr. President, I hope that there is no innuendo cast against the acts of the Judiciary Committee by reason of the vote which was taken. It was taken in order; it was taken in the parliamentary situation at the time the chairman called for any objection to his ruling that the motion was a preferential motion and should be put. There was nothing else for the chairman to do. A record vote was taken, and it now stands on the records of the Judiciary Committee.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. McCARRAN. I assign myself five more minutes.

In every case in which Tom Clark has been called upon by his country to serve, he has served with distinction, so much so that his career has been one of promotion from the category of a humble practitioner in his native State to, at this time, the zenith of the ambition of any man who is a member of the bar, namely, a member of the Supreme Court of the United States.

We know that committee after committee has refused to turn him down when he was nominated for high office. Committee after committee has said he was entitled to be promoted, and was entitled to be Attorney General of the United States. Shall the Senate of the United States now say that when he has reached the pinnacle of his career by reason of his ability he shall not have that career filled out so that his country may have the benefit of his courage, his clear-sightedness, and his ability? His ability is established. What more do we want? If there was anything in the Kansas City cases, it certainly would reflect upon the committees of the Senate to say that they had not brought it out. But no committee has, up to this time, brought out any report condemnatory of Tom Clark.

I say to my colleagues that I never saw a more zealous, more ambitious, more determined prosecution than that which was conducted by the able Senator from Michigan [Mr. FERGUSON] in the Kansas City case. If Senators do not think the Senator from Michigan goes to the bottom of things and digs up everything there is to be dug up, then they do not know the Senator from Michigan as I do, because I have served with him on subcommittees. He is not only an able prosecutor, but he is an ambitious prosecutor, and he put forth everything he had in his ability to try to find something upon which the committee, of which he was a member, and which was under the control of the dominant party at that time, could bring a resolution condemnatory of the action of Tom Clark. The committee did not do it. The Senate did not do it. I hope the Senate of the United States, following the example of the Judiciary Committee, which went into this matter zealously and carefully, will vote in his favor. The best meeting of the committee I have ever had since I have been chairman of it was during the hearings on Tom Clark. There is not a thing that can be said against Tom Clark, excepting that he fearlessly prosecuted those who should be prosecuted, and that he fearlessly put the law into full force and effect.

It is said that there is something besmirching his character, growing out of the parole of gangsters. The parole of prisoners from a Federal penitentiary does not rest with the Attorney General of the United States; it rests with the Parole Board, a legally constituted Board. That Board passed on the parole. Its record is one which can be looked into by anyone.

The same is true with reference to the establishment of subversive organizations in this country. One may read the record of Tom Clark, and it will be found in every case that he carried out the law and the Executive orders wherever they should have been carried out.

Tom Clark and I have had our differences. One who differs must admire his adversary. I admire Tom Clark immensely. I hope his nomination will be confirmed by a unanimous vote.

Down deep in the heart of my good friend from Michigan I think there is lurking a feeling that he, too, would like very much, if he could, to make the vote unanimous, because it should be unanimous. The Senator from Michigan is too big, too powerful, and too able a man to let his personal feelings enter into this question in any sense of the word. I should like to see him stand on the floor of the Senate today—and if he will, I think he will stand as a tower of strength in this country—and say, "I join in the confirmation of the nomination of Tom Clark."

Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I shall vote for the confirmation of Mr. Clark for the high position to which he has been named by the President. I shall do so without any reluctance. I shall do so gladly. Of all the members of the President's official family, of all those who are at the head of agencies and departments of Government in Washington, I have had no more pleasant association than I have had with Tom Clark. There is no one in Government in whom I have more confidence with respect to ability and integrity than I have in Tom Clark.

I had not felt it necessary to say anything; I assumed that his nomination would be confirmed practically unanimously. I rose only to make the statement that I would support him, and because I understand some reference has been made in debate to the action of the investigation subcommittee of the Committee on Expenditures in the Executive Departments regarding an investigation conducted in executive sessions in connection with the Kansas City election case. I was a member of that subcommittee, the senior member on the minority side. The subcommittee was composed of seven Senators. Immediately after the Reorganization Act went into effect and the committee was constituted, request was made to investigate the Kansas City election frauds. This committee was constituted after the Judiciary Committee had carried on its investigation for some time and had voted adversely and had refused to make unfavorable recommendation. Therefore we were requested to go back over the ground and cover it again. After holding executive hearings for some time—I do not remember how many meetings there were, but there were quite a number—the question came up as to whether anything had been uncovered in the executive sessions to warrant holding public hearings. That was debated by the subcommittee, composed of four members of the Republican Party and three members of the Democratic Party. After a full debate in the subcommittee, the subcommittee voted 5 to 2 against holding public hearings. There were three Democratic

votes and two Republican votes. An appeal was taken to the full committee from the decision of the subcommittee. I am not positive about the vote in the full committee, but I know the full committee sustained the action of the subcommittee. Therefore no public hearings were held.

I can say from the record that, in spite of all the effort made in these executive hearings, nothing was developed which warranted public hearings. There was nothing developed further of any substantial nature than what had already been rehashed in the press as a result of the investigation conducted by the Committee on the Judiciary.

Therefore, Mr. President, I shall vote for the confirmation of Tom Clark without any hesitation, without any reluctance whatsoever. I believe he will grace the Court. I believe he will distinguish himself there, just as he has in other positions of public trust.

I join with the Senator from Nevada; I should like to see the vote made unanimous. Tom Clark has earned it. He merits this recognition. He has met his responsibilities. He merits the continued confidence of the Senate of the United States and the people of the United States.

Mr. McCARRAN. Mr. President, I assign 10 minutes to the Senator from Michigan.

Mr. FERGUSON. The Senator from Michigan does not desire 10 minutes at this time.

Mr. McCARRAN. I respectfully suggest that the affirmative should have the right to close the debate. The Senator should assign the time or take the time at this moment.

Mr. FERGUSON. The Senator from Michigan does not desire to take or assign the time at present.

Mr. McCARRAN. Mr. President, how much time has our side?

The PRESIDING OFFICER. The Senator from Nevada has 16 minutes, the Senator from Michigan has 10 minutes.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Washington will state it.

Mr. MAGNUSON. Under the unanimous-consent agreement for a vote at 3:30 o'clock, is there any reason why we should not vote prior to 3:30, or must the vote be taken at that exact time?

The PRESIDING OFFICER. The definite agreement was that the vote would be taken at 3:30 o'clock. The Parliamentarian advises the Chair that another unanimous-consent agreement, to vote prior to that time, can change the order.

Mr. McCARRAN. Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CONNALLY. Mr. President, it is a most unusual procedure, it seems to me, after the Senator from Michigan takes all the time he wants, for him to put on a sit-down strike and deny the proponents of the nomination the right to close the debate. I think that is most unusual. Here in the Senate we have rules and things of that kind, but we also have codes of conduct toward each other which signify fairness, good will, and the like. I am surprised that such a consideration does not obtain at the moment.

Mr. President, I do not wish to take much of the time of the Senate on the question of the nomination of Tom C. Clark to be an Associate Justice. I have known Mr. Clark for a good many years. He comes of a distinguished family. His father, a resident of Dallas, Tex., was a great lawyer. He was an especially great trial lawyer. The deceased brother of Tom Clark, an older brother, was a very able lawyer. He was killed in an airplane accident near Nashville, Tenn., some years ago.

Tom Clark is a graduate of the University of Texas, in the literary or academic department. He is also a graduate of the law department of the University of Texas. Prior to going to the University of Texas he spent 1 year at the Virginia Military Institute, which is well known for its scholarship and training.

Mr. Clark was at one time an assistant district attorney in Dallas County, having charge of civil matters, matters before commissioners courts, civil cases affecting the district attorney's office, injunctions, and cases of the kind. He made a very exceptional record.

Mr. Clark was assistant to Hon. William McCraw, who some years afterward became a candidate for Governor of our State. Prior to that he was attorney general of Texas.

In the great catalog of crimes Mr. Clark is alleged to have committed, something like a grand jury indictment under nearly all the articles of the penal code, one of the charges was blown out of the water, namely, that after William McCraw became attorney general of Texas, Tom Clark, who had been his former partner, had exerted undue influence on the attorney general of Texas and had made a great deal of money, or, at any rate, had increased his income. That was investigated. There was a State senate investigation. My colleague has referred to that already, but I wish to refer to it again for a moment.

I hold in my hand the original letters signed by Joe L. Hill. Joe L. Hill was a State senator, very active in this investigation, which was very largely political. McCraw was candidate for Governor, and some of the other candidates' friends were seeking to discredit him. I wish to read what Joe Hill, who was the prosecutor in this investigation, said. The letter is addressed to W. H. Clark, Jr., who was the brother of Tom Clark, and who, as I said a while ago, was killed in an airplane accident near Nashville.

DEAR MR. CLARK: As a member of the senate general investigating committee which made an investigation of the operation of several State departments in the years 1935 and 1936, I am pleased—

The letter was written in 1941, prior to the appointment of Tom Clark as Attorney General—

I am pleased to confirm to you in this manner that such investigation and the evidence thereat constituted, in my opinion, no basis—

No basis, Mr. President. Not any kind of a basis; not a political basis, not a flimsy basis, not an odorous basis from an odorous source—

no basis for any charge or complaint, either normal or legal, against the conduct of your brother, Tom C. Clark.

Mr. President, my colleague has already read to the Senate a letter from Representative POAGE, who sits at the other end of the Capitol, who was the chairman of the committee in question, and in it he said there was nothing shown to the discredit of Mr. Clark. Clark was a private citizen. He was simply a lawyer. No basis was shown to the committee for any charge of any wrong having been done by Mr. Clark, either morally or legally. Yet that old charge is drawn across the Senate Chamber as a reason why the nomination of Tom Clark to be Associate Justice of the Supreme Court should not be confirmed.

I am reminded that Mr. Clark has been before the Senate Committee on the Judiciary on several occasions. He was first before that committee of the Senate when he was appointed Assistant Attorney General on March 22, 1943. Who voted to confirm his appointment? The record I have is that he received a unanimous vote. Is that correct, I ask the Senator from North Dakota?

Mr. LANGER. That is correct.

Mr. CONNALLY. He received a unanimous vote in the Committee on the Judiciary for appointment as Assistant Attorney General in charge of antitrust prosecutions. Senators who voted favorably were the late Senator Van Nuys of Indiana, the senior Senator from Texas, the Senator from Arizona [Mr. MCFARLAND], and the junior Senator from Michigan [Mr. FERGUSON]. The junior Senator from Michigan was on the Committee on the Judiciary, and when Tom Clark was appointed Assistant Attorney General to prosecute trusts, the junior Senator from Michigan voted for his confirmation. He did not vote against confirming him. He did not say, "What about that situation down there in Texas?" He did not say, "What about this, and what about that, and what about the other?" He voted to report favorably his nomination to be Assistant Attorney General.

O, Mr. President, Tom Clark must have done many things between that time and the time he was appointed Attorney General. Let us see when that happened. He was before the Committee on the Judiciary on June 13, 1945, when he was appointed Attorney General. Who voted to report his nomination favorably? The Senator from Nevada [Mr. MCCARRAN], the Senator from Wisconsin [Mr. WILEY], the Senator from South Dakota [Mr. LANGER], and the Senator from Michigan [Mr. FERGUSON]. The junior Senator from Michigan voted to report his confirmation favorably as Attorney General in 1945, when rumors and stories were flying around concerning all these terrible crimes he had committed. Why did the Senator not vote against Tom Clark and stop him right there? Well, the Senator did not vote to do so, and I am very glad he did not.

Mr. President, Tom Clark was originally appointed to the Department of

Justice as an attorney, not as an Assistant Attorney General, but as an attorney. They have such positions in the Department. I know about that appointment, because I recommended him for the position. He was appointed and came to Washington and assumed a very humble and more or less obscure position in the Department of Justice. But he did not stay in that position. As soon as his abilities and his character became known to his superiors he was promoted. Most Senators know Joe Keenan, who used to be in the Department of Justice. Something like a month or two months after Mr. Clark was appointed, Mr. Keenan came to me voluntarily and said to me, "I want to thank you for recommending young Clark to the Department." He said, "He is one of the most capable men who has come to us in a very long time." He did not come in there with considerable pressure behind him or a great deal of political influence or anything of that kind.

I have another letter in my hand. In 1943 I wrote Mr. Biddle a brief note suggesting the availability of Mr. Clark to head the Antitrust Division. General Biddle answered under date of January 19, 1943, as follows:

DEAR SENATOR CONNALLY: I appreciate your expressing in a letter what you said to me on the telephone on Saturday about the availability of Tom Clark to Thurman Arnold's position. Tom is really first rate and has been doing a good job in everything he is undertaking. I do appreciate your—

And so on and so on—

(Signed) FRANCIS BIDDLE.

Tom Clark was subsequently appointed to head the Antitrust Division. I thought he was a good man for that position. Attorney General Biddle thought he was a good man for it. The junior Senator from Michigan thought he was a good man for it, because he voted to confirm him to that position. There was almost unanimous agreement respecting Tom Clark's availability for the position.

Mr. President, of course, later on Tom Clark made a distinguished record in the position of Assistant Attorney General. He prosecuted a great many cases.

Mr. McCARRAN. I suggest the Senator from Texas take as much time, from that which is left to the proponents, as he wants to.

Mr. CONNALLY. As I understand, I have 16 minutes. I should like to have some time to answer the junior Senator from Michigan after he shall have concluded. It is bad enough to have slop thrown all over my friend Tom Clark. I do not want any thrown on myself, if I can help it.

Mr. President, this Texas matter I believe can be forgotten, because nothing came of it whatever. Tom Clark's income was made the subject of attack. He went before the committee of the legislature and explained every large fee he had received. It seemed to have made some persons mad that a lawyer should have been able to make a good and honest living. Among his fees was a contingent fee of several thousand dollars in connection with an oil case. The fee was contingent. He did not receive the money until after his partner, McCraw, had become attorney general. But he had bought out his partner when his partner was elected attorney general. Clark then took over the assets and paid his former partner a fixed sum, so that fee went to him, of course.

He received another fee in a title case, a land case. His fee was $15,000. He explained that to the committee.

Some mention was made on the floor of the Senate by the junior Senator from Michigan about the Petroleum Council. There was an organization in Texas called the Petroleum Council. That council employed Mr. Clark as one of its attorneys. It employed other attorneys. He was one of the attorneys for the council. There was nothing illegal about it. He was not charged with any crime. It was to the interest of that organization to look after violations of the "hot oil" law. It wanted to prosecute hot oil operations, because they hurt the price of oil. When there is illegal production and operation, it adversely affects the price of oil.

Mr. Clark explained all these fees to the committee, and there was not a blemish on any of them implying dishonor or illegality. They were legitimate.

He received another fee of $10,000, which he reported and explained. There was also a $5,000 fee from an estate, which the court approved by formal order. And yet the implication was that the money which he received was money which he used to influence his former partner.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCARRAN. Mr. President, has the time of the proponents expired?

The PRESIDING OFFICER. It has.

Mr. FERGUSON. Mr. President, I am glad to yield 5 minutes to the Senator from Texas.

Mr. CONNALLY. Mr. President, I do not care for 5 minutes unless I have the last 5 minutes. I thank the Senator from Michigan very much. I wish he were as considerate of the present Attorney General, and the prospective member of the Supreme Court, as he is of me.

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

The PRESIDING OFFICER. The Senator from Michigan [Mr. FERGUSON] has the floor.

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

Mr. FERGUSON. I decline to yield at this moment. I wish to say a few words.

Mr. McCARRAN. The Senator from Michigan has not yet addressed the Chair, and does not have the floor.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the Senator from Michigan has 10 minutes more.

Mr. CONNALLY. He had yielded 10 minutes, but he was not recognized.

Mr. FERGUSON. Mr. President, it is my understanding that the Senator from Nevada does not have time within which to suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that under the agreement the Senator from Michigan has the floor for 10 minutes.

Mr. FERGUSON. Mr. President, the Senator from Michigan merely wishes to review a few facts at this time.

It has been said here that the Senator from Michigan has on two previous occasions voted for Mr. Clark, to be Assistant Attorney General, and to be Attorney General. That is correct. The matters before the Senator from Michigan at that time, and the offices for which Mr. Clark was nominated, were such that the Senator from Michigan was not convinced that at that time he should vote against him. But he is firmly convinced now. There is no question in his mind as to his duty at this time, considering the matters now before him and the nature of the office to which Mr. Clark has been nominated. These matters have arisen since the time Mr. Clark became Attorney General.

It has been said that the Senator from Michigan could have corresponded with Mr. POAGE, a Representative in Congress from Texas. That would have been rather idle, because the report itself states:

The committee as originally composed consisted of W. R. Poage, chairman, T. J. Holbrook, W. B. Collie, Tom DeBerry, and Joe L. Hill. Due to the fact that W. R. POAGE was elected to Congress and had to leave the State before the drafting of the entire report was completed, he did not participate in the drafting of the oil and gas section of the report, nor was he present when this portion was adopted by the committee.

It is also indicated by a letter from Mr. Hill that nothing was wrong. Mr. Hill, as chairman, has since submitted the report, which has gone into evidence.

There were other more serious matters which took place after Mr. Clark assumed office as Attorney General. It was clear to the Senator from Michigan that he had a right to request the appearance of Mr. Clark before the committee. It is not a usual thing for a member of a Senate committee to do so. But the junior Senator from Michigan was not the only member of the committee who requested it. The Senator from Missouri [Mr. DONNELL] also desired to ask questions of the appointee. As I say, it is unusual. Still, it appears from the RECORD that the Senator from Maryland [Mr. TYDINGS], who has made an argument today in favor of Mr. Clark, was given the privilege of bringing before the committee Mr. Jackson, and he was permitted to question Mr. Jackson, although the Senator from Maryland was not a member of the Committee on the Judiciary.

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

Mr. FERGUSON. I yield.

Mr. TYDINGS. I wish to say to the Senator from Michigan that the reason the Senator from Maryland made that request was that Mr. Jackson had taken some part in a case in which the Senator from Maryland was directly interested, and in the opinion of the Senator from

Maryland had frustrated the workings of justice.

Mr. FERGUSON. I have read the Senator's address to this distinguished body.

Mr. TYDINGS. On the occasion when Mr. Jackson was before us, there was involved a personal matter in which the Senator from Maryland was interested, and which he wished to call to the attention of the Judiciary Committee in connection with some action by Mr. Jackson.

Mr. FERGUSON. I understand; and the able Senator spent considerable time on this floor opposing Mr. Jackson.

Mr. TYDINGS. I am still opposing him.

Mr. FERGUSON. It is not an unusual thing for a Senator who has convictions to oppose the nomination of a man to the United States Supreme Court. The Senator from North Dakota [Mr. LANGER] opposed Mr. Rutledge upon this floor. So it is not unusual.

It is in fact fitting. I go back to the Constitution. The Constitution provides that the President may nominate and, only with the advice and consent of the Senate, appoint. That is the crucial point here. The Constitution requires Members of the Senate to give their advice as well as consent prior to an appointment. I realize that the Committee on the Judiciary has seen fit to report the nomination by a vote of 9 to 2. But I am talking about the practice. And I wish to comment upon what sometimes happens in committees. I am familiar with what happened in the Committee on Labor and Public Welfare.

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

Mr. FERGUSON. I yield.

Mr. TAFT. I wish to say that I think it is an outrage that the Judiciary Committee refused, at the request of a member of the committee, to call a nominee before the committee. In every committee of which I have been a member the committee always accorded the right to any member of the committee to call a man before the committee in order that he might be questioned. I think the procedure is exactly like that of which I complained in the Committee on Labor and Public Welfare, when we were denied even the opportunity to offer an amendment to the repeal bill which was before that committee. I think it is a procedure in committee which is utterly unjustified.

If I were ever the chairman of a committee I would insist than a man nominated by the President of the United State should be compelled to come before the committee to be questioned by any member of the committee. I think the action of this committee was arbitrary and outrageous; and I think that alone justifies a vote against Mr. Clark to be a member of the Supreme Court.

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

Mr. FERGUSON. I yield.

Mr. McCARRAN. What would the Senator from Ohio do if a preferential motion were made? Would he put the motion or not?

Mr. TAFT. I would rule the motion out of order. In my opinion, before a motion is made to report a bill or a nomination, all the preliminary matters should be disposed of first. In my opinion any member of the committee should have the right to offer an amendment to a bill or to offer an amendment relating to procedure before the committee, before a vote is taken on the question of reporting a bill or a nomination.

Mr. McCARRAN. What would the Senator do, then, if the committee overruled his action?

Mr. TAFT. I would criticize the committee, as I am now criticizing the committee.

Mr. McCARRAN. Very well; but do not criticize the chairman for putting the motion.

Mr. FERGUSON. Mr. President, I think the record is clear that the chairman of the Judiciary Committee voted for the motion to report the nomination to the Senate, and therefore did not see fit to support the members of the committee who were requesting the right to examine the nominee.

Mr. President, these are serious charges that I bear against Tom Clark. This man, as Attorney General, ordered the stripping of files, and he directed the furnishing to a committee of the Senate a file which did not have all the papers in it. Yet Senators are not permitted to ask questions about it. The file was changed, and the Attorney General knew it. Serial numbers were changed; yet we are denied the right to question the man whose nomination is now before us. That is why I say that this procedure is not steam-rollering. It was a guided missile which sent the nomination to the Senate. The Senator from North Dakota made the motion in good faith, but he knew that his motion took precedence.

When the Senator from Missouri suggested that he would withdraw his motion and would offer it as an amendment to the other motion, in order to get a vote on the question of calling the nominee before the Senate, that was denied; and the committee immediately voted on the motion to report the nomination, and the nomination was reported to the Senate.

Mr. McCARRAN. Was any appeal taken from the ruling of the chairman of the committee?

Mr. FERGUSON. No appeal could be taken.

Mr. President, this matter is not a personal one with the junior Senator from Michigan. His conscience dictates that he take this position.

I say to the Senator from Nevada that, according to my conscience, I cannot do other than I have done on this floor today. I want the Senator from Nevada to understand that the junior Senator from Michigan is entirely sincere in this matter.

The PRESIDENT pro tempore. The hour of 3:30 p. m. having arrived, all time has expired.

The question is, Will the Senate advise and consent to the nomination of Tom C. Clark to be an Associate Justice of the Supreme Court of the United States?

Mr. FERGUSON and other Senators requested the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. MYERS. I announce that the Senator from California [Mr. DOWNEY] is necessarily absent.

The Senator from North Carolina [Mr. HOEY], the Senator from Illinois [Mr. LUCAS], and the Senator from Rhode Island [Mr. MCGRATH] are absent on public business.

The Senator from Louisiana [Mr. LONG] is absent by leave of the Senate.

The Senator from Idaho [Mr. TAYLOR] is detained on official business.

I announce further that if present and voting, the Senator from California [Mr. DOWNEY], the Senator from North Carolina [Mr. HOEY], the Senator from Illinois [Mr. LUCAS], the Senator from Rhode Island [Mr. MCGRATH], and the Senator from Louisiana [Mr. LONG] would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. AIKEN] and the Senator from Nebraska [Mr. BUTLER] are absent by leave of the Senate. The Senator from Vermont and the Senator from Nebraska have a general pair.

The Senator from Connecticut [Mr. BALDWIN], the Senator from Iowa [Mr. HICKENLOOPER], and the Senator from Kansas [Mr. REED] are absent by leave of the Senate. If present and voting, the Senator from Iowa [Mr. HICKENLOOPER] would vote "yea."

The Senator from Maine [Mr. BREWSTER] and the Senator from New Hampshire [Mr. TOBEY] are necessarily absent.

The Senator from Wisconsin [Mr. MCCARTHY] and the Senator from Kansas [Mr. SCHOEPPEL] are detained on official business.

The result was announced—yeas 73, nays 8, as follows:

YEAS—73

Anderson	Holland	Morse
Bricker	Humphrey	Mundt
Bridges	Hunt	Murray
Byrd	Ives	Myers
Cain	Jenner	Neely
Capehart	Johnson, Colo.	O'Conor
Chapman	Johnson, Tex.	O'Mahoney
Chavez	Johnston, S. C.	Pepper
Connally	Kefauver	Robertson
Cordon	Kerr	Russell
Douglas	Kilgore	Saltonstall
Dulles	Knowland	Smith, Maine
Eastland	Langer	Smith, N. J.
Ecton	Lodge	Sparkman
Ellender	McCarran	Stennis
Frear	McClellan	Thomas, Okla.
Fulbright	McFarland	Thomas, Utah
George	McKellar	Thye
Gillette	McMahon	Tydings
Graham	Magnuson	Wherry
Green	Malone	Wiley
Gurney	Martin	Withers
Hayden	Maybank	Young
Hendrickson	Miller	
Hill	Millikin	

NAYS—8

Donnell	Kem	Watkins
Ferguson	Taft	Williams
Flanders	Vandenberg	

NOT VOTING—15

Aiken	Hickenlooper	McGrath
Baldwin	Hoey	Reed
Brewster	Long	Schoeppel
Butler	Lucas	Taylor
Downey	McCarthy	Tobey

So the nomination was confirmed.

Mr. CONNALLY. Mr. President, I ask that the President be notified forthwith of the confirmation of this nomination.

The PRESIDENT pro tempore. Without objection, the President will be notified forthwith of the confirmation.

Mr. O'CONOR. Mr. President, I ask unanimous consent to have printed in the RECORD following the vote on the confirmation of the nomination of Mr. Clark a statement prepared by me, which, except for the limitation of time, I would have delivered.

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

The most vigorous opposition to the confirmation of Attorney General Clark as a Justice of the Supreme Court has come from Communists and from their fellow travelers. Our Judiciary Committee held sessions for 3 days and every witness who presented himself to be heard was given full opportunity to state facts and opinions.

I came away convinced that there was no basis for any protest against his appointment by any right-thinking, loyal citizen. On the contrary, every word that was uttered, when analyzed, proved that Tom Clark has made one of the greatest of the Attorneys General in the history of this Nation, that he has been conscientious and fearless, and has conducted the affairs of the Department of Justice so as to merit the gratitude and the praise of the American people.

The President's loyalty program, for instance, was condemned bitterly by some of the witnesses, and the Attorney General was singled out for criticism. That program was a gigantic undertaking. It is designed to make as certain as possible that subversive elements are removed from Government service. The Government not only has a right but it is its duty to see to it that its employees are loyal to it and to the Constitution and laws of this country. The program is not perfect. Nobody could expect it to be. Maybe some mistakes have been made and more will be made in the future. But nobody produced proof that Attorney General Clark was responsible for any of the mistakes.

What did appear was that he carried out the plans drafted by the best qualified persons whom the President could obtain, and that the Attorney General did his utmost to make sure that constitutional rights and privileges were safeguarded, that there were no witch hunts, and that within limited facilities he has achieved remarkable results in the preservation of the Nation's internal security.

Tom Clark has been both vigilant and vigorous in the effort to preserve our free institutions of Government against those who would infiltrate our democracy with foreign ideologies. Those who came to condemn him proved to me, and I believe to other members of the committee, that the Attorney General has never received the recognition he deserves for his great services, not only as a protector of the Bill of Rights but also for giving increasing vitality to the rights of all people guaranteed by our Constitution.

The character of the witnesses in opposition before the Judiciary Committee is a badge of honor which Attorney General Clark is entitled to wear for all the world to see. All of these critics do not appear to be vicious. They are uninformed and misguided, the dupes of others more clever and more designing. But some of them, of course, know exactly what they are doing and why. They are against every fine, upright, able public servant who strives to maintain and preserve our form of government.

Much stress is laid upon the fact that the Attorney General was not summoned before the committee. Apart from the fact that every member of the committee is thoroughly acquainted with Mr. Clark and his work, because in the everyday functioning of our committee almost continuous communications and conferences are carried on by the committee or its staff with the Justice Department, yet another fact should be kept in mind. It is not the usual practice to examine nominees for the Supreme Court of the United States.

The Senator who sought to question Attorney General Clark summoned no witnesses before the committee, and filed no information which might be a basis for inquiry. Nothing new was said involving any acts of the Attorney General which had not been investigated time and again by previous Senate committees. Nothing new, except the detailed information supplied by opposition as to how careful and vigilant he has been to protect this country and particularly the Government service from subversive influences.

The critics of other days who thought, or said they thought, he was not vigilant enough must be confounded by the testimony of the opposition witnesses.

I hope the Senate will proceed to confirm this great public official as a justice of the Supreme Court by an overwhelming vote.

NOMINATION OF J. HOWARD McGRATH TO BE ATTORNEY GENERAL OF THE UNITED STATES

The PRESIDENT pro tempore. The clerk will will state the next nomination on the calendar.

The Chief Clerk read the nomination of J. HOWARD MCGRATH, of Rhode Island, to be Attorney General of the United States.

The PRESIDENT pro tempore. Is there objection to the nomination?

Without objection——

Mr. GREEN. Mr. President, I wish to pay a brief tribute to my colleague.

My association with Senator McGRATH, whom the President has nominated as Attorney General of the United States, dates back many years. He succeeded me as chairman of the Democratic State Committee in Rhode Island in 1930. He later was appointed by President Roosevelt as United States attorney for the district of Rhode Island, and held that office for many years, until he resigned in 1940 to accept the democratic nomination for Governor of Rhode Island. Because of that resignation, many of his friends in Rhode Island refer to him as the first victim of the Hatch Act.

It was my happy privilege to nominate Senator McGRATH for Governor at the State convention in Rhode Island in 1940 and to work actively for his election to the State's highest office. His successful administration won the admiration and respect of the people and he was reelected in 1942 and again in 1944.

It was only at the request of President Truman that he resigned the governorship to come to Washington to accept his appointment as Solicitor General of the United States. That he again made good is shown by the high praise given him by the President in accepting his resignation to be a candidate for the United States Senate from Rhode Island. The President at that time said in part, "the superior character of your work entitles you to take rank among the most eminent of your predecessors as a peer of your contemporaries in the legal profession." This, indeed, is high praise, especially coming from the President of the United States.

As Solicitor General of the United States, Senator McGRATH had the invaluable experience of conferring with Members of the United States Senate, of both parties, on matters referred to the Department of Justice. Many Senators have personally told me of their admiration for him and have spoken freely of his excellent service as Solicitor General. Senator McGRATH has again served Rhode Island well in the United States Senate.

This long and varied record of public service shows that he has the ability, the courage, the personality, and the training to make an excellent Attorney General. We in Rhode Island, are proud that the President has selected a native of our State to be the Attorney General. By this selection I lose a close, like-minded colleague here. Rhode Island loses one who has represented it well here. Our country, however, gains by his accepting the position of Attorney General, in which high office we are confident he will again render outstanding patriotic service.

The PRESIDENT pro tempore. Is there objection to the confirmation of the nomination of Mr. McGRATH as Attorney General of the United States? The Chair hears none; the nomination is unanimously confirmed, and without objection, the President will be immediately notified.

Mr. FLANDERS. Mr. President, I am delighted that my old friend, the Senator from Rhode Island [Mr. McGRATH], becomes the new Attorney General. I also wish to say I believe his predecessor, Mr. Clark, will make an excellent judge. I voted against his confirmation because it was the only way I could find in which to express my dissatisfaction with the procedure of the Committee on the Judiciary. I want that on the record. My dissatisfaction is profound, indeed, and I regret it had to be expressed in that way.

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

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Texas?

Mr. FLANDERS. I yield.

Mr. CONNALLY. In other words, is the Senator from Vermont punishing Mr. Clark for what he considers to be the misdeeds of the committee?

Mr. FLANDERS. I have taken similar action on more than one occasion.

Mr. CONNALLY. I did not ask about previous occasions.

Mr. FLANDERS. I found no other way of expressing dissatisfaction than by action of this kind. When I feel as deep dissatisfaction as I do, I am going to express it by the only means at my command.

Mr. CONNALLY. I am not asking the Senator what he may have done elsewhere. The Senator can tell about what he has done. But now, on the floor of the Senate, the Senator is vetoing the appointment of Mr. Clark, because the Senator does not like something which the committee did; is that not true?

Mr. FLANDERS. Mr. Clark——

Mr. CONNALLY. Is that true or not?

Mr. FLANDERS. I did not veto it. No, it is not true.

Mr. CONNALLY. The Senator did his best to veto it.

LEAVE OF ABSENCE

Mr. MAYBANK. Mr. President, I ask unanimous consent to be absent from the remainder of the session of the Senate this afternoon and tomorrow. I remained in the Chamber in order to have the pleasure and privilege of voting for the distinguished Attorney General.

The PRESIDENT pro tempore. Without objection, leave is granted.

LEGISLATIVE SESSION

Mr. MYERS. Mr. President, I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to, and the Senate proceeded to the consideration of legislative business.

ENROLLED JOINT RESOLUTION SIGNED DURING RECESS

Under authority of the order of the Senate of the 17th instant,

The PRESIDENT pro tempore announced that on today, August 18, 1949, he signed the enrolled joint resolution (H. J. Res. 339) amending an act making temporary appropriations for the fiscal year 1950, as amended, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

PROHIBITION OF LIQUOR ADVERTISING—PETITION

Mr. CAPEHART. Mr. President, on July 23, 1949, I received a letter from Anna Nancy Thomas, director of the department of legislation of the Grant County Woman's Christian Temperance Union, of Marion, Ind., enclosing a petition signed by 2,521 citizens in that community, remonstrating against the transportation of alcoholic-beverage advertising in interstate commerce and the broadcasting of alcoholic-beverage advertising over the radio. I ask unanimous consent that the letter, my reply thereto, and the petition be appropriately referred and printed in the RECORD.

There being no objection, the letters and petition were referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the RECORD, as follows:

MARION, IND., *July 23, 1949.*

Hon. HOMER E. CAPEHART,
United States Senator from Indiana,
Senate Office Building,
Washington, D. C.

DEAR SENATOR CAPEHART: Enclosed please find 2,521 signatures of Grant County community citizens to petitions to your honor for relief from an intrusion into the sacred precincts of our homes, where we are trying to bring up a generation of citizens that will be an honor and a bulwark to the State.

We cannot accomplish this as long as the liquor interests are allowed to steal into our homes through radio and press, distorting the minds of our unsuspecting citizens of tomorrow in favor of the use of beverage alcohol.

Please consider this petition as an even twenty-five-hundred-signature appeal, tossing out the 21 names, to more than offset any duplication of names we may have overlooked. You may be hearing from other parts of Grant County within the coming months. We thank you for previous favors.

We hope this appeal gets notice in the CONGRESSIONAL RECORD, and at as early a date as is convenient for you to get it there.

Very truly yours,
DEPARTMENT OF LEGISLATION, GRANT COUNTY WOMAN'S CHRISTIAN TEMPERANCE UNION,
ANNA NANCY THOMAS, *Director.*

PETITION

To our Senators and Representatives in Congress:

We respectfully request that you use your influence and vote for the passage of a bill to prohibit the transportation of alcoholic beverage advertising in interstate commerce and the broadcasting of alcoholic beverage advertising over the radio. The most pernicious effect of this advertising is the constant invitation and enticement to drink. The American people spent $9,640,000,000 for alcoholic beverages in 1947 as compared with $7,770,000,000 in 1945. During the same period there was a corresponding increase each year in crime, juvenile delinquency, broken homes, deaths and injuries due to intoxicated drivers, in the number of alcoholics and also of habitual or heavy drinkers. There is every reason why this waste of money and of human values should not be increased but rather greatly decreased.

JULY 26, 1949.

ANNA NANCY THOMAS,
Director, Grant County Women's Christian Temperance Union,
Marion, Ind.

DEAR FRIEND: I am happy to have the opportunity to reply to your letter of July 23, which was designed to express the views of the 2,500 petitioners concerning the problem of liquor advertising.

During the Eightieth Congress, I was a member of a Senate subcommittee whose duty it was to study the problem of curtailing liquor advertising.

We conducted a series of hearings at which witnesses both for and against such legislation appeared and presented their respective arguments.

In addition to studying the original legislative proposal of curtailing liquor advertising, the committee also studied the problem from the angle of misrepresentations in the ads and also the complaint that advertisements of a distasteful nature were becoming more and more prevalent in magazines and newspapers.

In the course of this study, which continued for many weeks, the question of constitutionality was raised. You know, of course, that the constitutionality of any proposed legislation is a basic requirement. The committee was advised that Congress would be without the constitutional power to deny the advertisement of a legal product, whether it be liquor, bread or shoes.

This turn of events prompted the committee to study the possibility that certain liquor advertisements might be in violation of fair trade regulations. This was gone into thoroughly with the result that while no violations had occurred beyond the department's caution notices, the liquor and beer interests did leave the feeling that they had been sufficiently impressed by the investigation to volunteer more acceptable forms of advertising.

I can agree with you and the petitioners that liquor advertising has, in many instances, gone far beyond the realm of good judgment, but as long as the product is legal and the advertising material remains within the fair trade regulations, I am of the opinion that no legislation can be enacted which will prohibit the advertising.

We have evidence of many newspapers throughout the country which refuse to accept liquor and beer advertising. That is the prerogative of the owner of the newspaper.

At the earliest opportunity, I shall be very happy to have published in the CONGRESSIONAL RECORD your appeal on this matter.

Sincerely,

HOMER E. CAPEHART.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAPMAN, from the Committee on Armed Services:

H. R. 1437. A bill to authorize the composition of the Army of the United States and the Air Force of the United States, and for other purposes; with amendments (Rept. No. 933).

By Mr. McMAHON, from the Joint Committee on Atomic Energy:

S. 2372. A bill to amend the Atomic Energy Act of 1946; with an amendment (Rept. No. 934).

By Mr. HAYDEN, from the Committee on Rules and Administration:

S. Res. 95. Resolution to amend rule XXIX by requiring committee reports on measures repealing or amending a statute to show changes in existing law; without amendment (Rept. No. 935).

BILLS INTRODUCED

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

By Mr. TYDINGS:

S. 2453. A bill to authorize attendance of civilians at schools conducted by the Departments of the Army, Navy, and Air Force, and Joint-Service schools, and for other purposes; to the Committee on Armed Services.

By Mr. CHAVEZ:

S. 2454. A bill for the relief of Arcadio Cardenas, also known as Alcadio Cardenas; to the Committee on the Judiciary.

By Mr. WILEY:

S. 2455. A bill for the relief of Bogdan Wasiel; to the Committee on the Judiciary.

PURCHASE OR LEASE BY AMERICAN CITIZENS OF MINERAL LANDS IN LABRADOR

Mr. BRIDGES submitted the following resolution (S. Res. 156), which was referred to the Committee on Foreign Relations:

Resolved, That it is the sense of the Senate that the President request the Secretary of State to enter into negotiations with the Canadian Government with a view to determining whether an agreement may be reached with such Government whereby citizens of the United States might purchase or lease mineral lands in Labrador, or participate in developing the mineral deposits in such lands.

STRATEGIC AND CRITICAL ORES, METALS, AND MINERALS—AMENDMENTS

Mr. McCARRAN. Mr. President, I submit for appropriate reference two amendments intended to be proposed by me to the committee amendment in the nature of a substitute to the bill (S. 2105) to stimulate exploration for and conservation of strategic and critical ores, metals, and minerals, and for other purposes.

This bill is still pending before the Senate Interior and Insular Affairs Committee; and I have reason to believe that committee action will be forthcoming in the immediate future.

So that the Senators may know what my proposals comprehend, I shall refer

briefly to what I believe my amendments will hope to accomplish in aiding and assisting the Nation's oppressed metal-mining industry.

This Congress is considering a number of mine-aid measures with several taking the price-incentive approach and others the conservation-aid method. The mining industry itself has not for the most part been in agreement with administrative agencies of the Government as to a well-defined and acceptable policy in regard to mines producing strategic and critical metals, namely, copper, lead, zinc, tungsten, manganese, quicksilver, and antimony.

Because of this situation and the urgency for passage of some type of legislation that will aid the mining industry, it appears that S. 2105 is the only assistance measure that will be approved by the administrative agencies and the Congress this year. My personal feeling is that this bill leaves much to be desired. By means of a mineral-conservation board set up with the Secretary of the Interior as its chairman, the metal price structure will be determined in Washington by an administrative officer. Authority will be centered in a single board.

I further understand that S. 2105 has been approved by the Department of the Interior and the Bureau of the Budget as an acceptable compromise mine-conservation-aid bill. The Interior Department Secretary classes the bill as "the best measure yet presented for providing a system of incentives to encourage private industry to explore for and to conserve deposits of strategic and critical mineral resources or other essential mineral resources."

I cannot altogether agree with this viewpoint. However, because of the many important measures still awaiting consideration by the Senate and the announced opposition of the administrative agencies to other mine price-support legislation and the urgent need for some type of assistance for the faltering metal-mining industry, I must support this bill.

Under this bill as it now stands, I feel that the small mining man will be shunted aside by the major mining concerns. Since I do not feel that the administrative agencies will approve mandatory provisions for the inclusion of small mines in receiving governmental contracts of purchase, in my amendments I have tried to spell out what I believe a small metal mine is. I have tried to impress on the proposed mineral conservation board that small mines should come in for Federal assistance.

In the Western States, we have thousands of small properties that have closed down, have curtailed operations, or are awaiting congressional action on an aid bill. It is essential that these properties be maintained on a stand-by status and that they receive assistance in seeking new mineral reserves, which are so vital to our national security—a fact the last war proved beyond any doubt.

Exploratory work would be expedited by direct-cost payments while the conservation of strategic and critical metals would be aided by governmental contributions to costs. No provision is included for a net profit for the producer in the bill as it stands.

In my amendment I have defined a small base metal mine to mean "a mine producing lead, zinc, or copper ores, or ores containing a combination of such metals, or a project for the exploration for such ores, if the average estimated monthly production thereof in metal content of lead, zinc, and copper combined does not exceed 120 tons."

I have further provided that Federal assistance in the case of a project for exploration with respect to a small base-metal mine shall be provided on a basis of a dollar for dollar with the operator putting up $1 to every $1 provided in Federal funds, or a ratio of not less than 1 to 1. I have further declared that exploration in the case of a small base-metal mine will include all work preparatory to production and all underground work other than stopping. To further assist the small miner, who is so important to the economy of the West, I am urging that in the computation of costs adequate allowance shall be made for depreciation and depletion.

Our domestic mining industry is in a desperate condition, largely because of present reduced tariff rates and heavy purchases of cheaply produced foreign metals. Our small mines are the core of the mineral industry, and it is for the small mining man that I urge favorable consideration of my views.

Some weeks ago 21 other Senators from the Western States joined with me in the sponsorship of S. 2320, a measure designed to aid the producers of the top wartime strategic metals—tungsten, manganese, antimony, and quicksilver. This plan is based on a formula allowing current tariff receipts on imported metals to be divided among domestic producers in proportion to their production of each metal.

It seems highly improbable that committee action will be forthcoming on this measure before this session ends. However, it is my intention to seek favorable consideration of this legislation early in the next session at a time when its many advantages can be explained in greater detail.

I ask unanimous consent that the amendments be printed in full in the RECORD.

The PRESIDENT pro tempore. The amendments will be received and referred to the Committee on Interior and Insular Affairs, and, without objection, printed in the RECORD.

There being no objection, the amendments were referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

On page 9, line 20, change the semicolon to a colon and add the following proviso: *Provided*, That in the case of a project for exploration with respect to a small base metal mine, such ratio shall be not less than 1 to 1.

On page 15, line 19, change the period to a semicolon and add the following: "and in the case of a small base metal mine, includes all work preparatory to production, and all underground work other than stoping."

On page 16, following line 7, insert the following new subparagraph:

"(g) 'Small base metal mine' means a mine producing lead, zinc, or copper ores, or ores containing a combination of such metals, or a project for exploration for such ores, if the average estimated monthly production thereof in metal content of lead, zinc, and copper combined, does not exceed 120 tons."

In line 8, strike out "(g)" and insert "(h)."

On page 9, line 13, change the semicolon to a colon and add the following proviso: *Provided*, That in the computation of such costs, adequate allowance shall be made for depreciation and depletion.

EXCHANGE OF CERTAIN NAVAJO TRIBAL INDIAN LAND—HOUSE BILL PLACED ON THE CALENDAR

Mr. O'MAHONEY. Mr. President, there has been sent to the Committee on Interior and Insular Affairs House bill 5390, an act to authorize the Secretary of the Interior to exchange certain Navajo tribal Indian land for certain Utah State land. I find on examination that the bill is identical with Senate bill 2140, which is now on the Calendar of the Senate, Calendar No. 919.

Therefore, on behalf of the Committee on Interior and Insular Affairs, I ask unanimous consent that the committee may be discharged from further consideration of House bill 5390, and that it may be placed upon the calendar for consideration when the Senate bill is reached on the calendar.

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

FIRST ANNIVERSARY OF THE REPUBLIC OF KOREA—STATEMENT BY PRESIDENT SYNGMAN RHEE

[Mr. TYDINGS asked and obtained leave to have printed in the RECORD a statement by President Syngman Rhee, of the Republic of Korea, on the first anniversary of the proclamation of the Republic, August 15, 1949, which appears in the Appendix.]

RECORD OF THE FIRST SESSION, EIGHTY-FIRST CONGRESS—EDITORIAL FROM THE NEW YORK JOURNAL AMERICAN

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an editorial entitled "Mr. Truman's Congress" from the New York Journal American, which appears in the Appendix.]

PRIVATE ENTERPRISE REGAINED—ARTICLE FROM NEWSWEEK

[Mr. BRIDGES asked and obtained leave to have printed in the RECORD an article entitled "Private Enterprise Regained," from Newsweek of June 27, 1949, which appears in the Appendix.]

ALLEGED CONVERSATION REGARDING POSTMASTER APPOINTMENT AT TACOMA, WASH.

[Mr. CAIN asked and obtained leave to have printed in the RECORD an excerpt from the Merry-Go-Round column, published in the Washington Post relative to a conversation alleged to have taken place between him and Senator MAGNUSON, which appears in the Appendix.]

ACCOMPLISHMENTS OF TURKEY

[Mr. CAIN asked and obtained leave to have printed in the RECORD a broadcast from Istanbul on July 25, 1949, by Henry J. Taylor relative to what Turkey has done as a nation, with limited assistance which the United

States has provided, which appears in the Appendix.]

LEAVES OF ABSENCE

Mr. ROBERTSON asked and obtained consent to be absent from the session of the Senate tomorrow.

Mr. CAPEHART asked and obtained consent to be absent from the session of the Senate tomorrow.

Mr. THYE asked and obtained consent to be absent from the sessions of the Senate beginning Friday, August 19, until Thursday morning of next week.

COMMITTEE MEETING DURING SENATE SESSION

On request of Mr. TYDINGS, the Committee on Armed Services was granted permission to meet during the session of the Senate next Monday afternoon.

INTERIOR DEPARTMENT APPROPRIATIONS, 1950

The Senate resumed the consideration of the bill (H. R. 3838) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1950, and for other purposes.

The PRESIDENT pro tempore. The clerk will state the pending committee amendment.

The LEGISLATIVE CLERK. On page 5, after line 9, it is proposed to strike out:

Salaries and expenses, southeastern power marketing: For expenses necessary to carry out the provisions of section 5 of the Flood Control Act of 1944 (16 U. S. C. 825s), as applied to the area east of the Mississippi River, for marketing power produced or to be produced at multiple purpose projects of the Corps of Engineers, Department of the Army; purchase (not to exceed two) and hire of passenger motor vehicles; services as authorized by section 15 of the act of August 2, 1946 (5 U. S. C. 55a); and printing and binding; $70,000.

Mr. HAYDEN. Mr. President, I desire to submit a unanimous-consent request. The pending amendment relates to what is commonly called the Southeastern Power Authority. The debate has been about the Southwestern Power Authority. The Southwestern Power Authority amendments are technically four in number. One of them is on page 6, line 13, to strike out "$4,000,000" and insert "$1,616,115"; in line 14, to strike out "$525,000" and insert "$330,000"; and in line 21, to strike out "$5,000,000" and insert "$2,257,905"; and on page 7, to strike out, after line 3, to and through line 22. I ask that those four amendments be voted upon en bloc.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. HILL. Mr. President, reserving the right to object, I do not see the distinguished junior Senator from Oklahoma on the floor at this time, but I understand the request is perfectly agreeable to him.

Mr. HAYDEN. It is agreeable to everyone I have talked to. I ask that we temporarily pass over the amendment on page 5, and that the vote, when it is taken, be upon the four amendments, en bloc.

The PRESIDENT pro tempore. Is there objection?

Mr. WHERRY. Mr. President, reserving the right to object, it is my understanding the unanimous-consent request applies first to the amendment on page 5, to strike out after line 9 to and through line 19.

Mr. HAYDEN. I ask that that be temporarily passed over.

Mr. WHERRY. Am I correct in understanding that all the amendments which are to be voted upon en bloc pertain to what is known as the Southwestern Power Authority?

Mr. HAYDEN. That is correct.

Mr. WHERRY. Is it agreeable to vote on all those, including the amendments on page 6, in lines 13 and 21?

Mr. HAYDEN. The amendments are on page 6, in lines 13, 14, and 21.

Mr. WHERRY. The fourth amendment is, on page 7, to strike out after line 2, to and through line 22; is that correct?

Mr. HAYDEN. The amendment proposes to strike out the text beginning in line 3; that is correct.

Mr. WHERRY. Mr. President, I have no objection.

AMERICAN FOREIGN POLICY WITH RELATION TO CHINA

Mr. KNOWLAND. Mr. President, there has recently come over the United Press ticker the following statement:

Secretary of State Acheson, in a letter to Representative JOHN DAVIS LODGE (Republican, Connecticut), asked for approval to remove doubts about the sincerity and stability of United States foreign policy.

LODGE wrote Acheson asking him if arms aid to Korea—one of the nations which would share in the program—was more important to national security than aid to China.

Acheson replied that if military assistance to China would be made effective at this time, it would be more important. But he said the administration is firmly convinced that more aid to China is impractical at this time.

Mr. President, I wish to have that appear at this point in my remarks.

I wish to have printed, also, an editorial from the Washington News, headed "General MacArthur's white paper." Also a copy of an article which appeared in the Washington Star of August 16, by Dorothy Thompson, entitled "State Department Officials Involved in China Policy Should Be Removed," and an editorial which appears in Life magazine now on the newsstands, under date of August 22, 1949, entitled "What Next for Asia"? In addition, Mr. President, I wish to have printed at this point in my remarks a copy of a letter which I addressed to the Secretary of State, under date of August 6, 1949, pointing out that inasmuch as the Chiefs of Staff did not visit the Far East as they had visited Europe, General MacArthur and Vice Adm. Oscar B. Badger be summoned to give testimony before the combined Committees on Foreign Relations and Armed Services, so that the benefit of their views might be had, rather than merely having brought to the committee attention a white paper which was biased in support of our "wait until the dust settles" policy. Furthermore, Congress has the right to get the testimony of competent witnesses, rather than being limited to those supplied by the Department involved. I wish to have printed a copy of a letter dated August 9, 1949, which was signed by 10 members of the combined committees now handling the arms implementation bill, together with a copy of a report dated August 12, from Tokyo, in which General MacArthur stated the reasons why he did not feel he could come back to the United States at this time. I wish to quote briefly from this article, and then read a part of his message.

In the article to which I have referred, General MacArthur is quoted as follows:

"Needless to say, it is difficult for me to ignore the heart-warming and friendly overtures to return to my native land, for which it is only natural for me to long just as would anyone else in my circumstances," the general said. "But an impelling sense of duty in a position of highly critical responsibility leaves me with no other recourse."

"It is my understanding that both President Truman and the Secretary of Defense have made it clear that my return in such circumstances is a matter for the exercise of my own judgment in the light of considerations bearing upon the national interest as I evaluate them," MacArthur added.

MacArthur said the Army Department already had on file his views on "the strategic potentialities of the area embracing my Far East command." * * * "There is little that I could add to it," he added.

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

[From the Washington Daily News of August 8, 1949]

GENERAL MACARTHUR'S WHITE PAPER

In declining an invitation to come home and give Congress his views on the China situation, Gen. Douglas MacArthur remarked pointedly that his ideas concerning Pacific policy were "fully on file with the Department of the Army."

The general's views are known to conflict with those of the State Department, so his unwillingness to become involved in a public controversy with the administration is understandable. But his previous recommendations can speak for themselves and he is willing to stand on that record.

The Joint Chiefs of Staff should be called upon to produce and comment on the MacArthur file, for vital questions of national security are involved.

In a cable to the House Foreign Affairs Committee almost a year and a half ago, General MacArthur disposed of most of the confusion revealed by the State Department's 1,054-page white paper in two paragraphs. He said:

"The international aspect of the Chinese problem, unfortunately, has become somewhat beclouded by demands for internal reform. Desirable as such reform may be, its importance is but secondary to the issue of civil strife now engulfing the land, and these two issues are as impossible of synchronization as it would be to alter the structural design of a house while the same was being consumed by flame. The maintenance of China's integrity against destructive forces which threaten her engulfment is of infinitely more concern. For with the firm maintenance of such integrity, reform will gradually take place in the evolutionary processes of China's future.

"The Chinese problem is part of a global situation which should be considered in its entirety. Fragmentary decisions in disconnected sectors of the world will not bring an integrated solution. * * * It would be utterly fallacious to underrate either China's needs or her importance. For if we embark upon a general policy to bulwark the frontiers of freedom against the assaults of political despotism, one major frontier is no less important than another, and a decisive breach of any will inevitably engulf all."

Contrast the calm, penetrating logic of this reasoning with the State Department's fumbling 1,054-page alibi on the same subject.

[From the Washington Evening Star of August 16, 1949]

ON THE RECORD—STATE DEPARTMENT OFFICIALS INVOLVED IN CHINA POLICY SHOULD BE REMOVED

(By Dorothy Thompson)

The headlines have been kind to the white paper on United States-Chinese relations, summarized in Dean Acheson's letter. The New York Times headline: "U. S. Puts Sole Blame on Chiang Regime."

Dean Acheson's letter does not do that, but it marshals every rationalization for a catastrophic failure, with bland assurance that the American people will dismiss it and continue to trust. But it is the policy followed by the State Department, and its Far Eastern Division, which has failed according to its own confession.

POLICY NOT ITS OWN

And whatever one thinks of the Chinese National Government, it cannot be blamed for the failure of a policy which was not its own.

The responsibility rests with Dean Acheson's department, and those subordinates whose activities led to such a disaster obviously should be removed from office. For either the responsible persons deliberately contributed to bring about this catastrophe from sympathy with the Soviet Union, and a secret desire for a Communist solution, or they are intellectually incompetent.

Every policy will fail if the assumptions on which it is based are erroneous. Mr. Acheson's letter reveals that every major assumption on which the State Department's policy was based was fallacious. These were basically three:

(1) That a prime object of our policy should be to bring Russia into the struggle against Japan in time to be of real value in the prosecution of the war.

(2) That for this purpose it was necessary to remunerate Russia at the cost of China.

(3) That the Chinese Communists were not Russia puppets but simple agrarian reformers.

ASSUMPTIONS UNJUSTIFIED

None of these assumptions was justified.

(1) When the secret agreement was made at Yalta, reestablishing for Russia substantially the position she had occupied there prior to 1904, Japan was already defeated—without the atomic bomb—and had, according to unpublicized rumors, already made peace overtures via Russia.

(2) Anyone with knowledge of Russian far eastern policy should have known that Russia would never permit a China solution to which she was not a party, and that therefore, at the appropriate moment for her own interests, Russia would certainly enter the far eastern war to protect those interests.

(3) That China's Communist leaders had played an outstanding role in Comintern policies since the Russian revolution and had never been repudiated by Stalin, was known to every student of the Comintern.

What has happened in China has logically followed from these erroneous assumptions. And if the persons responsible for them had a feeling of honor they would resign.

[From the magazine Life of August 22, 1949]

WHAT NEXT FOR ASIA?—IF WE QUIT CRYING OVER SPILT MILK, WE STILL HAVE A CHANCE

Well, State Department, what now? After writing off China, as we did in the white paper, do we just sit by and let all of Asia go to the Communists—or do we get busy?

The question has to be answered in a hurry, or the Communists will answer it for us. In Asia the clock is ticking very fast these days. Unless we have the intelligence and courage to move quickly, the moment for action will have passed.

The Asiatic leaders recognize the crisis and are steaming with impatience. President Elpidio Quirino of the Philippine Republic has been visiting in Washington, talking up a Pacific pact and warning the United States that it must not "tarry too long" in shaping up a new Asia policy. China's Chiang Kai-shek and President Syngman Rhee of Korea have issued a joint statement calling for a conference on Pacific union to be held at the Filipino city of Baguio. Even the Dalai Lama of Tibet has announced his opposition to communism. These Asiatic leaders are trying to save a situation; meanwhile the United States has been going to ridiculous extremes to save its face.

In the white paper our State Department proved to its own satisfaction that Chiang Kai-shek and his Kuomintang party were the sole engineers of China's collapse. We had nothing whatever to do with it. The fact that we dealt Manchuria and Dairen to Stalin without asking China's permission had nothing to do with it. Our efforts to foist a Communist coalition on Chiang had nothing to do with it. We were blameless.

Maybe so. At the moment it hardly matters. Let us grant, for the sake of argument, that Chiang's government was hopelessly corrupt and inefficient from the start. Let us grant that north and central China were both doomed to become Communist, and that Canton's fall is as inevitable as the moon's pull on the tides. The fact still remains that we must forge a new policy for Asia. We must still contain the eastward sweep of communism on some periphery unless we are prepared to be contained by communism ourselves.

The real tragedy of the State Department's white paper is that its preparation occupied a great deal of important time, energy and brains that might better have gone into the business of creating a new policy for the future. Korea, the Philippines, Australia, India, Pakistan and southeast Asia—all are critically concerned with coming events while we, the most powerful nation on earth, set up a wailing-wall to bemoan the past. True, we have appointed a blue-ribbon policy board under Ambassador-at-Large Philip Jessup to assess the situation and come up with suggestions from time to time. Boards of this sort, as someone once complained, are apt to be "long, wooden and narrow." And even granting that Dr. Jessup and his mates will come up with something breath-taking after due deliberation, this still does not absolve the State Department from its responsibility for an interim program which will give sense, direction, and hope to our Pacific policies right now.

What would constitute a sound, hope-building interim program? One, we could declare it our intention to use our naval and air power to hold all key coastal and offshore positions in Asia—from Japan to Singapore. Two, we could start conversations looking to a coordination of United States, British, Dutch, French, and Portuguese policy in Asia. Three, we could react warmly and creatively to Quirino's idea of a Pacific pact and a Pacific union of non-Communist Asiatic and Australasian states. Four, we could throw our money, both public and private capital, into development (not exploitation) of industry in India, Indonesia, and elsewhere. Five, we could state that we intend to use our power and moral influence to help all Asiatic peoples to be self-governing as soon as possible. Six, we could offer some limited military help and advice to all areas under active or imminent attack by Communist-led forces, such as south China and Indochina.

In a world in which power alone seems to talk, some of these points might be laughed off as mere moralizing gestures. But a good moral position is usually conducive to noble action at some later stage, and a direction must be set before feet can begin moving in unison.

We are all for having the Jessup committee doing some solid study and some solid thinking. But we owe it to non-Communist Asia to have an active policy in effect as of now. We should have had a program ready for statement to President Quirino on the date of his arrival in Washington—it bodes no good for the future to greet a potential ally with the diplomat's version of the brush-off. Since we missed the psychological moment with Quirino, it is doubly important to make amends in time for the visit of India's Pandit Nehru, who will be in the United States in October.

Pandit Nehru (Life, January 24) is Asia's greatest statesman and diplomat, a man with vast qualities of courage and leadership. He heads a nation of some 320,000,000 people, most of whom regard him with a devotion that almost amounts to reverence. If we can find the right formula for joining our strength with his, the future of Asia and the world will become much brighter.

Our program should be ready no later than the day Nehru sets foot on United States soil. The Communists presumably are out to get Nehru; unless he knuckles under to Moscow's wishes he may be made the Chiang Kai-shek of India during the next historic period of Comintern vilification and character assassination. We owe it to ourselves and to all of non-Communist Asia to put heart into Nehru for the ordeal that lies ahead. Even more, we owe it to the world to put heart into ourselves. North and central China, even Canton may be beyond immediate salvage. But the rest of Asia, the whole round sweep of peripheral Asia, can still be held for freedom even as western Europe and the Near East have been held. It cannot be saved, however, if we continue to sit on our hands and contemplate the past.

AUGUST 6, 1949.

Hon. DEAN ACHESON,
Department of State, Washington, D. C.

DEAR MR. SECRETARY: In view of the fact that our Chiefs of Staff are now visiting the European countries and will obviously not have time to make the same sort of visit to the Far East, I strongly urge that our responsible commanders in the Far East, Gen. Douglas MacArthur and Vice Adm. Oscar C. Badger, be brought home for the purpose of giving testimony before the combined Foreign Relations and Armed Services Committees on the far-eastern phases of a problem which is global in character.

As a member of the Armed Services Committee I urgently request that this be done immediately so that the benefit of their views may be had prior to final action by the combined committees on the bill in question.

Sincerely yours,

WILLIAM F. KNOWLAND,
United States Senator.

AUGUST 9, 1949.

Hon. LOUIS JOHNSON,
Secretary of National Defense, Washington, D. C.

DEAR MR. SECRETARY: In view of the fact that our Chiefs of Staff have visited various European countries and are not likely to have the time to make the same sort of visit to the Far East, we strongly urge that our responsible commanders in the Far East, Gen. Douglas MacArthur and Vice Adm. Oscar C. Badger be brought home for the purpose of giving testimony before the combined Foreign Relations and Armed Services Committees on the far-eastern phases of a problem which is global in character.

We urgently request that this be done immediately so that the benefit of their views may be had prior to final action of the combined committees on Senate bill 2388, "to promote the foreign policy and provide for the defense and general welfare of the United

States by furnishing military assistance to foreign nations,".

Sincerely yours,

WILLIAM F. KNOWLAND, STYLES BRIDGES, H. ALEXANDER SMITH, BOURKE B. HICKENLOOPER, WAYNE MORSE, ALEXANDER WILEY, HARRY F. BYRD, LEVERETT SALTONSTALL, RAYMOND E. BALDWIN, CHAN GURNEY.

MACARTHUR REFUSES TO COME TO UNITED STATES—REJECTS BID TO TESTIFY ON CHINA

TOKYO, August 12.—Gen. Douglas MacArthur today refused to return to the United States for talks on China because of an impelling sense of duty in Japan.

Replying to a request that he testify before Congress, General MacArthur pointed out China was outside the area of "my command, responsibility or authority."

But he said he was deeply appreciative of the honor bestowed on him when certain distinguished Members of the United States Senate asked that he be returned.

VIEWS ON FILE

"Needless to say it is difficult for me to ignore the heart-warming and friendly overtures to return to my native land, for which it is only natural for me to long just as would anyone else in my circumstances," the General said. "But an impelling sense of duty in a position of highly critical responsibility leaves me with no other recourse."

"It is my understanding that both President Truman and the Secretary of Defense have made it clear that my return in such circumstances is a matter for the exercise of my own judgment in the light of considerations bearing upon the national interest as I evaluate them," MacArthur added.

MacArthur said the Army Department already had on file his views on the strategic potentialities of the area embracing my Far East command." * * * "There is little that I could add to it," he added.

VOTE TODAY

In the Senate, however, a special 25-man committee considering the military aid program was scheduled today to vote on a proposal to invite General MacArthur home to testify on the Far East in the hope it would result in aid for China as well as Europe.

How the general would react to such an official invitation is unknown though from his above statement it would seem likely he also would reject it.

In another development, it was revealed today the State Department's review board on China will solicit the views of Lt. Gen. Albert C. Wedemeyer. Others to be invited include Gen. George C. Marshall, Maj. Gen. Claire Chennault, Congressmen, and private citizens.

Mr. KNOWLAND. Mr. President, following those letters and at the suggestion of the Secretary of National Defense and others that the proper way to proceed would be by resolution of the combined committees considering the arms implementation bill, the committee, by a vote of 13 to 12, passed the following resolution:

Resolved, That through the chairman of this combined Foreign Relations and Armed Services Committee of the Senate the Secretary of National Defense be informed that the committee desires to have the views of Gen. Douglas MacArthur and Admiral Oscar C. Badger on the far-eastern aspects of the pending arms implementation bill and their views of what developments in the Pacific area will have on our own national defense; be it further

Resolved, That if not incompatible with our national interests that General MacArthur and Admiral Badger both be requested to personally appear before the combined committees at the earliest possible date.

Following the passage of the resolution, under date of August 12, the able and distinguished chairman addressed a letter to Secretary Johnson, enclosing a copy of the resolution, and indicating the roll-call vote of the committee. I ask that that letter be made a part of my remarks at this point.

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

AUGUST 12, 1949.

Hon. LOUIS JOHNSON,
The Secretary of Defense,
Washington, D. C.

MY DEAR MR. SECRETARY: The Committee on Foreign Relations and the Armed Services Committee today approved by a vote of 13 to 12 a resolution offered by Senator KNOWLAND, regarding the possible appearance of Gen. Douglas MacArthur and Admiral Oscar C. Badger before the combined committee. A copy of the proposal is enclosed.

As chairman of the combined committee, I transmit the resolution to you for your consideration and whatever action you may deem appropriate.

Sincerely,

TOM CONNALLY, *Chairman.*

Yeas: Vandenberg, Wiley, Smith of New Jersey, Hickenlooper, Lodge, Russell, Byrd, Bridges, Gurney, Saltonstall, Morse, Baldwin, Knowland.

Nays: Connally, George, Thomas of Utah, Tydings, Pepper, Green, McMahon, Fulbright, Chapman, Johnson of Texas, Kefauver, Hunt.

Mr. KNOWLAND. Mr. President, I ask to have incorporated in the RECORD as part of my remarks a copy of a telegram which was sent by Hon. Louis Johnson, Secretary of Defense, to General MacArthur and Vice Admiral Badger.

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

AUGUST 15, 1949.

Gen. DOUGLAS MACARTHUR,
Vice Adm. OSCAR C. BADGER:

Last week when I was testifying before the Joint Armed Services and Foreign Relations Committees of the Senate, the following discussion took place:

"Senator BRIDGES. I wonder if you would consider the bringing back of Gen. Douglas MacArthur and Vice Adm. Oscar C. Badger, our naval commander in the Far East, so that we might have some information upon the very critical situation in the Far East in relation to any amendments that might be offered to the bill and aid to other countries.

"Secretary JOHNSON. Any request of either or both of the committees for the return of anyone in the Military Establishment I shall be very happy to pass on to them.

"Senator BRIDGES. When you say 'pass on to them,' Mr. Secretary, just what do you mean by that? Assuming the Armed Services Committee—I am not a member of the Foreign Relations Committee—should vote to request the presence of General MacArthur and Admiral Badger here, 'pass on,' we have had experience with General MacArthur before, and General MacArthur has taken the position that he had to be ordered back, that an invitation was not sufficient. At the request of a committee, one of these individual committees here, would you order him home?

"Secretary JOHNSON. I would first consult with the President about that. If one of the men you asked for gave very cogent reasons why he could not return, as I understand General MacArthur did in the instance you refer to, before ordering him back I should then come back to the chairmen of the two committees and talk to the President, and maybe all of us would talk with him. * * * I have the highest opinion of General MacArthur. * * * I would not order him back if he indicated, on your request, that he would not come back, until I had talked to the two chairmen and the President."

Since the committee hearing to which this testimony was given, the joint committees, by a vote of 13 to 12, have requested that I inform you "that if not incompatible with our national interests that General MacArthur and Admiral Badger both be requested to personally appear before the combined committees at the earliest possible date." Following is the text of a letter which I have today received from Chairman Connally of the joint committees with respect to the resolution from which I have just quoted:

"MY DEAR MR. SECRETARY: The Committee on Foreign Relations and the Armed Services Committee today approved by a vote of 13 to 12 a resolution offered by Senator KNOWLAND regarding the possible appearance of Gen. Douglas MacArthur and Admiral Oscar C. Badger before the combined committee. A copy of the proposal is enclosed. As chairman of the combined committee, I transmit the resolution to you for your consideration and whatever action you may deem appropriate.

"TOM CONNALLY,
"Chairman."

The resolution reads as follows:

"Resolved, That through the chairman of combined Foreign Relations and Armed Services Committee of the Senate, the Secretary of National Defense be informed that the committee desires to have the views of Gen. Douglas MacArthur and Admiral Oscar C. Badger on the Far Eastern aspects of the pending Arms Implementation Bill, and their views of what developments in the Pacific area will have on our own national defense; be it further

"Resolved, That if not imcompatible with our national interests that General MacArthur and Admiral Badger both be requested to personally appear before the combined committees at the earliest possible date."

Let me have your comments on this letter and on the resolution enclosed with the letter as soon as possible.

LOUIS JOHNSON.

Mr. KNOWLAND. I also ask, Mr. President, that there be printed as a part of my remarks a letter dated August 15, 1949, addressed to the chairman of the combined Foreign Relations Committee and Armed Services Committee by Secretary Johnson; also a letter dated August 16, 1949, addressed to the chairman of the combined committees referred to by Secretary Johnson, which says, in part:

MY DEAR MR. CHAIRMAN: I am attaching a copy of a message I have just received from General MacArthur. You will note that at the outset of his message General MacArthur states: "For the reasons set forth in my public statement of August 11 I believe I can best serve the national interest by remaining at my post of duty here."

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

THE SECRETARY OF DEFENSE,
Washington, August 15, 1949.

Hon. TOM CONNALLY,
Chairman, Combined Foreign Relations and Armed Services Committee of the Senate, United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Your letter, with the enclosed copy of a resolution which your joint committee adopted by a vote of 13 to

12, reached me this morning. I immediately sent the text of your letter, together with the text of the resolution, to General MacArthur and Admiral Badger.

As soon as I have received replies to my message, a copy of which I attach, I will communicate with you further.

With warm personal regards, I am,

Sincerely yours,

LOUIS JOHNSON.

AUGUST 16, 1949.

Hon. TOM CONNALLY,
Chairman, Combined Foreign Relations and Armed Services Committee of the Senate, United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: I am attaching a copy of a message I have just received from General MacArthur. You will note that at the outset of his message, General MacArthur states: "For the reasons set forth in my public statement of August 11 I believe I can best serve the national interest by remaining at my post of duty here."

The full text of the message from General MacArthur is attached.

Admiral Badger has sent in a message which reads in part as follows: "On account conditions in China believe can best serve national interest remaining here until properly relieved which will make my arrival Washington about September 6."

I am forwarding the information to you promptly upon its receipt as I said I would do in the letter which I sent you yesterday.

With warm regards, I am,

Sincerely yours,

LOUIS JOHNSON.

Mr. KNOWLAND. Mr. President, I have a cable from General MacArthur with which I think the Members of the Senate should be familiar. It reads as follows:

TO SECRETARY OF DEFENSE:

For the reasons set forth in my public statement of August 11, I believe I can best serve the national interest by remaining at my post of duty here. This statement was as follows: "I could not help but be deeply appreciative of the honor reflected in the desire expressed by certain distinguished Members of the United States Senate that I proceed to Washington to give my views for consideration by the Congress on the issue of United States arms aid to the Government of China. I believe, however, that during this moment critical events in the Far East, the interests of the American people are better served by my remaining at my post here, especially in view of the fact that the focal point of inquiry (China) is under the direct jurisdiction of the Joint Chiefs of Staff acting through a naval commander and has never been within the area of my command, responsibility or authority. Furthermore, on March 3, 1948, I forwarded on request my general views on this subject to the Chairman of the House Committee on Foreign Affairs. My specific views with respect to the strategic potentialities of the area embracing my Far East command are fully on file with the Department of the Army. There is little that I could add to either. While it is, of course, unnecessary for me to confirm my complete loyalty and devotion in the implementation of any directives or views of the Government with reference to my movements and duties, it is my understanding that both the President and the Secretary of Defense have made clear that my return in such circumstances is able matter for the exercise of my own judgment in the light of considerations bearing upon the national interest as I evaluate them.

Needless to say, it is difficult for me to ignore heartwarming and friendly overtures to return to my native land for which it is only natural for me to long just as would any one else in my circumstances. But an impelling sense of duty in able position of highly critical responsibility leaves me with no other recourse.

MACARTHUR.

Mr. President, in addition to that, I think it is important for the Senate of the United States to have this information, which while it was revealed to the Foreign Affairs Committee of the House of Representatives some time ago, may not be fresh in the minds of Members of the Senate. This body is soon to be called upon to meet this very critical situation.

The administration has presented a bill to the Senate calling for $1,400,000,000 in arms implementation. If the situation is of such critical nature, as indicated by General MacArthur and Admiral Badger, that they cannot return at this particular time, then there is something fundamentally wrong with the State Department policy which allocates to the entire Pacific area one percent of the total amount of the arms implementation program.

Even during the period of the war, when our leaders had to determine at which place they would put their emphasis, they did not abandon the Pacific area. They supplied our military and naval leaders in that area with such supplies as they could until eventually they could build them up with the support to which they were entitled, and to which that area of the world was and is entitled.

If China falls to communism—and apparently the late dispatches today indicate that Fuchow has fallen, or is about to fall—Communists may overrun all of Asia. The Secretary of State has indicated in his white paper he is apparently ready to write China off and he repeats it today. All of Asia, with its billion people, is jeopardized. If all of Asia goes behind the iron curtain, the strategic balance of power in the world will be upset. It is clear that such an event will adversely affect the peace of the world, and the national defense of the United States.

General MacArthur could not return, he has informed us to give testimony before the two important combined committees of the Senate, and I certainly do not question his judgment, if that is his determination. But he has in a press dispatch, he has in a message to the Secretary of Defense, indicated that his views on the importance of the Pacific area are on record and he still stands on those views.

I was handed by the Secretary of Defense this morning a copy of the summary of General MacArthur's views with regard to the situation in China, and I read:

SUMMARY OF GENERAL MAC ARTHUR'S VIEWS REGARDING THE SITUATION IN CHINA

1. On March 1, 1948, the Honorable CHARLES A. EATON, chairman of the Committee on Foreign Affairs, House of Representatives, asked General MacArthur to comment on, (1) The importance to world peace and to the United States of maintaining a free and independent China friendly to the United States, and (2) Measures, economic and otherwise, necessary or best suited to achieve those ends. General MacArthur replied in a message of March 3, 1948, summarized as follows:

"(a) He has no representatives in China and personally has not been to China for many years, therefore he is not in a position to render authoritative advice on the myriad details which the query encompasses."

Mr. MAGNUSON. Mr. President, will the Senator yield? I dislike to interrupt the Senator, because he is talking about an important matter, but there are many of us who believed that we were going on this afternoon with very vital and important Interior Department appropriation matters. I should like to inquire whether the Senator is going to speak much longer, and if he is, we might have to change our plans about what we intend to do.

Mr. KNOWLAND. I do not expect to consume altogether more than 10 or 15 minutes of the time of the Senate, but I am discussing a very important matter; and I may say that I am also interested in the Interior Department bill, as is the able Senator from Washington.

Mr. MAGNUSON. We are trying to adjust our time as best we can.

Mr. KNOWLAND. The summary of General MacArthur's views regarding the situation in China continues:

However, a friendly, independent, peaceful and free China is of profound importance to world peace and to the position of the United States. Underlying all issues in China is the military problem and until it is resolved, little can be expected toward stabilizing China regardless of the extent of outside aid. Once the military problem is resolved, however, China's resiliency will provide the basis for a rapid recovery.

(b) The Chinese problem is part of a global situation, and United States policy toward China should be directly connected with United States policy against the assaults of political despotism elsewhere in the world. It would be fallacious to underrate China's needs or her importance. Because of past ties in Europe, it is United States tendency to underemphasize the importance of the Far East. The hope for progress of future American generations, as well as the threat to their way of life, lies in the advance of the Asiatic races. Reform in China should be subordinated to the maintenance of China's integrity against destructive forces which threaten its engulfment and which is of infinitely more immediate concern. Again, if China's integrity is maintained, reform will gradually take place in the evolution of China's future.

(c) Aid to China, additional to surplus supplies, should be measured in equitable relationship to any global aid determined upon by the United States. In deciding upon such aid, the United States should not underrate the strategic importance of a free and peaceful China, or ignore China's impoverishment and fatigue as a result of many years of war. Further, the United States should accurately assess China's potential in the stability and advancement of our future standard of life, and should recognize the long and friendly relationship existing between the United States and China.

(d) On the other hand, we should not commit our resources beyond what we can spare, either sapping our national strength or causing jeopardy to our own security. Finally, it would be illogical to extend assistance beyond hope of reciprocal repayment through contribution, in one form or another, to human progress.

2. In November 1948, the Department of the Army asked General MacArthur for his estimate of the situation in China, to include

probable future developments and their impact upon the Far East. His reply, dated November 20, 1948, is in two parts. The first part is a top secret strategic estimate, which is not summarized here. The second part can be summarized as follows:

(a) General MacArthur states that he is in no position to furnish first-hand information on internal conditions in China. However, his broad general views on the importance of a stable and friendly China were expressed in a message of March 3, 1948, to the Honorable CHARLES EATON from which extracts are repeated. A summary of the complete message to Congressman EATON is in paragraph 1 above, and need not be repeated here.

Mr. President, I wish to reiterate that the March statement of General MacArthur is a white paper which has far more weight with the Nation than the one issued by the State Department. Here is one of our leading commanders, a man who saw the United States retreat out of the Philippines, and then had to lead the fight back the hard way. He is probably our best informed soldier on the entire Pacific area. He has not once, not twice, but three times, said that in his judgment the national security of the United States may well rest upon what happens in the Far East and in China. The Senate and the administration in my opinion should not and dare not ignore the white paper issued by this competent American military commander.

If we cannot get before the committees of the Congress of the United States, charged with the responsibility of determining a grave matter of national policy, the witnesses to whom we are entitled, if we are not able to have the facts we believe we should have in framing a national policy of far-reaching moment, then the State Department and the Department of National Defense have an obligation forthwith either to send MacArthur himself, to send General Wedemeyer, to send General Bradley, or to send General Collins, or someone else who will command congressional confidence to get up-to-the-minute information on this important strategic area of the world. The State Department needs factual information as much as Congress.

Mr. President, in my judgment the Senate dare not take the responsibility of allowing the iron curtain to be lowered by the State Department, denying to the Congress of the United States information to which we are entitled as a coequal branch of the Government of the United States. So far as the aid-to-China program is concerned, this a matter which will be presented to the Senate combined committees which are hearing the matter, and I hope they will adopt the amendment. If the committee does not adopt the amendment, a minority report will be issued, and the issue will be brought to the floor of the Senate.

Mr. President, this is something which cannot be side-stepped, it is something which cannot be solved by a whitewashing white paper.

Mr. President, when, as is indicated by what I put into the RECORD at the beginning of my remarks, the Secretary of State on this very day indicates that the State Department has closed its mind and that no aid can be given to Nationalist China, when they have appointed as the chairman of their fact-finding committee Mr. Jessup, whom they then bring into the State Department to issue the white paper, it is very difficult for either the Congress or the country to have confidence that we are going to get an impartial report. I think it is high time the Congress of the United States insist on obtaining the information to which it is rightfully entitled.

INTERIOR DEPARTMENT APPROPRIATIONS, 1950

The Senate resumed the consideration of the bill (H. R. 3838) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1950, and for other purposes.

Mr. HAYDEN. Mr. President, I should like to have action on the unanimous-consent request which I have made.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent request made by the Senator from Arizona, that the Senate consider the four amendments dealing with the Southwestern Power Administration en bloc? The Chair hears none, and it is so ordered.

The four amendments agreed to be considered en bloc, are as follows:

On page 6, line 13, after the word "expended", to strike out "$4,000,000" and insert "$1,616,115"; in line 14, after the word "exceed", to strike out "$525,000" and insert "$330,000", in line 21, after the word "exceed", to strike out "$5,000,000" and insert "$2,257,905"; and on page 7, after line 2, to strike out:

"Continuing fund, power transmission facilities: All receipts from the transmission and sale of electric power and energy under the provisions of section 5 of the Flood Control Act of December 22, 1944 (16 U. S. C. 825s), generated or purchased in the southwestern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of $300,000, including the sum of $100,000 in the continuing fund established under the Administrator of the Southwestern Power Administration in the First Supplemental National Defense Appropriation Act, 1944 (57 Stat. 621), which shall be transferred to the fund hereby established; and said fund of $300,000 shall be placed to the credit of the Secretary and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of the facilities, and to cover all costs in connection with the purchase of electric power and energy and rentals for the use of transmission lines and appurtenant facilities of public bodies, cooperatives, and privately owned companies."

Mr. THYE. Mr. President, I ask unanimous consent to offer an amendment to House bill 3838. The amendment is as follows:

On page 25, line 22, after the word "transfer" insert a colon and the following: *"Provided further,* That unobligated balances of any specific authorizations in appropriations for prior years for school facilities in public school districts of Minnesota, appropriated in accordance with Public Law 804, Seventy-sixth Congress, or Public Law 231, Eightieth Congress, may be transferred to any other such authorizations."

The sum involved is $64,000. It affects four school districts. The Indian service and the State Educational Department of Minnesota have found that the four school districts do not need the funds and that the funds would be relinquished by the four districts. There are, however, four additional school districts in the State which have appropriations, but the appropriations are inadequate. If the $64,000 could be transferred to the other four school districts in Minnesota, which is agreeable to the Indian service and to the State educational department, it would meet the estimated building cost of the four school districts in question.

Mr. HAYDEN. Do I understand the Senator to say that the amendment involves no additional appropriation of money, but simply a transfer from one school district to another?

Mr. THYE. That is correct.

Mr. HAYDEN. And does the Senator ask unanimous consent that the amendment be considered at this time? If the Senator does, I shall be glad to accept it on behalf of the committee, and take it to conference.

Mr. THYE. I should like to have the amendment considered at this time.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 25, line 22, after the word "transfer" it is proposed to insert a colon and the following: *"Provided further,* That unobligated balances of any specific authorizations in appropriations for prior years for school facilities in public school districts of Minnesota, appropriated in accordance with Public Law 804, Seventy-sixth Congress, or Public Law 231, Eightieth Congress, may be transferred to any other such authorizations."

The PRESIDENT pro tempore. Without objection, the amendment offered by the Senator from Minnesota is agreed to.

Mr. WHERRY. Mr. President, I should like to ask the distinguished Senator from Arizona, who is in charge of Senate bill 3838, and who no doubt knows which Senators desire to speak on the series of amendments under consideration, which are to be voted upon en bloc, whether it is his intention that the vote be taken on the amendments en bloc tonight?

Mr. HAYDEN. I hope that can be done. I understand the Senator from Oregon [Mr. CORDON] desires to comment on the amendments. There are one or two other Senators who desire to speak on the amendments.

Mr. WHERRY. I have just spoken to the distinguished Senator from Oklahoma [Mr. THOMAS] and from what he said I believe the Senate will have to remain in session longer than 6 o'clock if a vote is to be taken on the amendments en bloc.

Mr. HAYDEN. So far as I know, four Senators desire to address the Senate with respect to this matter. We should be able to finish with the amendments by about 6 o'clock.

Mr. WHERRY. I realize that is about as close as the distinguished Senator can come to an approximation of the time required.

Mr. HAYDEN. I understand no Senator desires to deliver an extended address on the subject.

Mr. CORDON rose.

Mr. HAYDEN. Mr. President, I yield to the Senator from Oregon.

Mr. CORDON. Mr. President, whenever the Senator has concluded I desire to obtain the floor in my own right.

Mr. HAYDEN. I yield.

Mr. CORDON. Mr. President, I desire to take a little of the time of the Senate to discuss the problem involved in the amendments to the Interior Department appropriation bill respecting funds to be furnished the Southwestern Power Administration and the Southeastern Power Administration. The remarks which I shall make shall be somewhat applicable also to the Bonneville Power Administration's request for funds, insofar as that request goes to funds for use in the construction of transmission in the State of Montana.

The two cases, that of the Southwestern Power Administration and the Southeastern Power Administration on the one hand and the Bonneville Power Administration on the other hand, are not identical in all respects. They do, however, have certain aspects wherein they are identical. The situation in the Montana area, however, will be developed only as it is incidental to my discussion with respect to the Southwestern Power Administration and the Southeastern Power Administration.

I am impelled, Mr. President, to discuss the matter solely because I feel that the Senate itself is not advised as to what is the real matter in issue. It is not a matter of dollars, as requested in the appropriation bill, or in any appropriation bill which has been before the Congress in connection with any of the multiple-purpose dams in the United States.

I differ with some of my colleagues in this respect. I do not think the question is one of whether we shall have socialized power in the United States or power by private industry in the United States. That question may arise in areas where the volume of power to be created by dams is of such magnitude as in itself to create the question; but as to its being an over-all national question, frankly I cannot see it.

I am interested only in having the Senate understand exactly what it is that we are dealing with in this appropriation bill. The question should not be before the Senate in an appropriation bill. I believe I voice the opinion of every member of the Appropriations Committee when I say that we do not want it in an appropriation bill. We have been compelled to deal with it. The sooner it can be taken out of the consideration of the Appropriations Committee and put where it belongs, as an independent, substantive legislative proposition to determine a national policy in the field of publicly generated power, the better off, certainly, the Appropriations Committee will be, and the better off the people of the United States will be.

But, Mr. President, the question is before us in this appropriation bill, whether it should be or not; and, however ill-equipped we are to do it, we must to some extent determine a national legislative power policy in our vote on this appropriation. We do it only to this extent, however: Our vote here does nothing more than withhold action which might be ill-advised, until such time as considered action can be directed by the Congress. To that extent we must determine a policy question when we vote on these amendments.

The number one misunderstanding in connection with the power problem is as to the character of the thing we develop at multiple-purpose dams when we install generating capacity. True, we all know that it is hydroelectric power. But, Mr. President, there are innumerable kinds of hydroelectric power. The term covers hydroelectric power with different characteristics, having different uses, subject to handling in different ways. Unless we can get a picture, first, of the complexity of the subject, certainly we are in no position to pass judgment upon the method of its ultimate distribution and destination.

Let me first make this unqualified statement: The hydroelectric energy which is generated and will be generated at the flood-control dams in the southern part of the United States and the southeastern part of the United States is not the type of electrical energy which is generated at a plant built for the purpose of generating electric energy. When we build a plant to generate electricity, we control the output of current. We apply heat to make steam, and apply steam to turn generators; and we can control the amount of current output. When we do that, we can determine the volume of current which is available for a useful purpose. When we attempt to create electric energy in dams the primary purpose of which is not to corral water to generate electricity, but to corral water to stop the damage of floods, we are dealing with a different thing than when we generate electricity under controlled conditions by a plant built for that purpose.

In the flood-control multiple-purpose type of dam there must be installed generating capacity far in excess of the amount of generating capacity which would be needed at that point if the water to be used could be so allocated as to make a continuous daily flow throughout every day in the year. There must be a capacity far in excess of the amount of current which can be created and dependably usable if the Government is to have a maximum recoupment from its investment.

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

Mr. CORDON. I yield.

Mr. KERR. Is the excess capacity required in the generating plant or in the storage facilities?

Mr. CORDON. It is not a question of where it is required. It is a question of where it is. If firm power is desired, there must be an excess of water behind the dam which can be released continuously through the generators over a period of time until the water is recouped.

Mr. KERR. I understand that, and I agree. I thought the Senator said that in order to have a steady flow of water there must be an excess in the generating capacity.

Mr. CORDON. I said just that, and I shall now explain it.

To get the full utilization of all water behind a multiple-purpose dam, there must be installed in generating facilities at the dam not only the capacity necessary to take care of the normal continuous flow, but also the additional capacity necessary to take care of floodwaters which are backed behind the dam, and which must be taken out of the dam as rapidly as possible in order that, for purposes of containing floodwaters, it may be an empty reservoir. If there is not that excess generating capacity, it is not possible to get the maximum amount of electricity out of the water.

Getting down to an application of this proposition to these dams, in all—I say advisedly "all"—the reports of the engineers who studied this question in the Southwest and the Southeast, and who submitted their reports on flood control to the Congress, which body approves projects for construction—in every one of those reports which has come to my attention the engineers have stressed the fact that the repayable portion of cost allocated to power could be met only if the maximum power were sold as peaking power.

I stated at the beginning of my remarks that there are a number of kinds of electricity. Electricity is all the same. The difference is in the way it flows over the line, the amount which is available, and the continuity of availability. The engineers have stressed the point that the power must go to low load-factor uses, or it cannot take care of the allocated portion of repayment which it must take care of if the benefits incident to each structure are to equal the cost. Time after time the engineers have called attention to that principle. I have some random quotations, and I can furnish them for every one of the projects.

With respect to the Norfork Dam in Arkansas, in House Document No. 290, Seventy-seventh Congress, page 27, among other things appears this:

> The proposed initial installation of 60,000 kilowatts would permit the transmission of 58,000 kilowatts of prime capacity for serving peak loads. * * *
>
> The prime power from the proposed Norfork Dam could best be used in serving peak loads.

With respect to the Table Rock and Bull Shoals Reservoirs, in the White River in Arkansas and Missouri, House Document No. 917, Seventy-sixth Congress, page 54, contains this statement:

> The hydroelectric development proposed by the district engineer in his report would best serve peak power needs. In order to attain full utilization of its output, the development should connect with some major system or systems in order that it may best serve low-load-factor markets. The power installations proposed in the report and the transmission system to connect with load centers are designed with this in view.

Mr. President, as to the Whitney Dam, in Texas, the following statement appears in House Document No. 390, in the Seventy-sixth Congress, at page 38:

> In estimating the power possibilities at the Whitney Dam site, it was assumed that the Possum Kingdom Dam * * * would

be in operation for the production of power. * * * It was further assumed that the power installation at Possum Kingdom would be made and operated to provide for the delivery of the maximum amount of prime power on a 25-percent load factor.

At page 7, the following statement appears:

It is assumed further that the Whitney plant would operate on the peak of the load, at a load factor possibly as low, ultimately, as 10 percent.

Mr. President, I wish to try to simplify this problem. What is meant in the quotations I have just read, as I understand them—and I am not in any way an electrical engineer—is that where there is use of electric power 24 hours a day, there is a necessity for firm power; where there is a necessity, at certain times during the day, for electric power over and above the amount which must be continuously supplied, there is a necessity which can be met only by having a reserve of power equal to the very height of the necessity. That is prime-demand power or prime-peaking power.

Then there is the power use which can accommodate itself to the availability of power. The power used then is whatever may be left over or may be available, and is termed "interruptible or dumping power."

The purpose the engineers had in mind was the building of these dams with power-generation equipment included, and with the use of that power to its maximum usability, namely, as prime-peaking power and dump power.

Let me add at this point that a careful study of the dams in the southwest, southern, and southeastern areas indicates that of the maximum installed capacity in those dams—meaning the maximum amount of power which could be generated at any given time if all the generating capacity were operative—from 10 percent, as a low, to 25 percent, as a high, is the total amount of prime, dependable, firm power that is available or can be made available without outside fuel generation.

Mr. President, that amount of firm power, if sold as firm power, could not guarantee that the cost of construction, maintenance, and operation allocated to power would ever be met. That cost can be met only if the power generated is used for the purpose for which it will bring the highest return, namely, as peak power.

In view of the little I know about the matter, if I made the foregoing statements and stopped there, I would feel that anyone might well honestly differ with me and perhaps might say that I did not know what I was talking about or that at least my statements should not be taken at 100 percent face value. So I shall not rely merely upon my own statements. I now read from page 727 of the hearings on the Interior Department appropriation bill for 1947, where Mr. Douglas Wright, then, and now, Administrator for the Southwestern Power Administration, was testifying before the subcommittee on Interior Department appropriations, of the Senate Appropriations Committee. The question under consideration was what was needed to be done in that area both in the interest of the Government—because the Government had put out the money for construction—and in the interest of the people whom the Government desired to get the full benefit of this power. For the first time, so far as I was concerned—I do not know the situation in which my colleagues then found themselves—I learned that the greater portion of all the power which is available at dams which are constructed primarily for flood control is not salable power, as it comes from the generators, because it is not continuous power, but is interruptible. At that time the Senator from Arizona [Mr. HAYDEN] had the following colloquy with Mr. Douglas Wright:

Senator HAYDEN. Right at that point, can not you furnish them with firm power, as needed, unless you have steam plants?

Mr. WRIGHT. We cannot unless the utility companies will sell me off-peak steam that they cannot sell to anybody else. I could then.

Senator HAYDEN. I am just asking that. You could not enter into a contract with the city of Springfield, in the State of Missouri, to supply them with energy unless you had a steam plant?

Mr. WRIGHT. That is right; and I would like to say this, on that statement: I could not do it and use anything like the full capacity of these dams. In other words, if I sold the energy to Springfield, there would be two or three units at the Norfork Dam that would never turn. The dams are designed to be used as peaking units.

Mr. President, I think I can rest on that as my authority for the first and major premise in this short discussion. Those dams and their installations will create peaking power—very valuable, very usable, very salable; but in order to achieve the highest return for that power and the greatest benefit to the users of that power, steam-generated, controlled power must be added.

Mr. KILGORE. Mr. President, will the Senator yield at this point for a question?

Mr. CORDON. I yield.

Mr. KILGORE. Is it not a fact that a steam plant is a wasteful means of producing peak power, as compared to a hydro plant?

Mr. CORDON. There is no question about that.

Mr. KILGORE. In other words, when using a steam plant for that purpose, the steam pressure must be maintained or must be built up.

Mr. CORDON. The two—hydro and steam—represent the perfect combination, unquestionably, or at least I am so advised.

Mr. KILGORE. In other words, in order to have a proper balance?

Mr. CORDON. Yes.

Mr. MAGNUSON. Mr. President, will the Senator yield at this point, because he is making a very able attempt to explain the situation.

Mr. CORDON. I yield.

Mr. MAGNUSON. When the Senator is speaking of a combination of the two, and the type of dam, I am sure he does not mean to convey the impression that all power pools and all types of dam present a problem similar to the one under discussion. This applies to the Southwest; does it not?

Mr. CORDON. That is correct.

Mr. MAGNUSON. We have in our area an entirely different problem, do we not?

Mr. CORDON. That is correct. The problem is one which arises where the intervention of the generator is not in a river with a constant flow and a constant volume of flow. When we have that, we have just as certain and firm power as we have when the power is generated with steam. But here the waters must be corraled when the flash floods come. After that has been done, the water must be released in order that the next flash flood may be corraled, and so on. The result is power in variable amounts throughout the year. I thought I had made it clear that I am referring only to the southern and the southeastern areas, where our primary job was to protect the country from floods, and where our secondary problem was to get as much out of what we spent as we could, and that was in the incidental creation, sale, and use of power.

I now come back to the big question, which is the policy question before the Congress. I undertake to say there will be no question with reference to this statement, which I make categorically: There must be steam power used in connection with the power from the dams, if the value of that power in its ultimate is to be achieved. How are we to get the steam power? Mr. President, I hold no brief for private utility companies. On the other hand, I am not witch-hunting with respect to private utility companies. They have had in many respects a bad and odoriferous record. They have at the same time served an outstandingly useful purpose. Neither do I have any brief for a fanatical public-power servant of the United States. I believe there is a common ground in common sense and reason wherein we may get the greatest value out of public hydroelectric power and save the greatest value out of the public utilities operating in the areas where the power is being created.

How shall we function, however, at this minute, in connection with the pending bill? What problem confronts us in the Appropriations Committee, and what should be our answer to it? I think it is perfectly clear, Mr. President, we must start with the major premise that in the Southwest power area and in the Southeast power area and wherever we are depending on flood-control dams for power, we must contrive to tie the peak power with a backlog of controlled steam-generated power.

Mr. President, I refer now to the trouble we have on the Appropriations Committee. The law of the United States is silent as to whether its servants have the right to go into the business of building auxiliary or backlog steam-power plants in every case, except in the Tennessee Valley Authority, where authority was given I believe last year to begin the building of such a plant. The hydroelectric energy generated by the plants built by the Army engineers has its disposition directed by section 5 of the Flood Control Act of 1944. At the risk of too much delay, I think I shall read a part of it, but in order to

minimize delay only a part of it. It has been placed in the RECORD before. Perhaps I should read it all, so it may be in the RECORD at this point, and so that anyone who wishes to look over what little I have to say, if it has any value, may have it before him. It is as follows:

SEC. 5. Electric power and energy generated at reservoir projects under the control of the War Department and in the opinion of the Secretary of War not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.

I call attention again to the only portion of this section which is applicable here, and the only provision, so far as I know, in the law of the United States that has any application to our situation:

The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreements, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities.

That is the only authority granted to any administrative officer in connection with the handling of the surplus hydroelectric power from flood-control dams. He is authorized to construct or acquire necessary transmission lines and related facilities. We must read into the term "related facilities" the words "additional controlled steam-generation plants" if we are to go forward beyond the sale of electricity as it comes from the dam and over the lines.

I call attention to that, Mr. President, for this reason. When I opened my remarks I called attention to the fact that the Members of the Senate were not advised as to what they were up against. We were compelled to vote on a matter with reference to which we were not fully advised, and all of the facts available indicated, and definitely, in my opinion, proved beyond any doubt, that we shall never be able to go forward in a sound and orderly way with the program of handling surplus hydroelectric energy if the Congress does not turn its attention to the main question at hand and establish a sound public-power policy wherein there is spelled out what the administrative officers of the Government shall and shall not do.

When this matter reached the Senate it was a recurring thing. We had it in 1945, 1946, 1947, 1948, and now again in 1949. The first plans of the Southwest Power Administrator contemplated the construction of steam plants in order to get the full value out of the electricity. We were asked for money, in the first instance, for a rather ambitious plan of transmission lines. The amount asked for was never appropriated. Portions of it were appropriated. Down through the years some of us felt that we should require our officials charged with the handling of hydroelectric power to use all available facilities before spending Government money in building new facilities. We felt that the power had a natural use in connection with the steam power being generated in that area by private utilities. We felt that the Government, with all its power, could require a contract with such utilities as would guarantee in every respect every value that section 5 of the Flood Control Act or section 9 of the Reclamation Act of 1939 envisioned and established for the people of this country. I still hold that view.

When the subject came up again this year, with respect to the several items in that area, I say very frankly to my colleagues that I followed the lead of the one member of the committee who I had found over the years was keeping abreast of it and had information as to what was happening on the ground. I refer to my colleague, the senior Senator from Oklahoma. I am not too much concerned with the items in this bill with respect to Southwest power and Southeast power as such. I am concerned only——

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

Mr. CORDON. I yield.

Mr. RUSSELL. The Senator says he is not concerned with the items of Southwest power and Southeast power. But, in my opinion, the Senator has made the finest argument for restoring this small item to enable the Administrator to market the power which the Government has in the Southeast. There are a number of dams, and it seems to me that the Administrator would have to have some assistance to enable him to deal with prospective purchasers of the power.

Mr. CORDON. I say to the Senator that unless the Power Division of the Interior Department has sufficient personnel and sufficient information to do that which is necessary to negotiate such contracts and make them absolutely foolproof and perfectly clear, to give to the people of those areas everything the Government intended to give them, I will agree 100 percent with my colleague that money must be made available. My understanding with reference to it—and I can be wrong—is that in that area we have not yet reached the point where the matter of contracts is emergent and immediate.

Mr. THOMAS of Oklahoma. Mr. President, will the Senator yield?

Mr. CORDON. I yield.

Mr. THOMAS of Oklahoma. I am of the opinion that the Senator from Oregon is slightly incorrect. The record shows that there are three dams being built within the interior of the Tennessee Valley. The record shows that the Government, acting through the Power Division of the Interior Department, has already made a contract with the Tennessee Valley Authority whereby the power to be developed from the three dams will be sold to the Tennessee Valley Authority, and the Tennessee Valley Authority will pay for the power and feed it into its system, and then resell it and redistribute it.

I do not wish to transgress on the good State of Georgia, but the record further shows that in the State of Georgia the Allatoona Dam will come into production late in December or early in the coming year. Moreover, the record shows that the Power Division in Washington has already made a contract with the Georgia Power Co. whereby the Government will sell to the Georgia Power Co. all power to be produced at the Allatoona plant. That is done through the office in Washington. There is only one dam at a time coming into production. There is quite an office in Washington. It has already made contracts, and I do not see why it cannot make future contracts. In Georgia, as the Senator knows, the Government receives $510,000 a year as a lump sum for the water that is let through the Allatoona Dam. In addition to the $510,000 a year, the Government receives 3½ cents per kilowatt-hour for the firm power and 2 cents for the dump power. But there is no agreement as to any particular amount of power from that dam. By controlling the water under the contract, they let the water down as they see fit, and let it down so that it can run through and generate some power perhaps at the Allatoona plant, then it goes on down the river and through the Georgia plants and there develops additional power.

That is the situation, and it is possible for the Division of Power here in Washington to make a contract with the Tennessee Valley Authority satisfactory to both sides, it is possible to make a contract with the Georgia Power Co. satisfactory, as I understand, because the Federal Power Commission has already approved the contract, and it will be in existence as soon as it is approved here. I am not sure it has yet been approved by the high authorities in Washington. I am not taking any particular stand with reference to the George situation or the southeastern power situation, but I think the record shows what the facts are at this time.

Mr. RUSSELL. Mr. President, I can see a vast difference between a contract that is entered into between the Interior Department and the Tennessee Valley Authority, and the situation which obtains at the other dams which are coming into production at an early date in the southeastern area. Of course, the Interior Department and the Tennessee Valley Authority are rather kindred

souls. They have a complete understanding of the operation, and as proof of that, the TVA for a long time has dealt with the Secretary of the Interior, and a number of other people who have to deal with power in the Interior Department have likewise dealt with the TVA, and whatever may be said about the TVA, at least it is quasi-governmental department. When we are dealing at arm's length with a private utility, it is an entirely different proposition.

So far as the Allatoona Dam is concerned, I understand contracts have been negotiated, but that dam does not produce a great deal of power; it is more of a flood-control proposition, and the power is incidental. There is very little firm power developed at Allatoona Dam.

There is coming in, however, one of the greatest power projects, producing more power, for the money expended, than any other project under construction east of the Mississippi River, anyway, namely, the project at Clark Hill, on the Savannah River. It seems to me that the Interior Department have asked for a very reasonable amount to enable them to study all the ramifications of the disposal of this power, splitting it down from firm power to the prime power, and then to the waste power, and all other powers. If we are dealing with something that is going to run into millions of dollars a year, that is going to be returned to the Treasury of the United States, $70,000 is a very small investment to make sure that we have all the facts at our command before we undertake to deal with the private power companies, or anyone else, for that matter. I think it is a very reasonable amount the Interior Department has requested, and in my judgment—and I may say I am completely persuaded by the argument made by the Senator from Oregon—Congress would do well to appropriate this modest amount. It will be returned manyfold by putting complete information at our control and disposal when we do enter into the contracts.

Mr. CORDON. Mr. President, I say again that I am not on my feet making any plea for or against these items, and I say that particularly with reference to the one in the southeastern area, involving, I believe, $70,000. I sat through the hearings, and I do not have sufficient information as to whether in fact the money asked for is necessary, in addition to the funds which normally are appropriated to the Interior Department and its Power Division. It is, for the purposes of my argument, of not too great moment as of this time. The problem I have been trying to get before the Senate, on which I should like to see affirmative action taken, is the over-all and so much greater question. Shall we as a government go into the business of generating hydroelectric power separate and apart from our dams? It is a matter which should be determined before this committee is called upon to recommend the appropriation of a single dollar leading toward that end, because the authority does not now exist. At least at the time the 1944 Flood Control Act was passed the feeling was very strong it should never exist, and, so far as I am concerned, I am opposed to it unless it is absolutely necessary.

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

Mr. CORDON. I yield.

Mr. MAGNUSON. Did we not somewhat resolve that policy in the Johnson steam-plant matter?

Mr. CORDON. To the extent of the Tennessee Valley Authority it was resolved, there is no question, but we must not overlook the fact that the Tennessee Valley Authority not only produces the power and transmits the power, but distributes it.

Mr. MAGNUSON. Is the Senator of the opinion that the authority of the Bonneville Administration would be so limited that it would not be allowed to construct a steam plant as an appurtenance thereto if we needed it, as we do not?

Mr. CORDON. In my opinion, it is without that authority.

Mr. HILL. Mr. President, will the Senator from Oregon yield?

Mr. CORDON. I yield to the Senator from Alabama.

Mr. HILL. As I have gotten the burden of the Senator's argument—and if I am in error I desire to be corrected—it is that the Government-generated power, at certain points, at least, has to be firmed up, and that the best way to firm it up is from a steam plant or other facilities of the private utilities. Is that correct?

Mr. CORDON. Through a steam plant, whether it is owned by a private utility, the Government, a cooperative, or what not.

Mr. HILL. The Senator referred to the testimony of Mr. Wright, and, as I recall, he quoted some questions asked him about Springfield, Mo. Has the Senator had occasion to go into this subject since 1947, at the time Mr. Wright testified?

Mr. CORDON. The Senator has been on the Committee on Appropriations every year since that time.

Mr. HILL. I understand that, but that does not answer the question, with all deference to the Senator. Has the Senator, since Mr. Wright was before the committee in 1947, gone into the question of firming up the power, how the firming up might be accomplished, and as to whether anything has happened since 1947?

Mr. CORDON. Of course, as to whether the Senator from Oregon has been endeavoring to follow the hearings in this matter, and advise himself, I can only say that to the extent of his limited ability he has.

Mr. HILL. There is not a more diligent Member of the Senate than the Senator from Oregon, and I pay tribute to his great diligence and his indefatigable work, but that still does not answer my question as to whether or not the Senator has since 1947 gone into the question of how the power at these Government plants might be firmed up.

Mr. CORDON. Mr. President, I think perhaps I can answer the Senator. First, the answer is in the affirmative. The power from these dams may be increased somewhat by integrating the dams themselves. After that increase has been made it can only be increased by controlled steam power.

Mr. HILL. What I want to know is, has the Senator gone into the question as to whether or not there might be some steam power to firm up this Government power, other than steam power belonging to private utilities.

Mr. CORDON. Mr. President, the Senator has asked the question in such a way that my simple mind can understand it. The Senator from Oregon is fully advised of the fact, and the record discloses the fact, that in various areas public cooperatives, REA's, PUD's, and what have you, have built steam-generating plants. There are applications now pending before the Administrator of REA for millions of dollars with which to build more steam plants. The Administrator of the Southwestern Power Administration has had funds, and seeks them in this bill, for the purpose of purchasing power, from such sources, to the extent he can, for the purpose of firming up his power. There is in Virginia at this time a grave question as to whether another steam plant, costing up around $20,000,000 shall be built.

The point I wish to make is that the law with reference to the Federal Government's activities does not contain this authority, and whether as a policy it should is one of the main questions to be considered before the Congress, and it should be determined without delay.

Mr. HILL. Will the Senator yield further?

Mr. CORDON. I yield.

Mr. HILL. Does the Senator know that at this time the Missouri-Arkansas REA Cooperative has under construction a steam plant for the very purpose of firming up some of the power?

Mr. CORDON. I do not know about that particular one. I know there are some not only under construction, but already constructed and operating.

Mr. HILL. The one to which I particularly refer is now under construction for the purpose of firming up Government power. Does the Senator know that the city of Springfield, Mo., to which he referred, has a 25,000-kilowatt steam plant?

Mr. CORDON. I know that.

Mr. HILL. And that they are now preparing to double its capacity in order that they may firm up that power?

Mr. CORDON. Yes; I am familiar with that situation.

Mr. HILL. And that the Sho-Me Co-op of Missouri, which owns all the electric facilities in 10 or 15 counties of southern Missouri, has a steam plant capacity of from fifteen to twenty thousand kilowatts, which they propose to firm up?

Mr. CORDON. I am not familiar with that, but I do know the progress and the trend, Mr. President. I think unquestionably the main fight at this time on the provision of the bill we are discussing has its genesis in the organization headed by Mr. Ellis, for the sole purpose of guaranteeing to his group the generation of hydroelectric power by steam, and using the small peaking volumes that may be available from the

Government as a vehicle on which to ride. I know that quite well.

Mr. President, let me get to the main question in the bill, which is: What are we going to do with reference to the power the Government generates? And what shall we do with reference to our directions to those who administer our laws? That is something which is not contained in any statute, but it ought to be.

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

Mr. CORDON. Yes.

Mr. MAGNUSON. The Senator has very ably stated that the real question here is not so much the amounts involved as the question of policy, particularly in the Southwest and the Southeast. The bill contains another matter which comes a little closer to the Senator and myself, and to the areas we represent, namely the Kerr-Anaconda line.

Mr. CORDON. I shall touch on that in a few minutes. I wish the Senator would withhold his question on that for a moment.

Mr. MAGNUSON. I was wondering if in respect to that line a question of policy is involved rather than the amount of money.

Mr. CORDON. I think that is correct.

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

Mr. CORDON. I yield.

Mr. WATKINS. I noted what the Senator said with reference to the Tennessee Valley and that there the Congress had made a decision with reference to establishing a policy in respect to construction of a steam plant. Did I correctly understand the Senator to say that that was a matter of policy?

Mr. CORDON. My statement was that with reference to the Tennessee Valley we had granted the money to do the job, and as to the TVA, I intended to say it was a matter of policy.

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

Mr. CORDON. I yield.

Mr. WATKINS. I should like to make the observation that, so far as the Senator from Utah is concerned, I voted for the appropriation for the steam plant in the TVA on the theory that the plant was necessary to help make good the enormous investment the United States had made there.

Mr. CORDON. As I did.

Mr. WATKINS. I did so simply on that practical ground, and not on the principle of deciding the policy that the United States should go into the business of creating electrical energy by steam plants. That was incidental, and so far as I was concerned, it was not a question of deciding a major policy.

Mr. CORDON. Mr. President, the Senator from Oregon is in agreement with his colleague from Utah. That was a decision, so far as I was concerned, which was limited to the only authority of its kind in the United States at this time. So far as the Pacific Northwest is concerned I hope the Tennessee Valley Authority will continue to be the only one of its kind. I am not prepared to commit the United States to that kind of an over-all policy.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. CORDON. I yield.

Mr. JOHNSON of Texas. I wish to inquire of the distinguished Senator from Oregon how much is carried in the bill for steam-plant facilities.

Mr. CORDON. So far as I know, nothing, but the necessity for the steam is perfectly clear. I believe that without question. The necessity will either have to be met by the Government going into it directly, or indirectly through the public bodies, or it will be met by that type of a contract which I believe can be made that will permit the use of the peaking power by the utilities in the area, and that will guarantee the highest amount of power that could come from those dams to be available anywhere in their area of service, and made available at the lowest price the Government itself could produce it at that place. I believe that can be done. If I did not think it could be done I should not have gone along with this report.

Mr. President, we have all these questions involved in the 9 or 10 distribution companies in the Southwestern Power Administration. I have sat in hearings on this matter for years. I know now that agreement has almost been reached, and that contracts similar to the Texas company contract have been offered by the utilities of the Southwest. I have looked at them. I submit there is plenty of room for argument, plenty of room for negotiation. I am satisfied, however, that those companies, faced with the knowledge that the Congress of the United States is committed to see that the full value of the hydroelectric energy from its dams shall be made available to the people of the United States in the service areas of those dams, will be willing to go along or at least will feel that they must go along with sound workable contracts following the pattern of the contracts with the Texas company.

Mr. President, differing, as the circumstances may require, I believe that type of contract can be made, and that it will result in economy from the standpoint of the Government and economy from the standpoint of existing capital investment and efficiency, from the standpoint of distribution and a better utilization of the Federal power by those who desire to organize in public bodies. That is my approach to this problem, and the reason I shall support the program, so far as the action taken with respect to the Southwestern Power Administration is concerned.

Mr. President, with reference to southeastern, I frankly say that the testimony before the committee left me without that knowledge I should like to have had as to whether the particular sum in question must be had in order to negotiate the contract that should be negotiated, and until the proof is there I shall vote "no."

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

Mr. CORDON. I yield.

Mr. SPARKMAN. I was interested in what the able Senator had to say with reference to the southeastern situation. Does the Senator recall that the testimony before his committee was to the effect that power would come into being in the southeastern area during 1950 to the extent of $1,000,000, and that by 1953 it would be stepped up to $10,000,000?

Mr. CORDON. I do not recall the amount.

Mr. SPARKMAN. If the Senator would like to have me do so I shall read it from the record to him.

Mr. CORDON. I shall be glad to have the Senator place it in the RECORD later. I will take the Senator's word for it.

Mr. SPARKMAN. That is in the record of the hearings. If that is true, does not the Senator agree that in keeping with the statement he has just made, $70,000 would be a very reasonable amount to be used to look after the interests of the Federal Government in the proper marketing of that power?

Mr. CORDON. Mr. President, this is the situation. The dams have been under construction for several years. We have had a power division in the Department of the Interior all that time. Studies have been going on coincidentally with the construction of the dams. The Federal Power Commission has been operating in the same area and considering like problems in connection with its operations. Frankly, I believe that if the Interior Department does not have the information that is necessary at the present time to enable it to make the contract, then it has been remiss in its duty, and I would hesitate to leave it with the authority to spend further money for the same useless end.

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

Mr. CORDON. I yield.

Mr. HILL. Is it not true that it is not merely a question of having the information? Not only must the contract be carefully negotiated, but it must be serviced, managed, and overlooked. There must be someone to represent the Government of the United States, to insure that the contract is properly carried out.

Mr. CORDON. Whenever the situation reaches that point, I shall be glad, as a member of the Appropriations Committee, to give proper consideration to the question of the funds necessary for servicing that or any other contract.

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

Mr. CORDON. I yield.

Mr. HILL. I will say to my good friend that that is just exactly the situation. We have now arrived at that point. The testimony shows that the power will come from those dams this fall.

Mr. CORDON. Mr. President, I am yielding for a question. I may say that the testimony indicated to me that the purpose was to make the studies which I say should have been made. There has been time enough to make them.

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

Mr. CORDON. I decline to yield further at this time. It is after 5 o'clock, and I had intended to speak for only 40 minutes. I wish to conclude.

I now revert to the Pacific Northwest. There was an item with respect to the

Bonneville Administration, for funds to construct a transmission line from Kerr Dam to Anaconda. I identify it because it happens that the committee took the same position with reference to that line that it has taken with reference to the others, namely, that the power company in that area and the Government, through the Bonneville Administration, should endeavor to negotiate a wheeling contract similar to the Texas contract, and so save duplication of lines or additional heavy capital investment. That seemed to me sound then. It seems to me sound now.

If that contract, or a contract of that character, cannot be worked out, and the Congress is advised that there are differences which cannot be surmounted and that a sound contract cannot be executed and placed in operation, the Senator from Oregon will be found in the van of those asking for whatever funds are necessary to market the Government's power in a sound manner so that the public, which is entitled to its values, can have it. But until we have tried that, the Senator from Oregon will oppose any further excursion into the field of useless duplication of transmission lines or duplication of steam-generating plants.

Mr. HAYDEN. Mr. President, so far as I know, there are three Senators who wish to speak on the bill. I was hopeful that we might obtain unanimous consent for a limitation of time. So far as I know, there are two other Senators on the Democratic side who desire to be heard on the bill. Each of them tells me that he would like to speak for not more than 20 minutes.

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

Mr. HAYDEN. I yield.

Mr. McCARRAN. I do not know whether the Senator includes me in the number, but I certainly wish to be heard, and I hope it will be possible to be heard tomorrow. I think my presentation will require 20 or 25 minutes.

Mr. HAYDEN. Under those circumstances, I wonder if it would be possible to obtain an agreement to vote on this group of amendments en bloc at 2 o'clock, say, tomorrow afternoon?

Mr. WHERRY. Mr. President, the Senator knows that I have endeavored to work with him in arriving at a unanimous-consent agreement. At this time I believe it would be inopportune to present the request. However, I feel confident that if the request is made tomorrow at the beginning of the session, that can be done. As I understood, the distinguished Senator felt that a limitation of 20 minutes on each amendment would be proper.

Mr. HAYDEN. We are to vote en bloc on these amendments. From the inquiries which I have made, I have learned that three or four Senators wish to speak on the amendments.

Mr. WHERRY. That applies only to the first block of amendments.

Mr. HAYDEN. Yes.

Mr. WHERRY. I think the Senator is doing a constructive thing in attempting to reach a unanimous-consent agreement. However, I believe that it would be impossible to obtain it at this time. I believe that if the request is renewed tomorrow, there will be a possibility of getting a limitation of time, so that we may vote on the amendments.

Mr. MAGNUSON. Mr. President, as I understand, the Senator from Arizona is endeavoring to dispose of the so-called Southwest power amendment.

Mr. WHERRY. There are four of them.

Mr. MAGNUSON. Several Senators are interested in a number of items, such as the Central Valley and the Kerr projects. They will come up for discussion tomorrow after these particular amendments are disposed of, and we shall have plenty of time to discuss them.

Mr. SPARKMAN. Mr. President, I do not know whether the proposed time limitation which the Senator has suggested would be sufficient to take care of all Senators who wish to speak. The Senator from Arizona stated that, so far as he knew, only two or three Senators wished to speak on this particular item in the bill. No one has approached me. I wish to be included in the allocation of time. I bear in mind that there are other items in the bill. While it may be true that the Southwest power situation does not affect my particular area or my particular interests as much, perhaps, as do some of the other items, yet there is a central purpose running all the way through the bill and affecting every one of the various items. I should not like to waive my opportunity to discuss the situation generally in order to reach a vote on the first set of amendments. It seems to me that the vote on the first set of amendments may very well be the most important vote in connection with the entire bill, because I think it may very well set the pattern for the whole bill. I certainly wish to be included in whatever allotment of time is made.

Mr. HAYDEN. Mr. President, I have found from experience in the Senate that when a limitation is placed upon the time a Senator may occupy, we reach a vote quite soon. That is one way of doing it. Another is to fix a definite hour for a vote. My preference is to fix a limitation of time upon each Senator. In that way any Senator who wishes to speak has the opportunity, but he does not take all day to do it.

Mr. WHERRY. Mr. President, I am quite satisfied that if the unanimous consent request is presented tomorrow, an agreement will be possible, if the time for each amendment is fixed at not more than 30 minutes. I believe that such an arrangement would be acceptable so far as the minority is concerned. I believe that if the request is presented tomorrow there will be no doubt about it. One Senator who is interested is not present.

As I understand, the unanimous consent request applies only to the first four amendments, which are to be voted upon en bloc, and has no bearing upon other amendments. If a time limit of 30 minutes for each amendment were set, I believe that would be satisfactory. That would give each Senator, if he chose, an hour and 20 minutes to speak on the four amendments.

Mr. HAYDEN. No.

Mr. WHERRY. Does the Senator propose to treat all four amendments as one amendment in limiting the time?

Mr. HAYDEN. The amendments are to be voted upon en bloc. There will be only one roll call. The amendments all relate to one subject, the Southwest Power Administration. I had understood, from the extended debate we have had, that the subject had been quite well exhausted. We are discussing one subject. We are to vote on the four amendments en bloc. The mere fact that there are four amendments does not mean that there should be four times as much talk.

Mr. WHERRY. I agree that when the vote is taken it will be upon the four amendments en bloc. I should like to know now if the distinguished Senator wishes to limit the time on all four amendments. Does the Senator mean that he wishes to limit the time on all four amendments to 30 minutes for each Senator?

Mr. HAYDEN. Yes.

Mr. WHERRY. That is a little different from the suggestion which was presented to me, but I still think we can work out a unanimous-consent agreement tomorrow.

Mr. McCARRAN. Mr. President, will it be possible for the Senate to continue with its work on Saturday, in view of the circumstances? Will not the leadership agree to do that?

Mr. HAYDEN. I am sorry, but I think I read in the RECORD the statement that there is no intention on the part of the leadership to have the Senate meet on Saturday. I confess that the subcommittee has had this matter under consideration for months, and it has been before the Senate for weeks; and if we are ever to get out of Washington, we must pass this bill.

Mr. McCARRAN. Is there any good reason why we cannot work on Saturday?

Mr. HAYDEN. So far as I am concerned, I am perfectly willing to do so.

Mr. McCARRAN. I think we should.

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

Mr. HAYDEN. I yield.

Mr. MYERS. That question was asked yesterday of the Senator from Illinois [Mr. LUCAS], I believe. He indicated that a number of Members of the Senate had approached him and had suggested that they hoped we would not have a Saturday session.

After he left the Chamber, and when I was acting majority leader, the question was asked on the floor of the Senate. A number of Senators said to me privately that they had made engagements, and that if we were to work on Saturday, they hoped they would be given more advance notices. Therefore I announced that we would not have a Saturday session.

I think many Senators already have made plans to absent themselves on Saturday, in order to keep engagements which were made many months ago; and they now have confirmed those engagements, because of the fact that the announcement was made.

If we intend to complete our program, I think we should have Saturday sessions

in the future. But I believe the notice should be given very early in the week, so that Senators may make their plans accordingly.

It is only because that announcement was made and because many Senators have made their plans, that I hesitate now to change the program and have a Saturday session.

Mr. McCARRAN. Then cannot we work tomorrow night? Is there anything to prevent us from working tomorrow evening until 10 or 11 o'clock on a bill so important as this one?

Mr. HAYDEN. If we could get a vote on one amendment, I think that would encourage us to move along. Tomorrow, after conferring with the minority leader, I shall renew the request for a unanimous-consent agreement.

Mr. President, I inquire if any Senator desires to address the Senate at this time on this bill?

Mr. McCARRAN. Mr. President, is there any reason why we cannot go on at this time and reach a vote?

Mr. MYERS. Mr. President, there is no reason whatsoever, except no advance notice of a night session has been given.

But I understand that the Senator from Arizona has just asked whether any other Member of the Senate wishes to address himself on this subject at this time. No Senator seems prepared to speak now.

Mr. WHERRY. Mr. President, several Senators have spoken to me in this connection. I believe the Senator from Arkansas [Mr. McCLELLAN] wishes to address himself to the bill, but he is not in the Chamber now.

Mr. HAYDEN. The Senator from Alabama [Mr. SPARKMAN] wished to discuss this matter.

Mr. WHERRY. Certainly if there is a desire to have a Saturday session, that will be all right with me. But yesterday the majority leader said there would be none. It is perfectly agreeable to me to have a Saturday session or a night session; but if we are to have night sessions, I think announcement should be made in advance, so that it will be understood that we shall have them. That is the only suggestion I have to make. But if it is desired that we continue in session tonight, a night session will be agreeable to me.

Mr. MYERS. Mr. President, I cannot allow that statement to go unanswered. It seems to me that the minority leader did not urge a Saturday session, but simply asked if there would be one, and he seemed very happy to hear that there would not be one. It seems to me that no Senator has urged that there be a Saturday session.

Mr. WHERRY. Mr. President, not only have I urged time and time again that we hold Saturday sessions, but I have urged that we expedite the program as much as possible. I have attempted to obtain unanimous-consent agreements without number to expedite the program. I feel that we should do so now.

But if we are to have night sessions, I believe they should be announced in time to permit Senators to attend.

If the majority will state as a policy that they want Saturday sessions to be held, I can assure the distinguished acting majority leader that the minority will cooperate.

I understood several weeks ago that we were to have two night sessions a week. That was tried one night and then abandoned.

If we are to have two night sessions a week, that will be all right with me. If we are to have Saturday sessions, that will be all right with me. I am satisfied that the minority will be tickled to death to cooperate with the majority to expedite the program. Certainly it has bogged down.

Mr. McCARRAN. Mr. President, would it inconvenience either the majority or the minority if we were to meet tomorrow morning at 10 o'clock and continue then on this measure? It seems to me that we can make time somewhere here, certainly.

Mr. WHERRY. Mr. President, if the Senator would suggest that the Senate meet tomorrow at 11 o'clock, I should be glad to agree. Because of committee hearings, it is a little difficult for Senators to attend a session of the Senate earlier than that.

Mr. McCARRAN. Very well; then let us meet at 11 o'clock tomorrow.

Mr. WHERRY. But I wish to point out that the majority leader attempted that twice this week; and, believe it or not, the second time we met at 11 o'clock in the morning we did not obtain a quorum until 11:45. It is obvious that we do not gain time if there are going to be committee meetings in the morning and if the Senate also attempts to meet at 11 a. m. My feeling is that if the Senate is to meet at 11 o'clock in the morning, we should cut out the committee hearings. I offer that as a constructive suggestion.

But I shall be glad to be here at 11 o'clock, regardless of whether it takes 45 minutes or 50 minutes to obtain the attendance of a quorum.

Mr. MYERS. Mr. President, we appreciate the cooperation of the minority leader. In connection with the unanimous-consent agreement which has been proposed or referred to this afternoon, let me say that I hope that tomorrow nothing will dissuade the Senator from Nebraska from agreeing to reduce the time on these amendments from 30 minutes to perhaps even 20 minutes.

Mr. WHERRY. I am sure the distinguished Senator believes, with me, that the proper procedure is to have an advance understanding regarding the time of the session.

Mr. MYERS. I understand that. I am simply stating that I hope full cooperation will be given in order that the proposed unanimous-consent agreement in regard to further debate on the amendments which have been referred to this afternoon will be entered into, just as today we had a unanimous-consent agreement to take the vote on the Clark nomination at 3:30 p. m.

NOMINATION OF TOM C. CLARK—PERSONAL STATEMENT

Mr. LANGER. Mr. President, this afternoon, while the Senate was considering the Clark nomination, the distinguished senior Senator from Ohio [Mr. TAFT] took occasion to say that the motion I made in the Judiciary Committee was outrageous. He repeated that statement several times.

I wish to say that the Senator from North Dakota is one Senator in the Republican Party whom the senior Senator from Ohio is not running. I feel entirely capable of making any kind of motion I wish to make at any time either in committee or on the floor of the Senate without having the Senator from Ohio attempt to reprimand me for it. Mr. President, in view of his interview yesterday in which he said the Republican Policy Committee could not make a statement at that time, I wish to say they do not even tell what they stand for. The people do not know whether they stand today for telephones for the rural farmers or whether they stand for liberalizing the FHA or whether they stand for the REA. In other words, the Senator from Ohio announced, as Chairman of the Republican Policy Committee, that they stand for nothing at this time. Well, Mr. President, that is what they have been standing for for quite a long time, and that is not the kind of leadership that appeals to the Senator from North Dakota.

I simply wish to make it crystal clear that my conscience is absolutely at ease so far as the preferential motion I made in the Tom C. Clark nomination committee consideration is concerned. I listened to the witnesses who came before the committee. We would have had to hold hearings in the committee for the next 3 or 4 months if we had investigated fully each one of the organizations in question. Every one of the societies that Mr. Clark listed as subversive would have had its representatives before the committee saying that their societies were not subversive, and they would prove they were not.

I do not know whether they were subversive or were not subversive. As a matter of fact, I have spoken at meetings held by some of those organizations. But certainly the time when we were considering the nomination of Mr. Clark was not the time to ascertain whether those societies were or were not subversive and I am perfectly willing to let them appear at any Senate investigation and be heard. Personally, I think that some of them are not subversive.

Also we had testifying before the committee the head of the Communist Party and the lady who is the national secretary of the Communist Party. They had a perfect right to be there. I heard every word of their testimony. But at that time, when we were considering the nomination of Mr. Clark, we were not deciding whether the Communist Party was right or was wrong.

Suffice it to say that so far as the Senator from North Dakota was concerned, twice—once when I was violently opposed to confirmation of the nomination of Tom C. Clark as assistant attorney general to head the Antitrust Division—we had him appear before our committee, and we went into the alleged Texas matter in the greatest detail.

His nomination was reported favorably by unanimous vote. Two years later, we considered this same matter the second

time when he was nominated for Attorney General. He gave an accounting, as I stated before, this afternoon, of every single fee of $1,000 or more which he received, and I was entirely satisfied. As I say, I listened carefully to all the testimony. I did not miss a single second of it.

I think it comes with exceedingly ill grace for the distinguished senior Senator from Ohio, when he knew nothing about what had taken place in the committee, when he did not attend a single meeting, to come along and try to dictate to nine fellow Senators, among them the distinguished senior Senator from Wisconsin who was chairman when the Republicans were in control, and to say that the action was outrageous. Perhaps, Mr. President, the senior Senator from Ohio wants to run every committee of the Senate. Perhaps he will say of all the committees, if they take a certain kind of action, that it is outrageous. He may do it, if he wishes, Mr. President, but, I repeat, so far as the senior Senator from North Dakota is concerned, every time he does it he will be met by at least one protest upon this floor. I repeat, here is one Republican Senator who is not taking orders and is not going to be subservient to the senior Senator from Ohio, or to any one else. My vote is my own—no one will ever dictate how it shall be cast. I am here representing the people of my State, and I am here to do it honestly, efficiently, and in accordance with my oath as a Senator. I think the people of the State of North Dakota will approve the action which was taken today. I think the chairman of our committee, the senior Senator from Nevada [Mr. McCARRAN] was eminently fair. For three long days he sat conducting the hearing. He did not cut off a single witness. He let them talk as long as they wanted to talk, and he then said, "Is there anyone else who wants to testify?" There was no one else. We then went ahead and considered the motion of the distinguished Senator from Missouri [Mr. DONNELL]. I did not see any sense in wasting weeks listening to witnesses in an investigation that already had twice been gone over so far as the honesty and integrity of Mr. Clark were concerned. There were no charges of corruption, no charges of dishonesty, and what was alleged as sufficient grounds to bar Mr. Clark we did not consider relevant at all.

I say this, Mr. President, so the RECORD may be crystal clear, and that the people of the country may know exactly where the farmer-labor branch of the Republican Party stands.

RECESS

Mr. MYERS. I move that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 42 minutes p. m.) the Senate took a recess until tomorrow, Friday, August 19, 1949, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate August 18 (legislative day of June 2), 1949:

UNITED STATES PUBLIC HEALTH SERVICE

The following-named candidates for promotion in the Regular Corps of the Public Health Services:

Senior surgeons to be medical directors (equivalent to the Army rank of colonel):

Ralph L. Lawrence	Sidney P. Cooper
Ernest E. Huber	Waldemar C. Dreessen
William H. Gordon	Noka B. Hon
Edwin G. Williams	Otis L. Anderson
Gerald M. Kunkel	Mason V. Hargett
Harold D. Lyman	Cassius J. VanSlyke
John D. Lane, Jr.	Erwin W. Blatter
Chapman H. Binford	Victor H. Vogel
John A. Trautman	Thomas B. McKneely
Joseph A. Bell	William G. Workman
Edward C. Rinck	Robert K. Maddock
Gordon A. Abbott	Alfred B. Geyer

Surgeons to be senior surgeons (equivalent to the Army rank of lieutenant colonel):

Emanuel E. Mandel	Thomas F. Crahan
James G. Telfer	Raymond F. Kaiser
Dale C. Cameron	Glenn S. Usher
Leo D. O'Kane	James V. Lowry
John A. Lewis, Jr.	John P. Turner
Jack L. James	Michael L. Furcolow
Leon S. Saler	Robert T. Hewitt
Thomas A. Hathcock, Jr.	Aaron W. Christensen
	Francis T. Zinn
Randall B. Haas.	Max R. Kiesselbach
Charles G. Spicknall	Robert R. Smith
Vernam T. Davis	Weldon A. Williamson
Harold T. Castberg	Harald M. Graning
Terrence E. Billings	Karl Habel
James R. Shaw	Robert L. Zobel
Lewis H. Hoyle	Murray A. Diamond
James Watt	Robert D. Wright
Edgar B. Johnwick	Joseph S. Spoto
Lawrence W. Brown	William Ford
Francis J. Weber	Waldron M. Sennott
Thomas R. Dawber	Benjamin Highman
Theodore F. Hilbish	

Dental surgeon to be senior dental surgeon (equivalent to the Army rank of lieutenant colonel):

William C. Neaf

Senior assistant dental surgeon to be dental surgeon (equivalent to the Army rank of major:

Peter J. Coccaro

Senior sanitary engineers to be sanitary engineer directors (equivalent to the Army rank of colonel):

Carl E. Schwob	Vincent B. Lamoureux
Ellis S. Tisdale	
Omar C. Hopkins	Maurice LeBosquet Jr.
Mark D. Hollis	

Sanitary engineers to be senior sanitary engineers (equivalent to the Army rank of lieutenant colonel):

Frank E. DeMartini	Vernon G. Mackenzie
Gordon E. McCallum	Duncan A. Holaday

Pharmacists to be senior pharmacists (equivalent to the Army rank of lieutenant colonel):

Guy H. Trimble
J. Solon Mordell

Senior assistant pharmacists to be pharmacists (equivalent to the Army rank of major):

Ernest J. Simnacher
Carmen A. Carrato
Boyd W. Stephenson

Scientist to be senior scientist (equivalent to the Army rank of lieutenant colonel):

Martin D. Young

Dietitians to be senior dietitians (equivalent to the Army rank of lieutenant colonel):

Fonda L. Dickson
Clare B. Baldauf

Senior assistant dietitians to be dietitians (equivalent to the Army rank of major):

Janet E. Eley
Myrtle M. Morris
Engla J. Anderson

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grades indicated under the provisions of title V of the Officer Personnel Act of 1947:

To be major general

Maj. Gen. Harry John Collins, O7320, Army of the United States (brigadier general, U. S. Army).

To be brigadier generals

Brig. Gen. Samuel Davis Sturgis, Jr., O9325, Army of the United States (colonel, U. S. Army).

Maj. Gen. Isaac Davis White, O15080, Army of the United States (colonel, U. S. Army).

Maj. Gen. Carter Bowie Magruder, O15155, Army of the United States (colonel, U. S. Army).

Maj. Gen. William Frishe Dean, O15453, Army of the United States (colonel, U. S. Army).

Maj. Gen. William Howard Arnold, O15558, Army of the United States (colonel, U. S. Army).

Brig. Gen. George Winfered Smythe, O15816, Army of the United States (colonel, U. S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of section 515 of the Officer Personnel Act of 1947:

To be brigadier generals

Col. Louis Huber Renfrow, O160948, Army United States (colonel, Dental Corps Reserve).

Col. Earle Standlee, O16530, Medical Corps, United States Army.

Col. William Edward Shambora, O16540, Medical Corps, United States Army.

IN THE NAVY

The following-named (civilian college graduates) to be ensigns in the Navy, from the 3d day of June 1949:

Douglas LaC. Barker	William E. Jennings
Boyd C. Bartlett	James C. Johnson
George A. Benson	Charles A. Kiselyak
Robert B. Bernhardt	Robert M. Laske
Philip Blau	Leon D. Lewis
William W. Bowers	Guy M. Lyons
Paul A. Brandorff	George P. Markovits
George G. Brooker	Donald E. Moore
Marvin N. Brown	Bert Myatt, Jr.
Benjamin J. Brzenski, Jr.	William E. Orr
	David B. Pendley
Raymond F. Carmody	Rodger G. Powell
Malcolm S. Carpenter	Gerrie P. Putnam
Milton J. Chewning	George C. Rann
Thomas C. Clay	David E. Russell
Robert V. Coleman	John C. Sargent
Frank W. Craddock	John T. Scogin III
Benjamin A. Cragin	Charles E. Shumaker
Anthony J. Davey	Wayne J. Spence
Roger E. Davis	Edward F. Striegel
William W. DeWolf	Bernard K. Thomas, Jr.
Harry A. Edwards	Edward W. Waller
Walter L. Edwards	Kirk C. Wilkins
Charles G. Erb	James R. Williford III
Robert W. Fraser	Beau R. Wilson
Donald H. Hagge	John M. Wolff
Charles R. Holman	Charles M. Woodworth
Donald P. Holt	John H. Wygal
David L. Jarvis	

The following-named (civilian college graduates) to be ensigns in the Supply Corps of the Navy, from the 3d day of June 1949:

Walter "J" Buzby II
Robert T. Carter
Warren H. Stark
John R. Tawes

The following-named (civilian college graduates) to be lieutenants (junior grade) in the Chaplain Corps of the Navy:

Ralph W. Below
Bradford W. Long
Ambrose T. McGinnity

Donny A. Myrio (civilian college graduate) to be a lieutenant (junior grade) in the Dental Corps of the Navy.

The following named to be ensigns in the Nurse Corps of the Navy:

Nieves Arano
Virginia B. Brown
Arlys A. Casterton
Lena J. Chionchio
Joan Dandes
Roma B. Dunkman
Winifred LaV. Fritsche
Gwendolyn L. Glazier
Marchetta Harper
Dorothy R. Harrell
Shirley M. Hilliard
Martha A. Price
Marie F. Shea

The following-named officer to the grade indicated in the line of the Navy:

LIEUTENANT

William Laliberte

The following-named officers to the grades indicated in the Medical Corps of the Navy:

COMMANDERS

Eugene T. Foy
John J. Goller

LIEUTENANT COMMANDERS

Henry J. Fregosi
Richard E. Kelley
Peter G. Kroll
Newell Nay

LIEUTENANTS

Vincent A. Balkus
Alexander C. Hering
Donald W. Robinson
Merrill E. Speelman

LIEUTENANTS (JUNIOR GRADE)

David J. Greiner
Henry Santina
William C. Sharp, Jr.

The following-named officers to the grades indicated in the Dental Corps of the Navy:

LIEUTENANT

Edward W. Moore

LIEUTENANTS (JUNIOR GRADE)

Bert E. Eldred
Victor P. Knapp
Algie M. Mansur

The following-named officers to the grade indicated in the Medical Service Corps of the Navy:

LIEUTENANTS

Aldo Bartolomei
Chester "D" Moss
Paul R. Young

The following-named officer to the grade indicated in the Nurse Corps of the Navy:

LIEUTENANT (JUNIOR GRADE)

Helen M. Hartigan

Carll T. Gleason to be a lieutenant in the Navy, for limited duty only, in lieu of lieutenant in the Navy, for limited duty only, as previously nominated and confirmed, to correct spelling of name.

James L. Thompson to be a lieutenant (junior grade) in the Navy, for limited duty only, in lieu of ensign in the Navy, for limited duty only, as previously nominated and confirmed.

Frederick J. Cadotte to be a lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, in lieu of lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, as previously nominated and confirmed, to correct spelling of name.

Byron F. McElhanon to be a lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, in lieu of lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, as previously nominated and confirmed, to correct spelling of name.

Martti O. Mattila to be a lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, in lieu of lieutenant (junior grade) in the Supply Corps of the Navy, for limited duty only, as previously nominated and confirmed, to correct spelling of name.

Harlan L. Bowman to be a lieutenant (junior grade) in the Civil Engineer Corps of the Navy, for limited duty only, in lieu of lieutenant (junior grade) in the Civil Engineer Corps of the Navy, for limited duty only, as previously nominated and confirmed, to correct spelling of name.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 18 (legislative day of June 2), 1949:

SUPREME COURT OF THE UNITED STATES

Tom C. Clark to be an Associate Justice of the Supreme Court of the United States.

DEPARTMENT OF JUSTICE

J. HOWARD MCGRATH, to be Attorney General of the United States.

HOUSE OF REPRESENTATIVES

THURSDAY, AUGUST 18, 1949

The House met at 10 o'clock a. m.

The Acting Chaplain, the Reverend James P. Wesberry, pastor, Morningside Baptist Church, Atlanta, Ga., offered the following prayer:

Almighty God, before whom the centuries sob in ceaseless warfare, gladden our hearts once again with the light which shone 'round about Bethlehem and bring us back to the beautiful dream of universal peace about which the angels sang.

Calm the storms that beat within our breasts. Speak peace to our disturbed minds and troubled hearts. Guide our decisions that war may be averted and peace preserved.

Look with gracious favor upon all who strive for peace. By some miracle of divine grace, may the nations be united in bonds of international friendship.

Hasten the day, O God of all nations, when men shall beat their swords into plowshares and their spears into pruning hooks, and the kingdoms of earth shall become the kingdom of God. In the name of the Prince of Peace. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. McDaniel, its enrolling clerk, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 520. An act to authorize and direct the Secretary of the Interior to issue to Leo Farwell Glenn, a Crow allottee, a patent in fee to certain lands; and

S. 1361. An act to authorize and direct the Secretary of the Interior to issue to John Grayeagle a patent in fee to certain land.

The message also announced that the Senate agrees to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bills of the House of the following titles:

H. R. 2859. An act to authorize the sale of public lands in Alaska; and

H. R. 2877. An act to authorize the addition of certain lands to the Big Bend National Park, in the State of Texas, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1647) entitled "An act to eliminate premium payments in the purchase of Government royalty oil under existing contracts entered into pursuant to the act of July 13, 1946 (60 Stat. 533)."

THE CIVIL FUNCTIONS APPROPRIATION BILL, 1950

Mr. RANKIN. Mr. Speaker, I offer a preferential motion. I ask unanimous consent that it be read, printed in the RECORD, but that action under it be suspended until the pending bill is disposed of, that it be in order following the disposition of the pending bill.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. RANKIN moves that the managers on the part of the House, who were appointed by the Speaker for a conference with the Senate on H. R. 3734 be, and they are hereby, instructed to agree to and accept the following amounts as compromise amendments on the various projects involved in said conference:

Construction

Project	Amount to which House conferees are instructed to agree
CONSTRUCTION	
Alabama:	
Tennessee-Tombigbee waterway	$1,000,000
Demopolis lock and dam, Warrior system	1,000,000
Alaska:	
Nome Harbor	701,000
Wrangell Narrows	343,000
Arkansas:	
Arkansas River and tributaries:	
Bank stabilization, Little Rock to mouth	600,000
Bank stabilization below Dardanelle	500,000
Morrilton cut-off	250,000
California:	
Crescent City Harbor	481,000
Monterey Harbor	45,520
Sacramento River	1,700,000
San Diego River and Mission Bay	2,200,000
Connecticut:	
Mianus River (Cos Cob Harbor)	79,500
New Haven Harbor	250,000
Pawcatuck River, R. I. and Conn	68,500
Delaware:	
Harbor of refuge, Delaware Bay	120,000
Indian River Inlet and Bay	320,000
District of Columbia: Potomac River, north side of Washington Channel	375,000
Florida:	
Intracoastal Waterway, tributary channels:	
Okeechobee-Cross Florida Waterway	300,000
Jim Woodruff lock and dam, Apalachicola River	7,500,000
St. Andrew Bay	125,000