By Mr. BARTLETT:

H. R. 7760. A bill to amend the act of August 23, 1950 (Public Law 727, 81st Cong.), entitled "An act to direct the Secretary of the Interior to convey abandoned school properties in the Territory of Alaska to local school officials"; to the Committee on Interior and Insular Affairs.

By Mr. O'BRIEN of New York:

H. R. 7761. A bill to provide for the acquisition and preservation, as a part of the National Park Service, of the building formerly owned by "Uncle Sam" Wilson which is located at 144 Ferry Street, Troy, N. Y.; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR:

H. R. 7762. A bill to provide for the acquisition and preservation, as a part of the National Park Service, of the building formerly owned by "Uncle Sam" Wilson which is located at 144 Ferry Street, Troy, N. Y.; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ANFUSO:

H. R. 7763. A bill for the relief of Vincenza Rallo Pulizzi; to the Committee on the Judiciary.

H. R. 7764. A bill for the relief of Salvatore Gerlando Faldetta; to the Committee on the Judiciary.

H. R. 7765. A bill for the relief of Guiseppe Borrometi; to the Committee on the Judiciary.

H. R. 7766. A bill for the relief of Michele Vitale, also known as Michael Vitale; to the Committee on the Judiciary.

By Mr. DONDERO:

H. R. 7767. A bill for the relief of Chieko Dohi; to the Committee on the Judiciary.

By Mr. HILLINGS:

H. R. 7768. A bill for the relief of Mary Ann Wilkinson; to the Committee on the Judiciary.

By Mr. HUNTER:

H. R. 7769. A bill for the relief of Grigorios Phillipidis (also known as Gregory Phillips); to the Committee on the Judiciary.

By Mr. KILDAY:

H. R. 7770. A bill for the relief of Ng Gin Wei; to the Committee on the Judiciary.

By Mr. MITCHELL:

H. R. 7771. A bill for the relief of Pasquale Patricelli; to the Committee on the Judiciary.

H. R. 7772. A bill for the relief of Mrs. Yaeko Ito Aoki; to the Committee on the Judiciary.

Br. Mr. RHODES:

H. R. 7773. A bill for the relief of Anastasios John Kouvaras; to the Committee on the Judiciary.

By Mrs. ST. GEORGE:

H. R. 7774. A bill for the relief of Jerry Pagoulatos; to the Committee on the Judiciary.

By Mr. WALTER:

H. R. 7775. A bill for the relief of Gertrud Sander and her minor daughter, Irene Sander; to the Committee on the Judiciary.

H. R. 7776. A bill for the relief of Nicolas de Rochefort; to the Committee on the Judiciary.

By Mr. WICKERSHAM:

H. R. 7777. A bill for the relief of Nettie E. Whitfield; to the Committee on the Judiciary.

By Mr. JACKSON of Washington:

H. Con. Res. 214. Concurrent resolution to commend Mr. and Mrs. Donald D. Dunn from the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII.

721. Mr. SMITH of Wisconsin presented a resolution of the residents of Brodhead, Wis., who have signed this petition begging the consideration of Congress to their constitutional rights as American citizens to be free in their homes of an offensive invasion by those who wish to increase their huge profits from the sales of alcoholic beverages by high-pressure advertising directed through magazines, newspapers, and over radio and television, at their children, by approving the Bryson bill, which was referred to the Committee on Interstate and Foreign Commerce.

HOUSE OF REPRESENTATIVES

THURSDAY, MAY 8, 1952

The House met at 11 o'clock a. m.

Rev. Harry E. Guckert, First Baptist Church, Whittier, Calif., offered the following prayer:

Our God, our help in ages past, our hope for years to come, our shelter from the stormy blast, and our eternal home.

We are grateful for the unequaled privilege of living in this great land of ours, founded upon the principles of our loving God.

We recognize Thee as the continued source of our blessings, and pray that we shall be good stewards of all that Thou hast entrusted to our care.

In the enjoyment of our privileges, may we continue to be cognizant of our responsibility to the peoples of the world who sit in abject darkness.

Let Thine infinite wisdom be given to all these who ask it of Thee. Let them be guided by the love which passeth knowledge to the end that there shall be engendered in the hearts of men everywhere a blessed hope born of dependence upon Thee, the source of all life.

In Jesus' name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sanders, its enrolling clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 106. An act to amend the act entitled "An act to regulate the practice of optometry in the District of Columbia";

S. 1310. An act amending the act of May 7, 1941 (55 Stat. 177; 30 U. S. C., 1946 edition, secs. 4f–4o), providing for the welfare of coal miners, and for other purposes; and

S. 2703. An act to amend the act entitled "An act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes," approved April 23, 1924, as amended, and for other purposes.

MRS. MICHALINE BORZECKI

Mr. WALTER. Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the bill (H. R. 1699) for the relief of Mrs. Michaline Borzecki was passed on the Private Calendar on May 6, and consider the bill at this time, so that I may offer an amendment.

The Clerk read the title of the bill.

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

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, what is the amendment?

Mr. WALTER. The sole purpose of the amendment is to correct the spelling of the name.

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

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That for the purposes of the immigration and naturalization laws, Mrs. Michaline Borzynski shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon the payment of the required visa fee and head tax. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota officer to deduct one number from the number of displaced persons who shall be granted the status of permanent residence pursuant to section 4 of the Displaced Persons Act, as amended (62 Stat. 1011; Stat. 219; U. S. C. App. 1953).

Mr. WALTER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER: On page 1, line 4, strike out "Borzynski" and insert in lieu thereof "Borzecki."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Mrs. Michaline Borzecki."

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. VINSON. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently, no quorum is present.

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 68]

Albert	Granger	Regan
Andrews	Grant	Rivers
Aspinall	Gwinn	Roosevelt
Bakewell	Hart	Sabath
Baring	Hedrick	Sasscer
Barrett	Herter	Sheehan
Beckworth	Hope	Sheppard
Blackney	Jenkins	Short
Blatnik	Johnson	Sieminski
Boggs, La.	Jones, Mo.	Sikes
Boykin	Jones, Hamilton C.	Smith, Va.
Brownson	Kee	Stigler
Buckley	Kerr	Stockman
Burnside	Kersten, Wis.	Sutton
Carlyle	King, Pa.	Tackett
Chelf	McKinnon	Trimble
Combs	Mack, Ill.	Velde
Coudert	Magee	Welch
Cox	Miller, N. Y.	Werdel
Crosser	Mills	Wheeler
Davis, Ga.	Morris	Wickersham
Dawson	Morrison	Wigglesworth
Deane	Moulder	Wilson, Ind.
DeGraffenried	Norrell	Withrow
Dempsey	Powell	Wood, Ga.
Dingell	Ramsay	Woodruff
Engle	Redden	Zablocki
Fallon	Reece, Tenn.	
Gore		

The SPEAKER. On this roll call 341 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DEFENSE CATALOGING AND STANDARDIZATION ACT

The SPEAKER. The unfinished business is, Will the House suspend the rules and pass the bill (H. R. 7405) to provide for an economical, efficient, and effective supply management organization within the Department of Defense through the establishment of a single supply cataloging system, the standardization of supplies and the more efficient use of supply testing, inspection, and acceptance facilities and services, as amended?

The Clerk read the title of the bill.

Mr. HOLIFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. HOLIFIELD) there were—ayes 228, noes 48.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title was amended so as to read: "A bill to provide for an economical, efficient, and effective supply management organization within the Department of Defense through the establishment of a single supply cataloging system, the standardization of supplies and the more efficient use of supply testing, inspection, packaging, and acceptance facilities and services."

A motion to reconsider was laid on the table.

COMPENSATION AND PENSIONS PAYABLE TO VETERANS

Mr. RANKIN. Mr. Speaker, I call up the conference report on the bill (H. R. 4394) to provide certain increases in the monthly rates of compensation and pension payable to veterans and their dependents, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. No. 1846)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the Bill (H. R. 4394) to provide certain increases in the monthly rates of compensation and pension payable to veterans and their dependents, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate and agree to the same with an amendment as follows: "That all monthly rates of compensation payable under laws administered by the Veterans' Administration for disability rated 10 per centum to 49 per centum are hereby increased by 5 per centum, and for disability rated 50 per centum to 100 per centum are hereby increased by 15 per centum: *Provided*, That such increase shall not apply to special awards and allowances, dependency allowances, or subsistence allowances.

"SEC. 2. (a) Paragraph I (f), part III, Veterans Regulation Numbered 1 (a), as amended, is hereby amended to read as follows:

"'(f) The amount of pension payable under the terms of part III shall be $63 monthly, except—

"'(1) that where an otherwise eligible person shall have been rated permanent and total and in receipt of pension for a continuous period of ten years or reaches the age of sixty-five years, the amount of pension shall be $75 monthly; and

"'(2) that where an otherwise eligible person is or hereafter becomes, on account of age or physical or mental disabilities, helpless or blind or so nearly helpless or blind as to need or require the regular aid and attendance of another person, the amount of pension shall be $129 monthly.'

"(b) The provisions of subsection (a) of this section shall apply to veterans of both World War I and World War II.

"SEC. 3. Paragraph IV of part I of Veterans Regulation Numbered 1 (a), as amended, is hereby amended to read as follows:

"'IV. The surviving widow, child or children, and dependent mother or father of any deceased person who died as the result of injury or disease incurred in or aggravated by active military or naval service as provided in part I, paragraph I, hereof, shall be entitled to receive compensation at the monthly rates specified next below:

"'Widow but no child, $75; widow with one child, $121 (with $29 for each additional child); no widow but one child, $67; no widow but two children, $94 (equally divided); no widow but three children, $122 (equally divided) (with $23 for each additional child; total amount to be equally divided); dependent mother or father, $60 (or both), $35 each.'

"SEC. 4. Section 2 of Public Law Numbered 484, Seventy-third Congress, as amended, is hereby amended to read as follows:

"'SEC. 2. That the monthly rates of pension shall be as follows: Widow but no child, $48; widow and one child, $60 (with $7.20 for each additional child); no widow but one child, $26; no widow but two children, $39 (equally divided); no widow but three children, $52 (equally divided) with $7.20 for each additional child (the total amount to be equally divided).'

"SEC. 5. (a) All monthly rates of pension payable to veterans of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, and dependents of such veterans which are payable under laws reenacted by the Act of August 13, 1935 (49 Stat. 614; 38 U. S. C. 368, 369), or under Acts amendatory or supplemental to such laws, are hereby increased by 7½ per centum.

"(b) All monthly rates of pension payable to veterans of the Civil War and dependents of such veterans which are payable under any public laws administered by the Veterans' Administration are hereby increased by 7½ per centum.

"SEC. 6. (a) The minimum monthly rate of pension payable to veterans of the Indian wars under the Act of March 3, 1927 (44 Stat. 1361), as amended (38 U. S. C. 381), or the Act of August 25, 1937 (50 Stat. 786), as amended (38 U. S. C. 381–1), shall be $96.75 unless such veteran is now or hereafter becomes on account of age or physical or mental disabilities, helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, in which event the monthly rate shall be $129.

"(b) All monthly rates of pension payable to dependents of veterans of the Indian wars which are payable under any public laws administered by the Veterans' Administration are hereby increased by 7½ per centum.

"SEC. 7. The increased rates authorized by this Act shall be effective from the first day of the second calendar month following the date of approval of this Act."

JOHN E. RANKIN,
A. LEONARD ALLEN,
OLIN E. TEAGUE,
EDITH NOURSE ROGERS,
BERNARD W. KEARNEY,
Managers on the Part of the House.

WALTER F. GEORGE,
TOM CONNALLY,
HARRY FLOOD BYRD,
EUGENE D. MILLIKIN,
ROBERT A. TAFT,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4394) to provide certain increases in the monthly rates of compensation and pension payable to veterans and their dependents, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

The conference agreement follows closely the version passed by the House on June 20, 1951 and as reported by the Senate Committee on Finance. The rates of compensation for service-connected disability are set forth in the table below, as well as the pension rates for non-service-connected disability.

Rates of compensation for service-connected disabilities for veterans

	War service-connected rates, Veterans Regulation 1 (a), as amended, pt. I	Conference agreement	Peacetime service-connected rates, Veterans Regulation 1 (a), as amended, pt. II	Conference agreement
(a) 10 percent disability	$15.00	$15.75	$12.00	$12.60
(b) 20 percent disability	30.00	31.50	24.00	25.20
(c) 30 percent disability	45.00	47.25	36.00	37.80
(d) 40 percent disability	60.00	63.00	48.00	50.40
(e) 50 percent disability	75.00	86.25	60.00	63.00
(f) 60 percent disability	90.00	103.50	72.00	82.80
(g) 70 percent disability	105.00	120.75	84.00	96.60
(h) 80 percent disability	120.00	138.00	96.00	110.40
(i) 90 percent disability	135.00	155.25	108.00	124.20
(j) Total disability	150.00	172.50	120.00	138.00
(k) Anatomical loss, or loss of use of 1 foot, or 1 hand, or blindness of 1 eye, having only light perception, rates (a) to (j) increased monthly by	42.00	42.00	33.60	33.60
Anatomical loss, or loss of use of 1 foot, or 1 hand, or blindness of 1 eye, having only light perception, in addition to requirement for any of rates in (l) to (n), rate increased monthly for each loss or loss of use by	[1] 42.00	42.00	[2] 33.60	33.60

Rates of compensation for service-connected disabilities for veterans—Continued

	War service-connected rates, Veterans Regulation 1 (a), as amended, pt. I	Conference agreement	Peacetime service-connected rates, Veterans Regulation 1 (a), as amended, pt. II	Conference agreement
(*l*) Anatomical loss, or loss of use of both hands, or both feet, or 1 hand and 1 foot, or blind both eyes with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, monthly compensation	$240.00	$240.00	$192.00	$192.00
(*m*) Anatomical loss, or loss of use of 2 extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or suffered blindness in both eyes, rendering him so helpless as to be in need of regular aid and attendance, monthly compensation	282.00	282.00	225.60	225.60
(*n*) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthetic appliance, or suffered anatomical loss of both eyes, monthly compensation	318.00	318.00	254.40	254.40
(*o*) Suffered disability under conditions which would entitle him to 2 or more rates in (*l*) to (*n*), no condition being considered twice, or suffered total deafness in combination with total blindness with 5/200 visual acuity or less, monthly compensation	360.00	360.00	288.00	288.00
(*p*) In event disabled person's service-incurred disabilities exceed requirements for any of rates prescribed, Administrator, in his discretion, may allow next higher rate, or intermediate rate, but in no event in excess of	360.00	360.00	288.00	288.00

[1] But in no event to exceed $360.
[2] But in no event to exceed $288.

Rates of compensation for dependents for service-connected death

	Law		Conference agreement	
	Wartime	Peacetime	Wartime	Peacetime
Widow	$75	$60.00	$75	$60.00
Widow, 1 child	105	84.00	121	96.80
Each additional child	25	20.00	29	23.20
No widow, 1 child	58	46.40	67	53.60
No widow, 2 children	82	65.60	94	75.20
No widow, 3 children	106	84.80	122	97.60
Each additional child	20	16.00	23	18.40
1 parent	60	48.00	60	48.00
2 parents, each	35	28.00	35	28.00

Pension rates for veterans of World Wars I and II and service after June 27, 1950

	Law	Conference agreement
Permanent and total	$60	$63
Rates permanent and total for continuous period of 10 years or reach age 60	72	75
Aid and attendance	120	129

Pension rates for veterans of the Civil, Indian, and Spanish-American Wars

	Present Law	Conference agreement
Spanish War	$90	$96.75.
	$120 (aid and attendance).	$129.00 (aid and attendance).
Civil War	$90	$96.75.
	$120 (aid and attendance).	$129.00 (aid and attendance).
Indian War	$72	$96.75.
	$120 (aid and attendance).	$129.00 (aid and attendance).

Pension rates for widows and children of veterans of World Wars I and II and service after June 27, 1950

	Law	Conference agreement
Widow	$42.00	$48.00
Widow, 1 child	54.00	60.00
Each additional child	6.00	7.20
No widow, 1 child	21.60	26.00
No widow, 2 children	32.40	39.00
No widow, 3 children	43.20	52.00
Each additional child	4.80	7.20

Pension rates for widows and children of Civil, Indian, and Spanish-American War

	Present law	Conference agreement
Spanish War widow	$48.00	$51.20
Widow, 1 child	55.20	59.34
Each additional child	7.20	7.74
No widow, 1 child	55.20	59.34
No widow, 2 children	62.40	67.08
No widow, 3 children	69.60	74.82
Each additional child	7.20	7.74
Civil War widow	48.00	51.60
	[1] 60.00	[1] 64.50
Indian War widow	48.00	51.60
	[1] 60.00	[1] 64.50

[1] Rate if widow was wife during service.

As passed by the House and by the Senate, the act granted a 5-percent increase for service-connected disabilities rated from 10 percent to 49 percent, and 15-percent increase for disabilities rated from 50 percent to 100 percent. Since this item was not in conference, no change was made.

The bill also provided as passed by the House and Senate an increase in the rate of pension for non-service-connected disability for World War I and II and Korean conflict veterans of from $60 to $63 per month and from $72 to $75 per month. No change was made in this provision, since it was not in conference.

Section 3 increased the rates of compensation for widows with children whose husbands died of service-connected injuries. The increase was approximately 15 percent. No change was made in this section because there was no disagreement between the two Houses.

Section 4 provided an increase in pension for non-service-connected disability for widows of World War I, II, and Korean conflict veterans of from $42 to $48 per month with corresponding increases in the rates for children. This item also was not in conflict and no change was made therein.

Sections 5 and 6, added by the Senate Committee on Finance, proposed to give a 5-percent increase to veterans and dependents of the Civil, Indian, and Spanish-American Wars. On the Senate floor this was increased to 15 percent. The Conference Agreement provides a compromise of 7½-percent increase for the veterans and dependents of these wars.

In addition the conferees agreed to set the aid and attendance rate at $129 per month which is an increase of 7½ percent over the existing rate of $120. This $129 rate applies to veterans of the Civil, Indian, Spanish-American, and World Wars I and II, and of service on and after June 27, 1950.

The cost is estimated to be $158,660,000 for the fiscal year 1953.

JOHN E. RANKIN,
A. LEONARD ALLEN,
OLIN E. TEAGUE,
EDITH NOURSE ROGERS,
BERNARD W. KEARNEY,
Managers on the Part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

INCREASING INCOME LIMITATIONS GOVERNING PENSIONS TO VETERANS

Mr. RANKIN. Mr. Speaker, I call up the conference report on the bill (H. R. 4387) to increase the annual income limitations governing the payment of pension to certain veterans and their dependents, and to preclude exclusions in determining annual income for purposes of such limitations, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. NO. 1845)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4387) to increase the annual income limitations governing the payment of pension to certain veterans and their dependents, and to preclude exclusions in determining annual income for purposes of such limitations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate and agree to the same with an amendment as follows: "That paragraph II (a), part III, Veterans Regulation Numbered 1 (a), as amended, is hereby amended to read as follows:

"'II. (a) Payment of pension provided by part III shall not be made to any unmarried person whose annual income exceeds $1,400 or to any married person or any person with minor children whose annual income exceeds $2,700.'

"SEC. 2. The first sentence of section 1 (c) of the Act of June 28, 1934, as added by section 1 of the Act of July 19, 1939 (53 Stat. 1068), and as amended (38 U. S. C. 503 (c)), is further amended to read as follows: 'Payment of pension under the provisions of this Act shall not be made to any widow without child, or to a child, whose annual income exceeds $1,400, or to a widow with a child or children whose annual income exceeds $2,700.'

"SEC. 3. This Act shall take effect on the first day of the second calendar month after its enactment. Pension shall not be paid for any period prior to the effective date of this Act to any person whose eligibility for pension is established solely by virtue of this Act."

Amend the title so as to read: "An Act to increase the annual income limitations governing the payment of pension to certain veterans and their dependents."

JOHN E. RANKIN,
A. LEONARD ALLEN,
OLIN E. TEAGUE,
EDITH NOURSE ROGERS,
BERNARD W. KEARNEY,
Managers on the Part of the House.

WALTER F. GEORGE,
TOM CONNALLY,
HARRY FLOOD BYRD,
EUGENE D. MILLIKIN,
ROBERT A. TAFT,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4387) to increase the annual income limitations governing the payment of pension to certain veterans and their dependents, and to preclude exclusions in determining annual income for purposes of such limitations, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to such amendments, namely:

The bill as passed by the House provided for income limitation of $1,800 for a veteran or widow without dependents and for $3,000 for a widow or veteran with dependents. This is in contrast to the existing rate of $1,000 and $2,500 respectively. Under existing law certain exclusions are provided in determining income but the House bill provided that all income should be included.

The bill as passed by the Senate increased the rates from $1,000 to $1,200 for veteran or widow without dependents and form $2,500 to $2,600 for a veteran or widow with dependents, but within the framework of the present law, thus retaining the exclusion among which are other Veterans' Administration benefits, proceeds from Government life insurance, over-time performed in the Federal Government, et cetera.

The conference agreement provides for setting the income limitation of $1,400 for a widow without dependents or a veteran without dependents, and $2,700 for a widow or a veteran with dependents. This would provide for retention of exclusions contained in the present law.

As agreed upon by the conferees, it is estimated that the first year cost (fiscal year 1953) will be $43,800,000.

JOHN E. RANKIN,
A. LEONARD ALLEN,
OLIN E. TEAGUE,
EDITH NOURSE ROGERS,
BERNARD W. KEARNEY,
Managers on the Part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

IRRIGATION WORKS IN CONNECTION WITH CHIEF JOSEPH DAM

Mr. MACHROWICZ. Mr. Speaker, on yesterday I obtained unanimous consent for reference of the bill (H. R. 6163) from the Committee on Public Works to the Committee on Interior and Insular Affairs. This bill provides a basis of authorization for irrigation works in connection with the Chief Joseph Dam. I ask unanimous consent that this reference shall not be considered as a precedent for reference of similar bills in the future.

The SPEAKER. There is nothing to ask consent about. The gentleman is making a statement that this should not be considered as a precedent.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object——

The SPEAKER. There is nothing to object to.

Mr. MARTIN of Massachusetts. I was wondering how the gentleman could make a precedent, individually.

The SPEAKER. There is nothing to object to. The gentleman has made a statement.

MINIMUM RESALE PRICES

Mr. PRIEST. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H. R. 5767) to amend the Federal Trade Commission Act with respect to certain contracts and agreements which establish minimum resale prices and which are extended by State law to nonsigners.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Unon for the further consideration of the bill H. R. 5767, with Mr. COOPER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday it was agreed that the committee amendment in the nature of a substitute, now in the bill, be considered as read and open to amendment at any point.

Are there any amendments to the committee amendment?

Mr. McGUIRE. Mr. Chairman, I move to strike out the last word.

Mr. McGUIRE. Mr. Chairman, the chairman of the Judiciary Committee yesterday tried to convince you that retailers are in business for their health, rather than for profit. He purchased a number of drug items in Peoples, the drug chain, here in Washington and compared the prices of these items with prices of the same items under fair trade and came to the ringing, but vastly erroneous, conclusion that fair trade costs consumers money.

What the gentleman from New York [Mr. CELLER] did prove was that highly popular national-branded items are used as customer bait, to bring customers into the store by offering merchandise at low profit, at no profit, or even at a loss. Retailers who engage in these practices know from experience that whatever losses they incur on the bait items are more than made up because the customers will buy other merchandise on which the retailer makes high profits.

I think the Members of the House will be interested in knowing the true facts about Peoples. I am told on unimpeachable authority that the over-all gross profit margin of Peoples stores in Washington is precisely the same as that of Peoples stores outside of Washington. In other words, customers who shop at Peoples in Washington pay, on the whole, no less and no more for the merchandise they buy than do customers who shop in Peoples stores outside Washington. I am further informed that Peoples in Washington do not engage in the practice of price-juggling, whereby retailers overprice many items in order to make up for the losses on their customer-bait items. What Peoples does is to advertise certain customer-bait items at certain times—generally on days when Government employees are paid—whereas during the rest of the month Peoples prices reflect the margin that Peoples must have to make a profit. What is most interesting about the customer-bait prices is that total sales over the year in these loss leaders is so small that they do not affect the total gross-profit margin of the store by as much as half a percentage point. For this reason, Peoples over-all margin in Washington is not lower than in its stores outside Washington.

It can be argued, I suppose, that Mrs. Smith may be smart enough and determined enough to buy only the customer-bait items. If she does, she will get a bargain; but Mrs. Jones and Mrs. Brown and all the other customers will surely pay for Mrs. Smith's bargains. If all customers were smart enough and determined enough to see through the price-juggling tricks of retailers who prefer to compete unfairly, you can be sure that loss leaders would no longer be profitable and would, therefore, immediately disappear from the market place. Any time a retailer comes to you and tries to convince you that he is in love with dispensing charity to his customers during business hours, recognize him for what he is—an individual who has little respect either for the truth or for your intelligence, or for both.

Fair trade is usually discussed in economic terms. The economic benefits it brings to consumers, to retailers, and to manufacturers have been often pointed out—lower prices, fair competition in the market place, the protection of valuable trade-marks. But, important as are the economic advantages of fair trade, they do not tell the whole story of how fair trade affects the American people. For fair trade affects their lives, as well as their livelihoods.

In the first place, fair trade plays a vital role in keeping our society what we might call an open society rather than a closed one. By that I mean a society in which the doors of opportunity are kept open to everyone, a society in which everyone has the chance to move upward or to become his own boss, if he has the initiative and the ability. This freedom of opportunity, available to everyone, is one of our proudest traditions. Fair trade guards freedom of opportunity in our land because it helps small business to survive and thrive even in an age of huge retail organizations with vast aggregates of capital. By restraining the unfair competition of price-juggling—a powerful weapon by which the giants of retailing can destroy and eliminate their small rivals—fair trade ensures the continuing existence of small business. Unless small business is kept in the running by fair trade, all those Americans who have that unquenchable urge to work for themselves rather than for others, will find the door of opportunity slammed tight against them. The good old American dream

of the right of the little fellow to achieve independence will become empty and mocking delusion.

Let us put the issue this way: Do we want a nation of 150,000,000 proletarian workers employed by a handful of bosses? The answer is obvious.

It is not exaggerating to say that fair trade can affect the future of democracy in this country. As a witness from the Federal Trade Commission testified before the House Interstate and Foreign Commerce Committee hearings, the maintenance of a strong, healthy small business community is the best bulwark that we have against the growth of collectivism either in the form of fascism or communism. This is undeniably true.

When we examine the history of the rise of totalitarianism, we find that people turn to it when their lives are without hope, when a bleak future of poverty and economic subjection stretches endlessly before them, out of which they see no opportunity of rising. That is when they throw themselves into the arms of an all-powerful dictator or an all-powerful state that promises them bread in return for freedom. But when millions of citizens own their businesses, own property, work their own land—and when those who do not are guaranteed the chance to rise into these economic groups—they are then secure against the blandishments of the false messiahs of collectivism.

The Federal Trade Commission witness advanced another argument which eloquently supports measures, such as fair trade, which preserve small business in our society. Democracy is most alive when it flourishes at the grass roots. This requires a strong sense of civic and community responsibility in citizens who take an active part in community affairs. We all know from our own experience that in those communities in which there exists a healthy small-business group the level of civic welfare and the interest taken by small-business leaders in health, recreation, and education tend to be higher than in those communities in which business consists mainly of a few large concerns owned and operated by distant managers and distant corporations.

Most Americans live in small towns and villages. The manner in which the citizens of each community manage their own local affairs, when multiplied many thousandfold, determines the character of our democracy as a whole. Small-business men have a very personal stake in making their communities better places in which to live and work. Absolute ownership of the community's business enterprises deprives the community of much of the leadership and initiative needed to make community life strong and active. When local leadership is replaced by absentee control and direction, the citizens become apathetic and passive about their own affairs. Democracy then withers at the roots, and it is not long before the creeping malady of civic indifference spreads to the trunk and branches.

It should be clear that whether or not small business remains intact is more than a matter of economic preferences. It involves some of our most cherished political and social institutions.

Small business is essential to our social and political democracy. Fair trade is essential to the continued existence of small business. There can, in my opinion, be no stronger statement of the case for restoring to effectiveness the fair-trade laws of the 45 States, as provided by the McGuire bill, H. R. 5767, now before the House.

Mr. RADWAN. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

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

There was no objection.

Mr. RADWAN. Mr. Chairman, the McGuire bill, H. R. 5767, has had my attention ever since its introduction. I have given consideration to both sides of the question before us, and I have come to the conclusion that the McGuire bill is good legislation and in the people's best interest.

A study of the history of fair-trade laws will reveal that the public has never hesitated to curb competition which it regards as unfair and monopolistic. The antitrust laws, the Securities and Exchange Act, as well as the Robinson-Patman Act, together with many other measures, curb unfair competition in order to promote fair competition. Fair competition is just as essential to the well-being of our economy as is free competition. Free enterprise in America was never meant to permit illegal and unfair acts any more than our freedom in America permits any individual to commit illegal or immoral acts.

Fair-trade laws such as the McGuire bill before us, curbs ruthless, commercial behavior which would destroy competition by using superior dollar power to eliminate small competitors. The fair-trade laws restrain the unfair competition of retailers who use price tricks and price juggling to bewitch the consumer without benefit to her pocketbook.

Of course, such retailers do not want to be fenced in. Like the many who bitterly opposed the antitrust laws and similar measures, they want to do as they please, even when what they please to do harms society.

This legislation, Mr. Chairman, is for the protection of small-business men as well as the public. There is a great feeling in this country against bigness in government, big business, and labor. This fair-trade legislation protects the small-business man against the bigness of would-be general monopolies. In the long run, it protects the public because it insures fair and moral dealing. It is morally and legally sound, and I trust it will be adopted and enacted into law.

Mr. REED of Illinois. Mr. Chairman, as provided for in the rule I offer the bill H. R. 6925 as a substitute for the bill H. R. 5767.

The Clerk read as follows:

Amendment offered by Mr. REED of Illinois as a substitute for the committee amendment:

"Be it enacted, etc., That section 1 of the act entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, be amended to read as follows:

"'SECTION 1. (a) Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding 1 year, or by both said punishments, in the discretion of the court.

"'(b) Nothing contained herein or in any of the antitrust laws of the United States shall render illegal any contract or agreement prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trademark, brand, or name of the producer of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale. For the purposes of this act the words "contract or agreement" shall mean a contract or agreement in which the party prescribing the minimum prices shall be the owner of the trade-mark, brand, or name of the commodity or commodities to which this act is applicable.

"'(c) Nothing contained herein or in any of the antitrust laws of the United States shall render illegal the exercise or enforcement of any right or right of action created by any law, now or hereafter in effect in any State, Territory, or the District of Columbia, which provides in substance that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the minimum prices prescribed in any such contract or agreement whether the person so advertising, offering for sale, or selling is or is not a party to such contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby: *Provided, however,* That in the exercise or enforcement of any right or right of action as is exempted from the antitrust laws by this subsection, it shall be a complete defense to a charge of unfair competition for the defendant to show that the party prescribing the minimum prices has failed to make reasonable efforts to insure compliance, by those in competition with the defendant, with such prescribed minimum prices.

"'(d) Whenever by contract or agreement described in subsection (b) minimum resale prices may be established for a commodity in any State, Territory, or the District of Columbia, where such a contract or agreement is lawful, it shall be an act of unfair competition, actionable at the suit of any person damaged thereby, to willfully and knowingly, in interstate commerce, (1) advertise for sale, offer for sale, or sell or (2) have transported for sale or resale or (3) deliver pursuant to a sale, or otherwise deliver, such commodity in any such State, Territory, or the District of Columbia, where such a contract or agreement is lawful, at less than the prices so established in such contract or agreement, whether the person so advertising for sale, offering for sale, or selling is or is not a party to any such contract or agreement; any person, firm, or corporation, injured in his or its business or property because of the violation of this subsection (d) may sue for and recover the damages by him or it sustained and shall be entitled to sue for and have injunctive relief against threatened loss or damage by a violation of this subsection (d) when and

under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue; action to recover such damages or for such an injunction may be maintained in any court of competent jurisdiction of the several States, or of the United States, having jurisdiction over the parties; in suits within the provisions of this subsection (d) the provisions of section 7 of this act providing for threefold damages shall not apply: *Provided*, That nothing contained herein shall apply to advertisements for sale, offers for sale, or sales which originate from or are directed to or are completed within any State, Territory, or the District of Columbia, where such contracts or agreements as are described herein are not lawful by statute: *And provided further*, That in any proceeding involving alleged violation of this subsection it shall be a complete defense to a charge of unfair competition for the defendant to show that the party describing the minimum prices has failed to make reasonable efforts to insure compliance, by those in competition with the defendant, with such prescribed minimum prices.

"'(e) Neither the making of such contracts or agreements as described in subsection (b) nor the exercise or enforcement of any right or right of action as described in subsections (c) and (d) shall be an unfair method of competition under section 5, as amended and supplemented, of the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

"'(f) Nothing in this act contained shall make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.'"

Mr. REED of Illinois (interrupting the reading of the amendment). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, the amendment to be printed in full.

The CHAIRMAN. Is there objection to the request of the gentleman from Il'inois?

There was no objection.

Mr. REED of Illinois. Mr. Chairman, I am sure that it is the earnest desire of those who wish to enact fair-trade legislation to provide for the best possible bill. I think there are three major criteria which must be applied in determining whether or not the legislation meets the situation presented by both the Schwegmann and Wentling cases last year. The first of these is that the legislation must clearly rectify the effects of the Supreme Court decision in the Schwegmann case which related to intrastate retail sales and the circuit court opinion in the Wentling case which held that nonsigners were not bound in cases involving interstate mail-order transaction. The second test is whether the legislation is aimed primarily for the benefit of the independent retailer as distinguished from legislation more beneficial to manufacturers, wholesalers, or trade associations. The third gage of this type of legislation is whether or not complete recognition is given to the sovereignty of both the fair-trade and non-fair-trade States.

I submit that H. R. 6925 on all of these counts is better legislation. First of all, both bills, the McGuire bill and H. R. 6925, do provide for the rectification of the Schwegmann decision. However, the language in subsection 4 of the McGuire bill is so indefinite as to be almost meaningless with regard to the Wentling decision regarding mail-order sales. However, subsection (d) of the Keogh bill clearly takes care of the Wentling situation and with reference to my third test also protects the sovereignty and the public policy of both the fair-trade and non-fair-trade States.

The most important of these tests is the one regarding the independent retailers. It has been said that this provision for a stipulated price, namely ceiling prices in the McGuire bill, is designed to protect the present State legislation. However, much of this legislation was enacted subsequent to the Miller-Tydings Act in 1937. The Miller-Tydings Act, under which fair trade operated successfully until May 1951, speaks only of minimum prices and not of stipulated prices. Stipulated prices are a danger to the independent retailer for he may often be squeezed by inadequate profit margins.

Moreover, if we are realistic we recognize that there are some manufacturers who may pay lip service to fair trade that sets up fair-trade prices on one hand and on the other hand dispense surplus inventory to known price cutters. The independent retailer must be protected against this abuse of fair trade to his disadvantage. Therefore, H. R. 6925 gives the independent retailer a defense against this type of activity. Time does not permit a further exposition of the comparison of both of the two bills. I do have available a mimeographed analysis of the two measures which is available to the Members and I earnestly suggest that you read this analysis so that you may more fully understand that the Keogh bill, H. R. 6925, is more clearly designed to protect the independent retailer and is not a special interest bill for any group of manufacturers, wholesalers, or trade associations.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from Tennessee.

Mr. PRIEST. I notice that the bill the gentleman has offered as a substitute has stricken-out language. The gentleman is offering that language which I presume to be a committee amendment in italics in the bill rather than the original bill?

Mr. REED of Illinois. That is correct.

Mr. PRIEST. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for 5 additional minutes, because this is a most important phase of this whole legislation, and I think the gentleman should be permitted to explain his viewpoint.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Where in H. R. 6925 is the protection for the small retailer against the manufacturer giving surplus inventory products to the fellow who sells at the cut rate?

Mr. REED of Illinois. I think it is in the latter part of section (b).

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from Louisiana.

Mr. WILLIS. I want to associate myself with the views expressed by the gentleman from Illinois, to the point that both of us want the best possible bill in the interest of fair trade. I regard the Keogh bill as being the better bill, but certainly the McGuire bill should at least be amended as will be proposed by the gentleman from Kansas [Mr. COLE]. If the gentleman's substitute does not prevail I will support the McGuire bill. May I ask the gentleman this question? Is it not correct that under the McGuire bill, if a reseller by mail, say a mail-order house from the gentleman's State of Illinois, should ship goods to the neighboring State of Pennsylvania under the bill, such reseller may violate the laws both of Illinois and Pennsylvania, fair-trade States, under the Wentling decision? Is that not correct?

Mr. REED of Illinois. I am so informed.

Mr. WILLIS. And is it not correct that in such a situation where goods are shipped from Pennsylvania to the gentleman's State of Illinois both fair-trade States, with the mail-order house from Pennsylvania thus violating the laws of both States, under the Wentling decision, that the people of Illinois could not protect themselves by meeting these undercutting prices, because that practice is permitted by the Wentling decision, and is it not correct that the Keogh bill meets that situation, meets not only the Schwegmann decision, but the Wentling decision, and that the McGuire bill does not?

Mr. REED of Illinois. The gentleman is correct, and that is stated in this analysis which we have prepared and which I hope every Member of the House will take the opportunity to examine.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from Arkansas.

Mr. HARRIS. I should like to ask the gentleman then, in view of the question that has been asked by the distinguished gentleman from Louisiana, is it not a fact that in the substitute bill a sale from a non-fair-trade State may be made into a fair-trade State below the price established for the product in the fair-trade State?

Mr. REED of Illinois. I am not so informed.

Mr. HARRIS. I would like to remind the gentleman that it is a fact, under his

own bill, so consequently at the same time then you try to make a Federal fair-trade policy out of it you leave the loophole in your Federal fair-trade policy insofar as those non-fair-trade States are concerned?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. CELLER, and by unanimous consent, Mr. REED of Illinois was allowed to proceed for five additional minutes.)

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from New York.

Mr. CELLER. Is it not true that there is no protection whatsoever in the McGuire bill with reference to the sales between States, whether the States are fair-traded or non-fair-traded? The only language we have with reference to that in the McGuire bill is on page 5, subsection (4), lines 18 to 23, and I shall read them:

Neither the making of contracts or agreements as described in paragraph (2) of this subsection—

Those are the price-maintenance contracts—

nor the exercise or enforcement of any right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

Those words are very vague. One might say they are weasel words. They look in both directions. Certainly in a bill as important as this the words should be clear, definite, and distinct, so that he who runs may read. This would make a field day for lawyers. It is a little difficult to know what was in the mind of the author when he penned these words. It probably was put in for ambiguity's sake, so that there would be the widest divergence of opinion, so that the authors of the McGuire bill, or rather, the National Retail Druggists' Association, which wrote the bill, could satisfy critics on both sides of the line.

Mr. COLE of Kansas. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield.

Mr. COLE of Kansas. May I apprise the gentleman of the fact, as he did not know it, that I plan to offer an amendment to the McGuire bill which I think will cure the situation the gentleman from New York was mentioning a moment ago.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. REED of Illinois. I yield to the gentleman from Arkansas.

Mr. HARRIS. May I ask the gentleman from Kansas, is it not a fact that the substitute bill which is proposed by the gentleman from Illinois includes the amendment of which the gentleman speaks?

Mr. COLE of Kansas. Yes, I think it does include that amendment. However, it approaches the entire problem from a different point of view than the McGuire bill.

Mr. REED of Illinois. Mr. Chairman, as I stated at the beginning of my remarks, I offer this bill, H. R. 6925, as a substitute for the pending measure because I believe it is the better of the two bills. I do so because H. R. 6925 was the subject of exhaustive hearings by a subcommittee of the Committee on the Judiciary and is believed by the majority of the members of that committee to be a more practical and workable bill, and one which is more likely to survive legal assaults thereon. I believe the House should have the opportunity to choose which of these two bills it prefers. I trust H. R. 6925 will be the one so selected. If not, however, I shall cheerfully support H. R. 5767, the McGuire bill, because of the present need for fair-trade legislation necessitated by the two Federal court decisions which have been mentioned.

Mr. PRIEST. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we debated this subject yesterday afternoon, and I think the debate was very helpful. I appreciated the fact that the debate was kept on a very high plane, that it discussed the issues involved.

As I told the Rules Committee when I appeared on behalf of the Committee on Interstate and Foreign Commerce to ask for a rule on the McGuire bill, the bill itself is a very simple matter. The economic problems it seeks to solve are not simple, they are very complex, because they affect the whole economy of this country. However, the bill itself, I repeat, is a simple bill.

The McGuire bill came out of the Committee on Interstate and Foreign Commerce after rather extended hearings. I was appointed by the chairman of that committee, as chairman of a subcommittee, to conduct these hearings. We called witnesses of every varying viewpoint on the subject. We heard every witness, as far as I know, that asked to be heard on the subject, and we invited many others to appear, in order that the committee itself could get the widest possible testimony on a rather complicated economic and legal question.

May I say to the committee today that at the very beginning of these hearings I was personally somewhat doubtful about the approach taken by the McGuire bill, but during the hearings, as we listened to witness after witness, and then as we went into executive session and studied the bill with our own legal counsel, I came more and more to the conclusion, and it is now a very firm conviction, that the best possible approach legislatively insofar as the Congress is concerned, is the approach made by the McGuire bill.

I have regretted that there has developed in the consideration of this legislation somewhat of a jurisdictional battle between two committees of the House.

I will at all times do everything possible to avoid such jurisdictional controversies. As a matter of fact, it is inevitable in the consideration of this bill, and I say that because the Committee on Interstate and Foreign Commerce without any question has complete jurisdiction over the Federal Trade Commission Act. There is no question there. The Committee on the Judiciary has complete jurisdiction over the Sherman Act and other acts of that nature.

So we have a proposition here, which results in a head-on collision between two committees of the House. The Committee on Interstate and Foreign Commerce reported the McGuire bill. I believe it is a better bill to do the job. I believe that for this reason. It does not create a cause for Federal action. It simply says, as was brought out time after time in the debate of yesterday, that State fair-trade laws may operate and be effective without constituting a burden on interstate commerce. That is what the bill says.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield to the chairman of the Committee on the Judiciary.

Mr. CELLER. I wholly subscribe to what the gentleman has said. He will agree both he and I and the leading members of both committees tried to resolve this difficulty as best we could. None of us like this jurisdictional fight. But will the gentleman, shall I say, pledge himself to support me and others who are like minded with us, that this situation will never happen again and that the gentleman's committee will abide by its jurisdiction, which covers the Federal Trade Commission Act, and that he will allow us, the members of the Committee on the Judiciary, to abide by our jurisdiction which concerns the Sherman law, the Robinson-Patman Act, and the Clayton Act?

Mr. PRIEST. Of course, I appreciate the spirit in which the question is asked, but I am sure the distinguished gentleman from New York knows that the gentleman from Tennessee cannot make a pledge here, which would commit a great committee of the House. The gentleman from Tennessee will always, to the very best of his ability, attempt to abide by the jurisdiction of his own committee.

Mr. Chairman, to get back to the question of the differences between the two bills, as I stated in the beginning, I was a little doubtful at first as to what approach should be taken. I am fully convinced that some legislation is needed in this field. I believe most of the members of both committees are convinced that legislation is needed in this field.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(Mr. PRIEST asked and was given permission to proceed for three additional minutes.)

Mr. PRIEST. Mr. Chairman, granting that legislation is needed to clarify a situation which developed after the Supreme Court decision in the Schwegmann case, then the question confronting our committee was what type of legislation is best to meet that situation.

We concluded in the Committee on Interstate and Foreign Commerce that the best approach was to pass legislation permitting, mind you, permitting the State fair-trade laws that have been enacted and adopted by the States to be operative and to be effective without constituting a burden on interstate commerce. The bill does not create any Federal cause for action. The Keogh bill does create a cause for Federal action.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield.

Mr. ROGERS of Colorado. Under the McGuire bill, do you not visualize in interstate commerce that anyone can go into a Federal court under the present procedure?

Mr. PRIEST. Certainly, I agree with the gentleman. I do not want to becloud the issue. Of course, they can go into a Federal court on that issue, if it involves interstate commerce. But the bill itself does not create such a cause for Federal action.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield.

Mr. GREEN. Mr. Chairman, I compliment the gentleman on his fine presentation and just make the observation that the interesting thing about this is that jurisdictional disputes are not just confined to labor. Are they?

Mr. PRIEST. No; they are not; that is quite true. They happen in many other fields of endeavor and activity quite frequently, I might say to the gentleman.

Mr. Chairman, the Keogh bill, as I see it—and if I am wrong in my interpretation, I hope someone will get me clear on that point—the Keogh bill creates a Federal defense in an action to maintain fair prices. It would be a complete defense, as I see it, in any such action under State fair-trade law, or in any action aimed at prosecuting the new cause of action created by the Keogh bill to show that the owner of the trademark, brand, or name failed to make reasonable efforts to insure compliance by those in competition with the defendant in such action.

As I see it, that is the one great difference between the Keogh bill and the McGuire bill. I notice my good friend, who is a very fine lawyer, nods in concurrence with that idea. I yield to the gentleman from Louisiana.

Mr. WILLIS. I compliment the gentleman on his stand. He and I agreed to support fair-trade legislation.

In respect to the last point that the gentleman made, that the Keogh bill creates a cause of action, may I suggest two thoughts: The gentleman from Ohio in general debate said that the Keogh bill placed the Federal Government in fair-trade business. The gentleman does not agree with that statement, does he? Is this not the situation: The only thing the Keogh bill does is to grant a cause of action. It does not any more place the Federal Government in fair-trade business than it places the Federal Government in the insurance business because the Federal court has jurisdiction over an insurance policy between two persons living in different States.

Mr. PRIEST. I think I agree with the gentleman from Louisiana, that the statement that it placed the Federal Government in fair-trade business perhaps goes a little far, but I would say further in reply to the gentleman—we have worked together on this matter in an honest effort, he and I, to get a bill in which there was no dispute, because we both believed legislation was necessary. I believe it does go one or two steps nearer putting the Federal Government into fair-trade business than the McGuire bill.

Mr. WILLIS. The gentleman stated that under the Keogh bill it would be a defense, when a manufacturer brings a cause of action against a retailer for violating a fair-trade contract, for the retailer to retort and to say, "Well, perhaps I may not carry on my contract with you, but you are not attempting to enforce your contracts with other people who are in competition with me." The point I ask the gentleman is this: Is it not within the jurisprudence of the States right now? Under the State law—and the only thing we are doing is to implement the State law—we are not creating any new law—under the State law right now, if a manufacturer in the gentleman's State of Tennessee, a fair-trade State, sues a druggist for violating the fair-trade contract, that druggist right now can plead as a defense that that manufacturer is not honestly enforcing his fair-trade contracts against other druggists in Tennessee. That is the gentleman's jurisprudence in Tennessee, and the only thing in the Keogh bill is to carry that jurisprudence into Federal law.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. I have asked for this time so that I might ask the gentleman to yield.

Mr. PRIEST. I yield.

Mr. BROWN of Ohio. The statement has just been made on the floor that the gentleman from Ohio said that the Keogh bill would put the Government in the fair-trade business. The gentleman from Ohio made no such statement. Somebody is trying to give the gentleman from Ohio the business instead of the Federal Government. What the gentleman from Ohio did say is in the CONGRESSIONAL RECORD. If you will refer to the remarks of the gentleman from Ohio, you will find that I made this statement:

> The McGuire bill, as I understand it, would place the control of fair-trade practices with the States, or return that power to the States which in the past have exercised supervision and control of fair-trade practices.

The Keogh bill would place the responsibility for enforcement and supervision of fair-trade rules and practices with the Federal Government; and that is exactly what you do under this Keogh bill when you give the Federal courts jurisdiction over its enforcement and you go in there to bring your suit. So the gentleman was misquoted on the floor, and I hope the gentleman from Louisiana will correct the RECORD.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield to the gentleman from Louisiana.

Mr. WILLIS. I certainly did not intend to place words in the gentleman's mouth, and I accept his word for it.

Mr. BROWN of Ohio. The CONGRESSIONAL RECORD speaks for itself, sir.

Mr. WILLIS. I say I accept not only the CONGRESSIONAL RECORD but the gentleman's version of what he said. I am sorry I misunderstood the gentleman.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield.

Mr. CELLER. I may say to the gentleman from Ohio that even presently, under present conditions, the Federal courts have jurisdiction. The Wentling case arose in the Federal court; the Schwegmann case arose in the Federal court.

Mr. BROWN of Ohio. But the Keogh bill would pin point it, just as I say.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

(On request of Mr. HARRIS, and by unanimous consent, Mr. PRIEST was allowed to proceed for one additional minute.)

Mr. HARRIS. I asked for this additional minute for the purpose of replying to the statement made by the distinguished chairman of the Judiciary Committee. The reason those cases were in the Federal court was because of diversity of citizenship, was it not?

Mr. PRIEST. That is my understanding.

Mr. CELLER. Mr. Chairman, will the gentleman yield further? The Keogh bill grants jurisdiction to both State courts and Federal courts.

Mr. PRIEST. Let me say in this last 30 seconds of this last minute that I have, that I hope the Committee of the Whole will vote down the substitute and approve the McGuire bill.

Mr. DOLLIVER. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, as I said in my statement yesterday during general debate, unhappily a conflict of committee jurisdiction has arisen. Perhaps it was inevitable because of the nature of this legislation. The McGuire bill, to get a little technical, is an amendment to the regulations and the laws of the Federal Trade Commission; and the Keogh bill allegedly is an amendment to the antitrust law. That is a pretty tenuous difference, I may say, but perhaps that is the fundamental basis for this dispute of jurisdiction.

I am opposed vigorously to the Keogh substitute, and what I shall say in opposition I presume will in some regard also be a repetition of what has already been said. It has been pointed out that the Keogh bill puts the Federal Government right into the middle of this whole enforcement proposition. If you do not believe that read the first section of H. R. 6925 which provides a $5,000 penalty or imprisonment for not exceeding 1 year.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. DOLLIVER. I have but 5 minutes; the gentleman can get time in his own right.

Mr. CELLER. That is the law now.

Mr. DOLLIVER. Why repeat it then? It is in the Keogh bill; it is the first paragraph of the bill. If it is in the old act why did it have to be repeated? It is not in the McGuire bill at all; there is no such sumptuary enforcement provision in the McGuire bill. It is hard for me not to believe there is some reason for this criminal provision in the Keogh substitute.

What we want to do in this legislation is to solve a problem that came about by reason of some court decisions. That is what the McGuire bill does.

Another phase in which the McGuire bill is superior is this: The McGuire bill permits what was going on prior to these court decisions of a year ago. It allows the distributor, as well as the wholesaler, as well as the manufacturer, to set up fair trade practices.

Why is that? As I understand the Keogh bill—and if I am wrong in this, I hope I will be corrected—it permits only a manufacturer to establish retail minimum prices. Why is the McGuire bill framed otherwise? The testimony before our committee showed that of necessity in some lines all of their business is carried on not directly from the manufacturer to the retailer but through an intermediary. Sometimes there are two steps, the wholesaler and the distributor.

The McGuire bill, I think properly, permits the wholesaler or distributor to set up a fair price schedule. It does not limit it solely to the manufacturer, as does the Keogh substitute. That is a very important thing from a practical standpoint if you are going to make this kind of legislation work.

The third thing, which has already been alluded to in this discussion, in my judgment, as I have studied these two bills, the Keogh bill puts the Federal Government right in the middle of the enforcement picture so far as fair-trade legislation is concerned. Because it undertakes to deal with a problem with which perhaps the McGuire bill does not effectively deal. That is the problem of interstate violations of fair-trade practices. Maybe the time will come when this omission will have to be dealt with. But it may transpire that the three States not having fair-trade laws may soon pass them. That will solve the problem.

However, I would call your attention to the fact that the McGuire bill merely reestablishes what was the situation prior to May 1951. Small business did not have a great deal of difficulty in most places concerning this particular part of the situation.

I hope the Keogh substitute will be rejected.

M'GUIRE BILL OR KEOGH BILL

Mr. PATMAN. Mr. Chairman, I move to strike out the requisite number of words.

IN FAVOR OF H. R. 5767

Mr. Chairman, I rise to urge the adoption of H. R. 5767, the McGuire bill for one fundamental reason, even if there were no other reason. To me this reason is completely compelling and would itself justify the adoption of the measure by this committee. This reason is that the bill willl return to the States the right to regulate fair-trade practices if they so desire. I base my argument for H. R. 5767 not on the intrinsic merits of fair trade but on the rights of the States to regulate what are essentially purely local transactions.

This is the real issue before us: Whether the several States shall have the right to formulate for themselves their policy in respect to fair-trade practices. Today 45 of the 48 States have enacted statutes supporting fair trade. Every one of these laws makes it possible for a manufacturer to enforce fair-trade practices against all dealers who elect to handle his products regardless of whether the dealer has or has not signed a specific fair-trade contract. Public support for this legislation is overwhelming. The American people have rarely expressed themselves on any matter of public policy as wholeheartedly as they have on fair trade. Are we, the duly elected representatives of the people, to say no to this expression of the public will? I am sure that no Member of this House will want to be in the position of admitting that he has deliberately thwarted public policy in this fashion.

No substantive policy of Congress is being changed. It is these State laws that are in jeopardy if we do not act. The proposed bill is nothing but an enabling act which permits two or more States to exercise the same kind of control over trade practices across their boundaries that each State may exercise over its local trade. This is all that the Miller-Tydings Act does. It merely gives to the States the opportunity to decide for themselves what fair-trade policy they believe suitable to their respective needs. The only purpose of the Miller-Tydings Act, as it is of the present bill, was to support the laws enacted by the States. All of us are well aware that fair-trade legislation can never offer effective protection to the small retailer unless all businessmen in a community are bound by the same rules. The Miller-Tydings Act provided a partial grant of authority whereby the States could establish those rules if they chose to do so. The McGuire bill completes the grant.

When the Miller-Tydings Act was enacted, only 17 States had fair-trade laws. Today with 45 States having such laws, how much more cogent is the argument for supporting State legislation than it was in 1937.

I am afraid that some of us have not understood just how narrow the issue now before us is. We are merely trying—as you have been told—to restore the law to its status prior to the decision in the Schwegmann case. That decision held merely that the immunity granted by the Miller-Tydings Act does not extend to the provisions of State laws which make fair-trade contracts enforceable against nonsigners. The decision was thus very limited. It had nothing to do with the merits of fair trade in general, nor with the validity of State laws when applied to purely intrastate trade, nor even with the right of the States to control certain aspects of interstate trade. We thus have the following anomalous and confusing situation:

First. A manufacturer may contract to maintain prices with retailers in intrastate trade.

Second. He may even reach across State lines and contract with retailers in other States if the latter have fair-trade laws. These contracts are enforceable against the parties even though interstate trade is involved.

Third. He may also enforce his contracts against nonsigners in his own State.

Fourth. But if interstate trade is involved, the manufacturer cannot enforce fair-trade contracts against nonsigning retailers even though the latter reside in States which have laws specifically authorizing such enforcement.

I feel certain that each of us stands for the strengthening of the fast-ebbing power of the States when this can be done without interfering with national policy. All of us believe that the States should be left in control of their own affairs wherever possible. Certainly, then, we cannot justify a failure to provide this enabling legislation in view of the great declaration of the American people—indicated by the action of 45 States—in favor of resale-price maintenance including the nonsigner provision.

We are not foisting fair-trade practices upon the people of those few States which have not enacted such legislation. On the contrary, they are left free to deal with the whole matter as they see fit. States which do not believe in fair-trade practices are fully protected. The limitations imposed in the Miller-Tydings Act are more than adequate to conserve the public interest. No State is forced to enact fair-trade legislation. If a State disapproves of the nonsigner feature, it has full right not to enact such a clause. Only those commodities which carry a trade-mark or the brand name of the producer or dealer are subject to price maintenance. Under State law, no manufacturer is forced to distribute his products under fair-trade arrangments. Both Miller-Tydings and State laws declare that to be subject to fair trade, a commodity must be in free and open competition. Monopolistic practices are forbidden.

I do not believe there is any sound justification for opposition to this bill. If we fail to act positively in this matter, we are, in effect, willfully nullifying the fair-trade laws of 45 States. In today's vast and complex distribution systems, no single State can commercially isolate itself sufficiently to exercise the measure of control it may desire over commerce within its boundaries. State policy inevitably affects interstate commerce. But here is one area that can safely be left to State action.

The policy of the States is clear. There is no doubt as to their wishes. Congress must now recognize its responsibility to the States; not to censor, but to provide the legal mechanism that will allow the States to exercise the control over commerce they have deemed necessary to their welfare.

Mr. Chairman, the question at this time seems to be whether or not we should favor the McGuire bill or the Keogh bill. Personally, I favor the McGuire bill, and I expect to state some

reasons why I am opposed to the Keogh bill.

No. 1: The reasons for this legislation. Prior to May of 1951 there was no need for this legislation; however, the Supreme Court of the United States in a decision that you are familiar with made a ruling that upset State laws. The decision of the Court was that certain conditions and requirements of the laws of the different States were illegal and could not be enforced. The object of this bill is to put the independent merchants back in the same position they were in before that Supreme Court decision. That is the McGuire bill.

The Keogh bill goes much further than that, according to my view. The reason for this bill, in addition to the Supreme Court decision, is to do justice to a large group of independent retailers, including manufacturers and producers in this country, whose products have been abused by being used as loss leaders in deceitful, misleading, and untruthful advertising—an unfair business practice.

No one is in favor of practices that have been engaged in, and laws of this type will prevent that. There is a difference between vertical price fixing and horizontal price fixing. I have always opposed and do now oppose horizontal price fixing. I oppose manufacturers getting together and fixing prices. That is horizontal. I oppose wholesalers getting together and fixing prices. That is horizontal. One of these days the farmers, through their farm cooperatives selling their branded merchandise, will be the ones screaming for this type of legislation more than any other one group, because it will give them protection. It will protect them from the producer right on down to where the goods are delivered over the counter to the customer. That is the object of this legislation. Now as long as you can fix a price from the producer or manufacturer, whether it is a farmer or manufacturer of any type, on down to where it is delivered to the customer, that is entirely different to different groups getting together and fixing prices, as long as they are in free and open competition with other commodities of similar and like grade, quality, and kind. That is exactly the fair-trade law. It does not ordinarily apply to a commodity unless that commodity, where the price is fixed vertically, is in competition with other commodities of like grade and kind, so you have competition. Vertical price fixing in this respect is not repugnant or obnoxious to our antitrust laws, and I think it is in the public interest.

(By unanimous consent, Mr. PATMAN was allowed to proceed for five additional minutes.)

Mr. PATMAN. The State laws in 45 States provide for these fair-trade prices. This particular bill, the McGuire bill, does not go into the merits of fair trade at all; it does not go into the merits of fair trade; it does not say that your law in your State is a fair law or unfair law; it does not touch a law. It merely says what the Constitution says is the duty of Congress to regulate commerce among the States, and if two States have similar laws it is the duty of Congress to allow the people in those two States to cross State lines with their transactions in interstate commerce where it is legal in the two States. That is exactly what we are doing here, except 45 States are involved instead of two States. It is the duty of Congress in a case like that, the way I conceive it to be my duty, at least, to enact laws to allow the States to do business among themselves across State lines where it is not immoral or otherwise obnoxious and contrary to the traditions of our country and the laws and Constitution of our country. So this is just an enabling act, just to enable those 45 States to do business across State lines. I do not see anything objectionable to it. I know a good group of independent merchants of this country have sponsored this bill. I know that other groups have recently joined—Johnny-Come-Lately's. They are in here now when the druggists have been carrying this ball for 25 or 30 years.

The druggists that I know that have been appealing to me to get relief through this bill are the small, independent retail druggists. They are not the large, national chains, they are the small, independent, corner drug stores. The National Association of Retail Druggists is composed of between 30,000 and 40,000 of that type of druggists, with not one chain among them, not one chain. They are every one, small, independent merchants, every one of them. All they ask is equality of opportunity in business, just a fair and square deal. That is all they ask for.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Tennessee.

Mr. PRIEST. I asked the gentleman to yield simply to state that I doubt if any other Member of the House has studied small business more than the gentleman from Texas, as the chairman of the House Small Business Committee. Recently that committee has, under his direction, made a study of this question. The gentleman appeared before our committee to give testimony in support of the bill. The Committee on Interstate and Foreign Commerce appreciated very much having the benefit of the information given by the gentleman in his own study of this particular question.

Mr. PATMAN. I thank the gentleman very kindly.

Our committee went to the trouble of getting up the arguments for and against this type of legislation, for and against. We secured the services of people who were partisan in favor of it. We received the services of people who were prejudiced against it. We have the arguments for and against this type of legislation in a booklet of about 50 pages, made available to every Member of this House.

Our committee of 11 members, after considering the arguments in favor and against this legislation, our 11 members of this Small Business Committee of the House, your agents, unanimously agreed to recommend this bill, the McGuire bill, as being the type of bill that should be passed. We are unanimously for it. We have studied it for years. We are not for monopoly, we are against monopoly.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Indiana, who is a ranking member of the House Small Business Committee on the Republican side, the minority side of our committee, and has been for many years. He is one of the more constructive and valuable Members of Congress and the small independent merchants have a real friend in him.

Mr. HALLECK. I just wonder if the gentleman would not include in his remarks the rather brief statement that the House Small Business Committee got out on the matter of the necessity for fair trade legislation.

Mr. PATMAN. I shall be glad to do that, and I thank the gentleman for calling it to my attention.

I am inserting herewith a part of my testimony before the Committee on Interstate and Foreign Commerce of the House which includes the statement referred to:

Mr. HARRIS. Mr. Chairman, I believe it will be appropriate if my colleagues will permit me at this time to say that Mr. PATMAN has been in the Congress a good many years, coming from Texarkana, Tex. As chairman of the Small Business Committee, a special committee of the House of Representatives for many years, he has had occasion to study this problem quite a lot over the years. I believe that is true, is it not, Mr. PATMAN?

Mr. PATMAN. Yes, sir. We have given lots of consideration to it.

Mr. CROSSER. I think we all realize that.

Mr. PATMAN. It is my understanding that you have before you for consideration H. R. 5767, the McGuire bill, being a bill to amend the Federal Trade Commission Act with respect to certain contracts and agreements which establish minimum resale prices and which are extended by State law to nonsigners.

That bill was introduced by Mr. MCGUIRE some time ago.

Now, if you have before you the confidential committee print entitled "Fair Trade: The Problem and the Issues," that booklet was gotten up by the Committee on Small Business. We have been working on this problem for many months.

The views expressed are partisan views, partisan on each side. It presents the arguments pro and con. Every argument that can be built up in favor of the bill is contained in this booklet. Every argument that can be presented in opposition to this bill is contained in this booklet.

And, the committee, after giving, our Committee on Small Business, after giving fair consideration to the views expressed in this booklet and other information came to the following conclusion and made the following recommendations:

"CONCLUSIONS AND RECOMMENDATIONS

"The Select Committee on Small Business has studied carefully the arguments presented both by the advocates of fair trade and the opponents. It is impressed by the complexity of the problem and by the weight of evidence on both sides of the issue. The committee is convinced that deceitful and misleading price cutting is not in the public interest and that small-business enterprises in particular need protection against loss-leader and similar unfair business practices. It believes the States should retain jurisdiction over retail trade practices and that Congress should make it possible to enforce fair-trade contracts in interstate commerce."

Under the Constitution it is the duty of Congress and the sole and exclusive duty of Congress to regulate commerce among the several States. No other legislative body has the power. The President does not have that power. The judiciary does not have the power. It is a legislative function that only the Congress can exercise and only the Congress has sole and exclusive jurisdiction.

The way I construe this bill is that it is an enabling act, enabling States to do business across State lines where the State laws are similar. In other words, if Maryland and Pennsylvania have similar laws concerning fair trade, this bill permits business to extend across the State line and the contracts made in compliance with the laws of these two States to be enforced in interstate commerce.

It occurs to me it is a very simple question. I do not see why anyone should oppose the Congress permitting two States to do business across the State line where they have similar laws unless, of course, it is something immoral or on questions like that which should be raised, which is not raised in this particular issue.

Small business is not a partisan question. On the questions relating to small business, there is no division of opinion at the aisle, with the Republicans on this side and the Democrats on that side. There are ardent supporters in this Congress of the small, independent merchant on both sides of the aisle. This has been a nonpartisan measure. We have worked on it together. There has never been partisanship in the consideration of bills for the small-business man, the independent-business man. We are strong for this. We believe it is necessary.

I will tell you why I am opposed to the Keogh bill. It sets up Federal action, in the aggressive and also in the defensive. It would provide that the Federal Trade Commission enforce it, because the law makes it an unfair method of competition, and under section 5 of the Federal Trade Commission Act they would be right up here asking you for a million or half a million dollars to enforce it. That should not be necessary. So when you vote for the Keogh bill, you vote for a half million or a million dollars to enforce it, because you will have to have money to enforce it.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. PATMAN was allowed to proceed for five additional minutes.)

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from New York.

Mr. CELLER. I call the gentleman's attention to the report to which he adverted, the Fair Trade Report of the Select Committee on Small Business of the House of Representatives. I read in the conclusions and recommendations the following:

It believes the States should retain jurisdiction over retail-trade practices and that Congress should make it possible to enforce fair-trade practices in interstate commerce.

There is no question whatsoever as to the binding of nonsigners.

Mr. PATMAN. I will discuss that later. I do not have time to do it now.

Mr. CELLER. Why was that left out of the report, as to nonsigners being bound?

Mr. PATMAN. The nonsigner business does not mean anything. These State laws could have provided that a manufacturer could file his contract, or his desire to fix prices vertically with the Secretary of State in each State, and made it just as binding. Instead of doing that, it was said, "We will just have one person to sign it, and when one person signs it, everybody will be bound by it." There has been a great deal said about that, but it does not mean anything. It does not go to the merits of it. That is just a matter of procedure, making it possible for the manufacturer or producer to bring his particular commodity under the fair-trade law of that State, just as a matter of procedure.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I cannot yield. I know the gentleman took a great deal of time here yesterday, but he ought not want to take my time too. The gentleman is honest and conscientious in his views. He does not like a law like this. Of course, he is entitled to his opinion, just as I am entitled to have my opinions.

SURGEON WHO WIELDS KNIFE

In this case, I think we want to hear from people who are sympathetic to this proposal. In other words, the surgeon who wields the knife should want the patient to live. Now Surgeon CELLER, as nice a man as he is, as good a Congressman as he is, and as fine a statesman as he is, in this case is the surgeon and he does not want this patient, the McGuire bill, to live. I am not willing to accept his words of advice, and his cautions and his suggestions in a case of this kind because he does not want the patient to live.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. LUCAS. I hope the gentleman from Texas [Mr. PATMAN] will explain the effect of the McGuire bill and the Keogh bill in the States where no fair-trade laws are on the statute books.

Mr. PATMAN. In Texas we do not have any and the McGuire bill will not affect Texas. Under the Keogh bill, which I have just read hurriedly, seems to make it unlawful to advertise for sale in a fair-trade State a commodity that is lower than the fair-trade law. In other words, our publishers in Texas, on the radio and in the newspapers, if that interpretation is correct, will have to stop everything at the State line, under the Keogh bill. Otherwise, they would be criminals, they would be violating a law. That just shows that they have not thought this thing through, because the surgeon who is wielding the knife did not want the patient to live. They have not thought it through. There are many serious and fatal defects in the Keogh bill, and it shows that it has not been carefully gone into.

Mr. JAVITS. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield.

Mr. JAVITS. I would like to ask the gentleman when he spoke of competition, it is a fact, is it not, that under this bill and under the Miller-Tydings Act, competition is adequate under the bill, if it is with other fair-trade priced items. It does not have to be with non-fair-trade priced items?

Mr. PATMAN. Under the McGuire bill, that is correct. I am not impugning the motives of anyone on this question about which Members can differ, and honestly differ. I know they honestly do differ. I am not impugning their motives. I am not questioning their judgment. I do not know. I just believe the McGuire bill is the best bill.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield for a question concerning a statement which was made before?

Mr. PATMAN. If it was made about me, or if I made it, I will yield.

Mr. McCULLOCH. I understood the gentleman from Texas to say that it would be illegal to advertise the sale of an item at below a fair-trade price in the State of Texas.

Mr. PATMAN. No; I meant for our people to advertise it to go over into a fair-trade State. If you will read page 3, at the bottom, it says advertise for sale or offer for sale. You cannot stop the reading of newspapers at the State line. You cannot stop television or radio at the State line. You cannot possibly do it. Yet, you are placing an impossible burden upon them, if I have correctly read the bill, which shows that the bill has not been carefully gone into. I will show you another illustration here. It says here in the Keogh bill that if one is charged with violating the law his defense could be that the person charged, or the person who fixed the prices, the manufacturer or producer, has failed to make a reasonable effort to insure compliance.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent to address the House for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Let me analyze that for just a minute. Supose you are out here on the highway, where the speed limit is 50 miles an hour, and you are going 60 miles an hour, and the cop stops you. If you have the same law as they have proposed here in the Keogh bill you would say, "Mr. Cop, you cannot convict me unless you show that those fellows who have passed me—there they go up the road—unless you show that the law is enforced against them, too. You cannot enforce the law against me unless you make a reasonable effort to enforce the law against them. So turn me loose and go after these fellows who have passed me." That is the kind of defense they want. If you catch them red-handed violating the law they can say for a defense that there are other people violating the law, and you have not made a reasonable effort to stop them, and therefore you cannot convict them under this Keogh bill, unless you can show that you have made a reasonable effort to catch the other people who are also violating the law. It is almost on the ridic-

ulous side. I am surprised that the great Committee on the Judiciary, great as it is, composed of fine Members of this House, some of the finest and most able Members of the House, would let that slip by. I know it slipped by, because it would never be deliberately put in in that way. But it is absolutely in here.

Now, another thing: Stop the newspapers at the State line. Stop the voice at the State line. It is a violation of the Federal law if you do not. So I ask you, if you are in favor of a fair-trade bill, one that will do a good job, one that the independent merchants of this country want, vote for the McGuire bill and vote down all of these amendments.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. CRAWFORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I want to refer to the language on page 3 of the bill, H. R. 6925, lines 10 to 17. Let us see how ridiculous that language is. I think that is what the gentleman from Texas [Mr. PATMAN] just referred to.

Provided, however, That in the exercise or enforcement of any right or right of action as is exempted from the antitrust laws by this subsection, it shall be a complete defense to a charge of unfair competition for the defendant to show that the party prescribing the minimum prices has failed to make reasonable efforts to insure compliance, by those in competition with the defendant, with such prescribed minimum prices.

That is not referring to one retail competitor as related to another retail competitor. It is referring to the manufacturer or distributor who sets the minimum price. Let us see if it is so ridiculous.

My friend sits in front of me. He is a distributor. He sets a retail price under this bill for me to sell on. Then he goes to my competitor down the street or across town and he makes an agreement with him, and he gives him an extra case of goods as an inducement to pick up a new customer. He does not give me an extra case of goods. I am on a noncompetitive basis with my competitor who received the extra case of goods. Then the distributor comes to me and he wants to bring me into court and cause me trouble because I am not complying. Now, is it ridiculous to have language in this bill that protects me against that type of distributor? I do not think so. And if the gentleman from Texas [Mr. PATMAN] wants to answer that question, I will yield to him.

Mr. PATMAN. I am sorry. I did not hear the gentleman. I apologize.

Mr. CRAWFORD. I dislike to take additional time to go into it, but I will let somebody else answer it later. I can show you sales records where some of these slick dudes pick up as high as $180 a car secret rebates. That is a fortune in big volume basic commodities. Twenty dollars a car is a fortune. But when you can pick up 30 or 40 cents or 10 cents per unit, with 600 units in a carload at 10 cents per unit, you will pick up $60 premium. At 20 cents you pick up $120 premium. If we want to protect the little retailers of this country, let us get some of these practices removed from the trade.

I think this language on page 3 should be included in whichever bill is adopted, whether it is the McGuire bill or the Keogh bill. Unless we put it in there we are not protecting the little retail merchant.

Now, going to the other phase of this. As I understand H. R. 5767, it is an amendment to the Federal Trade Commission Act. I want to ask the gentlemen who are supporting H. R. 5767, members of the committee, this question: Does H. R. 5767 remove from the statutes now on the books the $5,000 penalty and the 1-year prison sentence which is in the law?

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield.

Mr. HARRIS. It does not.

Mr. CRAWFORD. All right, then; why make a defense of the McGuire bill to the effect that it does not contain the $5,000 or 1-year penalty although the Keogh bill does contain it?

The Keogh bill is simply an amendment to the 1890 Sherman antitrust law, and it simply leaves what is now in the law with respect to the $5,000 fine and 1-year imprisonment penalties; so we are not changing that part of the law when we adopt either one of the bills. Is not that correct?

Mr. HARRIS. The gentleman is correct; we are not changing the law; neither does the penalty provision, and I respectfully disagree with the interpretation of the gentleman from Iowa; neither does the penalty provision provided in the Keogh bill or the McGuire bill.

Mr. CRAWFORD. I thank the gentleman. May I ask the gentleman another question? Going back to H. R. 5767, an amendment to the Federal Trade Commission Act, on page 4, legalizes the agreements made in the State and permits the producer or distributor to set the prices. That is correct, is it not?

Mr. HARRIS. That is right; yes.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. HARRIS, and by unanimous consent, Mr. CRAWFORD was allowed to proceed for three additional minutes.)

Mr. CRAWFORD. Then, on page 5 of the bill, subparagraph (4), it is provided that the nonsigners of the contract must comply. That is correct, is it not?

Mr. HARRIS. That is true, but I would like to remind the gentleman that the Keogh bill has the same proviso.

Mr. CRAWFORD. I understand; I am not criticizing that now; I am just getting the thing clear.

Then in subparagraph (4) to which the gentleman from New York [Mr. CELLER] referred a while ago there is this interesting proviso. I do not know how far it goes; my study has not gone that far as yet.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

We are amending the Federal Trade Act, and that language is thrown in there so as to say to us in substance that these States in regard to State agreements, that the performance shall not constitute an unlawful burden or restraint upon or interfere with interstate commerce. I think that is fairly well stated there.

Now, paragraph (5) reads:

Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

That is to prevent combination in restraint of trade, as I understand.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield to the gentleman; yes.

Mr. HARRIS. That is the second proviso under the Miller-Tydings Act; that is a restatement of present law.

Mr. CRAWFORD. And I think is very properly in the bill. Then, going back to the Keogh bill which is offered as a substitute, this bill amends the Sherman antitrust law as I understand; it O. K.'s the State statutes, limits the setting of these prices to owners, does not permit distributors to set the prices; while the Keogh bill does permit distributors to set prices, and the Keogh bill also provides for compliance on the part of nonsigners, and I think that is about the set-up that we face here.

Mr. CELLER. Mr. Chairman, I move to strike the usual number of words, and ask unanimous consent to proceed for five additional minutes.

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

There was no objection.

Mr. CELLER. Mr. Chairman, I ask the members to turn to page 4 of the McGuire bill and read lines 7 to 10; most unusual provisions are contained therein.

That clause reads as follows:

It is the further purpose of this act to permit such statutes, laws, and public policies to apply to commodities, contracts, agreements, and activities in or affecting interstate or foreign commerce.

That provision was deliberately omitted from the Keogh bill. The Judiciary Committee refused to consider it.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Tennessee.

Mr. PRIEST. May I state to the gentleman that that language is the same language that is in the Federal Trade Act now. In that act commerce is defined as interstate and foreign. That is identically the same language.

Mr. CELLER. But its position here indicates an abdication of the power of

Congress to regulate foreign commerce—vis-à-vis state resale price arrangements. If we pass this McGuire bill with the language as stated we hereby say to a State: You can empower in turn manufacturers to set prices for resale even where foreign commerce is involved. And that can be, for example, in contradiction to a treaty, it can be in violation of the reciprocity acts. So that in a way we abdicate our powers to the States over foreign commerce. If you want to approve such a barbarous provision as that, then pass the McGuire bill.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Ohio.

Mr. McCULLOCH. Is it a fact that the McGuire bill departs from the old Miller-Tydings Act to include foreign commerce, as indicated by the gentleman who is now speaking?

Mr. CELLER. Yes, that is correct. The Miller-Tydings Act had no relation to foreign commerce as in the case of the instant bill before us.

Mr. McCULLOCH. Therefore, if this provision be enacted into law, it will give the States more authority than they had under the Miller-Tydings Act?

Mr. CELLER. Beyond question that is so.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Arkansas.

Mr. HARRIS. As I understood the gentleman who propounded the question a moment ago, he said the McGuire bill amended the present law to include foreign commerce. I should like to call the gentleman's attention to the Sherman Act. The Miller-Tydings law, the present law, is an exception to section 1, which provides:

> Every contract, combination, in the form of trust or otherwise, or conspiracy in restraint of commerce in the several States or with foreign nations.

If it is in the present law, then this makes no change whatever.

Mr. CELLER. But here you tie up signers as well as nonsigners under State laws, and thereby abrogate the power of Congress to control interstate as well as foreign commerce in that way. I cannot conceive that we would adopt such a provision.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Indiana.

Mr. HALLECK. The gentleman seems quite disturbed about the possibility that the States might gain some power at the expense of the Federal Government. I have been here for 17 years and I have observed this headlong rush of centralized authority and power until the States today are not much more than geographic boundaries. If there is something that can reestablish the authority of the States, so far as I am concerned, I am for it.

Mr. CELLER. The gentleman's statement is utterly irrelevant to the controversy involved in this legislation.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Is there anything in the Federal Constitution or in the statutes now on the books which gives the States the power to exercise control over foreign commerce?

Mr. CELLER. There is no such provision.

Mr. CRAWFORD. Will the gentleman tell us whether or not there is language in any statute at the present time similar to that which appears on page 4, lines 7 to 10, of the McGuire bill?

Mr. CELLER. I know of no such language tying it up to these retail price maintenance statutes or contracts.

Mr. CRAWFORD. In the Miller-Tydings Act or any other act.

Mr. CELLER. In addition, what is meant by "activities"? What is meant by "public policy"? Those are words which are difficult not only of comprehension but involve great difficulty in defining, and the courts would be hard put to it to unravel. It opens a pandora's box of confusion and chaos.

Furthermore, the McGuire bill gives the right—and this is most unusual—to trade associations to bring actions in the State or Federal courts for infractions of these resale price maintenance contracts. Now can you imagine what the Association of Retail Druggists would do in that regard? They have been very powerful. Their power has been manifested here right in this Chamber. There has been a tremendous lobby developed and directed against Members of the House. These organizations have been the subject of repeated indictment by the United States Government for coercion and for harassment and for undue interference and violations of our antitrust laws. Yet in a very cavalier manner we now seek to give to those organizations the right, in 45 States, to bring actions. Can you imagine the power that is inherent in granting to an organization of this sort the right to bring actions, the right to harass, the right to annoy and to trump up all manner and kinds of charges so that the retailer will be bent to the will of these powerful organizations? I defy any man to show me—and I think I am correct in this—any statute which gives similarly the right to such organizations to bring an action in the Federal or State courts. It is most unusual and dangerous.

Mr. MASON. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Illinois.

Mr. MASON. I would like to know this: Does the McGuire bill provide for anything that the 45 States did not have, or at least, supposed they had, before the Supreme Court interfered with their rights?

Mr. CELLER. Oh, yes. The McGuire bill, for example, grants more power.

The McGuire bill does not give any more power than the State has over intrastate commerce, but you have interstate features here where the States are given considerable additional power, and I have indicated a situation where the State was given power over foreign commerce. That certainly gives them more than they have now if you pass the McGuire bill.

Furthermore, in the McGuire bill, unlike the Keogh bill, a vendee has a right to set a resale price; not only the manufacturer can set the price, but the wholesaler or distributor. The vendee can set the price. You may have more than one price set in a State, creating considerable confusion and difficulties to the retailers. You might permit, thereby, horizontal price fixing, which was inveighed against particularly by the gentleman from Texas [Mr. PATMAN]. Take the case of McKesson & Robbins; they are a distributor in one sense but they also have their own trade-marked and branded products. As a trade-mark owner they could fix a price; as a distributor they could fix a price on a competing article, so that in a sense you would have horizontal price fixing as far as that particular distributor was concerned on several levels because he is also a packager and distributor of his own products which are in competition with similar products that he sells as a distributor for others. That is another provision that is contained in the McGuire bill and not in the Keogh bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. McMULLEN, and by unanimous consent, Mr. CELLER was allowed to proceed for three additional minutes.)

Mr. McMULLEN. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Florida.

Mr. McMULLEN. I would like to get the benefit of the gentleman's views on lines 16, 17, and 18, page 4, of the McGuire bill which reads:

> Nothing contained in this act or in any of the antitrust acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices.

Mr. CELLER. That is another difference. I am very glad the gentleman pointed that out.

The Keogh bill does not provide for the maintenance of a stipulated price. A "stipulated" price means a ceiling. A "minimum" price means a floor. The Keogh bill is limited to minimum prices. It has nothing to do with stipulated prices. In some instances goods are sold so that the individual retailer cannot make a profit, and he wants the goods to be sold at a higher rate. That is the case, I understand, with Anacin. They set in some States a stipulated price beyond which the retailer cannot go, and he finds that the cost of his operations, merchandising, and rents is unduly high, so he wants to raise his price, but he dare not raise his price. Here again you have an additional burden superimposed upon the retailer, namely, a stipulated price in the McGuire bill as well as a minimum price, a floor as well as a ceiling. In the Keogh bill you have no such situations developed. The Miller-Tydings Act did not contain any provision for stipulated price.

There is one thing that annoys me considerably in this matter, and that is that if only one contract is made with one retailer as to retail price then, ipso facto,

every single retailer who is a customer of that manufacturer is bound. That is what we call binding nonsigners. That provision, which was attempted by a distilling firm against a retailer in Louisiana, caused the Supreme Court very properly to say:

That is not price fixing by contract or agreement; that is price fixing by compulsion. That is not following the path of consensual agreement; that is resort to coercion.

I repeat, that type of coercion should not be contained in any kind of bill we adopt. It is contrary to the Anglo-American concept of jurisprudence. It is contrary to fair play. It is not fair trade. It is coercion pure and simple, unadulterated coercion.

It is interesting to note that the gentleman from Tennessee [Mr. PRIEST], our very beloved whip of the House, engaged in a colloquy before his committee with a man named Mr. Cawley. I will read it:

Mr. PRIEST. Suppose that I am a retailer and I am in Tennessee and that I have a fair-trade contract with Miles Laboratories, and I am going to sell those products that I buy and I am, at least, not going below a minimum specified in this contract, and that Mr. HALE here—

Another member of the committee—

is a dealer who has not signed any contract, but he also has those products for sale, and he is a nonsigner. He would be forced, on a horizontal basis, at least, not to go below a certain minimum in the sale of the product.

So he has signed no contract to that effect. It seems to me that, actually, although maybe not legally, since it would come under the terms, we will say, of the Sherman Act, but, actually, it is in effect forcing on Mr. HALE a price fixing on a horizontal basis because he is horizontal from me as another retailer, although a nonsigner.

That, to me, is the most troublesome feature in this legislation, one that I thought over more and more, and I can easily see the legal explanation and yet it does not quite, to me, satisfy a sort of moral or ethical feeling that I have about it as being forced horizontal price fixing.

I share the perturbation of the gentleman from Tennessee. I think it immoral to bind an individual who has not signed, just as the gentleman from Tennessee felt that there was something immoral, or shall I say unjust, if not barbarous, about that type of coercion.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Arkansas.

Mr. HARRIS. I understood the gentleman was speaking in behalf of the Keogh bill as a substitute for the McGuire bill.

Mr. CELLER. At this point I want to say my general remarks are addressed against this type of legislation.

Mr. HARRIS. The gentleman is for the Keogh bill, then?

Mr. CELLER. When the time comes the gentleman will see my vote in that regard.

I am in general opposed to all legislation of this coercive type. I feel it brings in its train far more evils than the evils that are sought to be evaded. If I have a pain in my leg, I do not amputate the leg. This is amputation without trying to cure the pain. Let us cure the pain by getting after loss leaders only and purely and simply. Let us get after loss leaders. They are the cause of the pain. Remove the cause. Do not cut off the leg.

This is far more than enabling legislation, as the proponents of the bill claim it is. This is clearly legislation designed to repeal an important segment of our antitrust laws. This is an abrogation of power granted by the Constitution to the Federal Government, namely, the control of interstate and foreign commerce. The States have never had the power to control interstate commerce and Congress, through the enactment of the Sherman Act, has laid down what Chief Justice Hughes has called a charter of economic freedom. Today the proponents of so-called fair-trade legislation are asking this Congress to revoke in part this charter of our economic freedom so that, as the Supreme Court has said, recalcitrants can be dragged in by the heels under legislation which would legalize price fixing in interstate commerce through the device of binding nonsigners.

Who are the manufacturers in whose favor the independent seller is now forced, by this legislation, to abrogate one of the few of his remaining privileges, that of freely and independently pricing his merchandise? A recent study conducted by the American Fair Trade Council showed that among those companies which fair trade all or part of their products were 51 of the 100 largest national advertisers using newspapers, periodicals, and/or radio. These are many of the concerns among the giants of American industry and include such well-known companies as Sterling Drug, Inc., Firestone Tire & Rubber Co., Westinghouse Electric Corp., E. I. du Pont de Nemours & Co., General Electric Co., Eastman Kodak Co., Colgate-Palmolive-Peet Co., International Silver Co., General Motors Corp., Procter & Gamble Co., and Lever Bros. Co. Included in the membership of the American Fair Trade Council which drafted, authored, and sponsored the Keogh bill, H. R. 6925, were a subsidiary of the Aluminum Corp. of America, Miles Laboratories, Inc., Minnesota Mining & Manufacturing Co., Olin Industries, Inc., Stewart-Warner Corp., and the Goodyear Tire & Rubber Co.

Do proponents of this legislation seriously believe that it is in the interest of small business to permit large manufacturers such as those listed above to determine the retail level of their prices throughout each of the 45 States in the Union having resale price-maintenance laws, and to allow such companies to dictate prices to every independent outlet in these areas? The retail outlet of today has already gone far on the road toward becoming a mere outlet for the distribution of the manufacturers' wares to the consumer. Nothing can sooner hasten the day when the independence of the small retailer will exist in name only than to place one of the principal competitive weapons at his disposal, the pricing policies, in the hands of his large supplier.

If this bill were really in the interests of small business and the independent druggists and other merchants, I would really give it my earnest support. I have been one of the strongest supporters of small business in the Congress. But these small retailers are just being utilized as a front by a number of large manufacturers who are vitally concerned that the fair-trade bills be enacted in order to insure their big profits obtained at the expense of the consumer.

While it is true that many other industries fair-trade their products, the great majority of resale price-maintenance agreements occur in the drug and cosmetic industry. We have no record of the number of such price-fixing agreements in effect throughout the Nation, but in the one State where some count of the number of contracts in force is available, the State of Utah, out of 552 contracts filed with the State, 441 of them—or some 80 percent—appertained to drugs and cosmetics. It is probable that similar percentages prevail in other areas.

Now, why have these drug, pharmaceutical, and cosmetic manufacturers been so eager to adopt fair trade? Why do they lurk in the background while the small retailer is used as a convenient front to enact fair-trade legislation? Why was the chairman of the board of the Sterling Drug Co. one of the original drafters of the Miller-Tydings Act? Why was the McGuire bill drawn up by lawyers representing manufacturers in the drug field?

One look at the cost and profit figures of these large producers on fair-trade items sold under brand names will clearly reveal why these big corporations are so covetous of their fair-trade returns.

Let us take Bayers aspirin for example. This product is manufactured by the Sterling Drug Co., a corporation which has been indicted and fined under the antitrust laws for engaging in a world-wide cartel to apportion the sale of pharmaceuticals. Now, the Bureau of Labor Statistics prepared some figures which appear in TNEC—Temporary National Economic Committee—Monograph No. 1 which showed that at the wholesale level, the price of acetylsalicylic acid was 13 cents an ounce while the wholesale price of the identical substance sold under the Bayer aspirin trade-mark was 75 cents an ounce. In other words, the consumer paid 62 cents or 82.7 percent more for the identical substance because it had the name Bayer attached to it. I will let you figure for yourself the large profits which the Sterling Drug Co. has obtained because, by attaching the trade-mark Bayer to its product, it is then permitted under fair-trade to fix a price of 75 cents for the identical commodity which sells for only 13 cents without fair trade.

This same study by economists of the Bureau of Labor Statistics showed similar mark-ups because fair trade permitted trade-mark owners to fix prices far out of proportion to the costs of manufacture. For example, it showed that while the retail cost of the ingredients in Coty's rouge refill was .037, the retail price under the brand name

was .38—a difference of over 1,000 percent. The ingredients at retail for Coty's special astringent cost .071, but the consumer paid $1—an increase of 1,400 percent.

Is it any wonder, therefore, that Mr. Lewis G. Bernstein, counsel for Coty, Inc., testified before the Priest committee in favor of this bill? Why did he say Coty's wanted fair trade? Well, the reason he gave the committee was to protect the little retailer and the consumer. He said, and I quote:

> The small independent retailer, which in the main, in our industry, means the small drug stores and the consumers, are the ones most seriously hurt by lack of fair trade.

Now Coty's solicitude for the small retailer and for the consumer is indeed touching when viewed in light of what I have said before. But Coty's real reasons for preferring fair trade are reflected in the above figures and its counsel's statement before the Priest Committee that—

> If it had not been for fair trade, Coty would not be the great name today that it is.

As its counsel further described the economic strength of Coty because of fair trade:

> Coty is about the largest producer and distributor of cosmetics and perfume products in the United States and Coty products throughout the world.

Now, I have nothing against Coty—in fact my wife buys its perfume and likes it very much. But I do want to make it clear to this House that fair trade is not a small-business measure but one designed to aid the large manufacturers such as this concern which admits that it is the largest producer of cosmetics in the United States.

Let us see how fair trade helps another small business—Lever Bros.—in obtaining high profits at the expense of the consumer. One of its subsidiaries produces Harriet Hubbard Ayer products. Now, the same study by the economists of the Bureau of Labor Statistics, to which I referred before, revealed that the retail cost of ingredients which comprised Harriet Hubbard Ayer face powder was 0.066 but the retail price to the consumer was 0.60 or an increase of almost 1,000 percent. Harriet Hubbard Ayer's cream rouge cost the consumer 0.55 while the retail cost of the ingredients was only 0.038—a difference of about 1,500 percent.

Mr. Chairman, I wish to say again that I have nothing against these manufacturers. But there is no doubt that they are the ones who will benefit from this legislation, which now passes under the guise of a small-business bill. This is a big-business bill; it is big business which supports it, and it is big business who will profit from it at the expense of the consumer.

Now, Mr. Chairman, just how badly is the McGuire bill needed? While certain competitive pricing practices, occurring in both fair-trade and non-fair-trade areas, have occasioned considerable concern—and these we shall advert to at length at a later time—there has been no showing whatever that resale price maintenance is necessary to protect the independent retail outlets of the United States. In fact, the converse has proven true—retailing has thrived and prospered in areas not covered by fair trade.

In the retail drug field, for example, the Federal Business Census in 1948 showed that only 10 States in the Union had more than 1,000 drug stores with fountains serving their populace. Among these were Texas, a non-fair-trade State, which ranked fourth with 1,926 retail drug stores containing fountains, and Missouri, another non-fair-trade area, which ranked ninth with 1,191 stores. According to the same census there were only nine States of the Union with total drug store sales amounting to more than $100,000,000. Among these States, Texas, without fair trade, ranked fifth with $162,404,000 in sales volume, and Missouri, also without fair trade, ranked ninth with a sales volume of $103,757,000. Insofar as drug stores without fountains are concerned, the non-fair-trade States of Texas and Missouri, according to 1948 business census figures, ranked seventh and ninth, respectively.

In total number of drug and proprietary stores together, Texas, without benefit of fair trade, was fourth in the United States, according to 1948 business census figures, while Missouri ranked eighth. Texas led all States in the total number of proprietary stores while the State of Missouri, in fair trade's absence, had more drug and proprietary stores in 1948 than did the fair-trading States of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah and Nevada combined.

The sales volume of the average retail drug store in the United States during 1948 was $78,340. Leading all States of the Union in that year was the District of Columbia, a non-fair-trade area, where the average retail drug store's sales volume totaled $171,769.

A comparison of bankruptcies in retail drug stores occurring in non-fair-trade States with those resulting in surrounding fair-trade areas also shows that absence of fair trade has not resulted in the destruction of independent business. The American Druggist in a recent issue observed that "In 1948, failure per 1,000 drug stores in fair-trade States were almost exactly the same as for those in non-fair-trade States." Studies made for the Federal Trade Commission in 1947 by the firm of Dun & Bradstreet, also reveals that non-fair-trade jurisdiction have frequently fared much better in this regard than their fair-trading counterparts.

If the druggists or any other retailing group really believe this bill essential, let them hark to the excellent advice appearing in the June 1951 issue of the American Druggist. Said this prominent journal in the drug field:

> Before any fair dealing retailer assumes that he is washed up, let him be aware that although fair trade created a more stable market for well-known products, there is no evidence that it kept any druggist in business who would otherwise have failed. Loss of fair trade will not drive any druggist out of business if he serves the public better than his competitors, not by meeting crazy prices, but by better display of goods and more friendly personal attention to every customer.
>
> We have heard it said that this court opinion means the end of drug stores. That is poppycock. This Nation likes its drug stores—especially those that still look like drug stores. Before any fair-trade laws were enacted, there were just as many drug stores as there are today. And they suffered some of the worst price wars that ever happened.
>
> To succeed without fair trade is a little harder, but it is not impossible. Now, is the time to stand up and fight for business—as the druggists of Vermont, Missouri, Texas, and the District of Columbia have always had to do.

Mr. MORANO. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in opposition to the Keogh bill. I am in general agreement with the McGuire bill, and will support that bill.

Mr. Chairman, I made a national radio broadcast last week, and I ask unanimous consent to revise and extend my remarks and include a copy of that radio address.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

(The address referred to is as follows:)

Mr. Chairman, one morning in May 1951, the good people of New York picked up their morning papers and found emblazoned in two-page bold-faced advertisements wonderous values in name-brand products offered for sale in a New York department store.

Here were offered prices on utilities, typewriters, clothing, drugs, furniture, and other commodities, unheard of since the depression days. And to the value-wise consumer, the wonder of it all was that these products offered were all well-known brands, heretofore sold at one standard price.

The rest is history. The response was terrific. Hordes of bargain-hungry shoppers stormed the gates of the department store. Business was tremendous at this particular store. Naturally sales fell off in other stores carrying the same merchandise at the standard set prices.

The next day another large department store, not to be outdone, announced a similar policy on name-brand merchandise. Their experience was similar to that of the first department store.

In a few days the lid was off. The large New York department stores were cutting each other's prices. The price war was on, and in some instances hourly reductions were being made.

The price-war fever spread from New York to large department stores throughout the country. These stores were stampeded with purchasers. The smaller stores, maintaining the price standards on name-brand products, found more and more of their customers being lured away to take advantage of the bargains being offered in the larger stores. Thousands upon thousands foresaw bankruptcy and a dead-end to their dreams of security in their own little businesses.

The price war was brought on by the Supreme Court decision on May 21, 1951, that the immunity granted by Congress in the Miller-Tydings Act does not extend to the maintenance of prices against retailers who are not parties to specific contracts.

The large department store which drastically slashed prices on formerly standard-priced articles had never signed a fair-trade contract—therefore when the Supreme Court ruled that the Miller-Tydings Act was not binding on nonsigners, this department store

proceeded to cut into the prices of price-fixed merchandise in order to lure customers into the store.

The effect on the signers of fair-trade contracts and on stores not able to sell articles at cost—and in some cases below costs—was disastrous. The effect on the manufacturers of the articles was equally bad.

Something had to be done to bring about some semblance of sanity from this chaotic economic mess which was spreading throughout the country.

I introduced a bill which proposed to amend the Sherman Antitrust Act to permit contracts between suppliers and retailers and wholesalers to hold up in courts, and to bind nonsigners who sell similar trademarked merchandise to conform to the price standards accepted by the contract signers.

I introduced this amendment on June 29, 1951, as a result of the economic chaos brought on by the Supreme Court decision on May 21, 1951, ruling that the immunity granted by the Congress in the Miller-Tydings Act does not extend to the maintenance of prices against retailers who are not parties to specific contracts. This decision rendered the nonsigner provisions of State laws null and void as applied to interstate commerce.

My proposed amendment would make effective the congressional policy which 15 years ago resulted in the Miller-Tydings amendment to the Sherman Antitrust Act. With no coercive power behind it, the fair-trade exemption carved out from the Sherman Act in 1937 merely removed Federal obstacles to the enforcement of contracts which the States themselves had declared lawful. The decision of the Supreme Court in the *Schwegmann Brothers* v. *Calvert Corp.* case defeated the purposes of the Miller-Tydings amendment. It is to remedy the judicial limitation imposed and to permit effectively the public policy of the State fair-trade acts to operate that my amendment was introduced.

It must be noted that all of the Federal legislation concerning fair-trade contracts rests on the fundamental premise that the merits or defects of fair-trade laws are not the primary concern of Congress. The economic evils of cut-throat competition and loss-leader selling demand a remedy, and the State legislatures, being most susceptible to the will of the people and most familiar with local and regional economic problems, are the proper forum to determine the nature of the remedy. That this was clearly recognized when the Miller-Tydings amendment was passed, is demonstrated in the words of one sponsor, Senator Tydings:

"What we have attempted to do is what 42 States have already written on their statute books. It is simply to back up those acts, that is all: to have a code of fair-trade practices written not by a national board such as the N. R. A. but by each State, so that the people may go to the State legislature and correct immediately any abuses that may develop."

Today, 45 of the 48 State legislatures have recognized the fair-trade contract as the best solution to the complex problem of balancing the best interests of consumer, distributor, and manufacturer. The congressional permission giving to these fair-trade laws the same effect over interstate commerce as the States permit over intrastate commerce has, as a result of recent decisions, become a permission in name only. Every one of the 45 States adopting fair-trade laws has recognized the complete inadequacy of enforcement against signers only. Every one of the 45 fair-trade laws contains, in some form, a nonsigner provision. As demonstrated by experience in California, the pioneer fair-trade State, an act without the nonsigner clause is futile. The very competitors whose loss-leader selling has created the necessity for fair-trade laws are immune from the operation of the law unless they sign a fair-trade contract. A fair-trade law enforceable only against those reputable merchants willing to sign fair-trade contracts is an empty gesture. Yet the Supreme Court has, through its interpretation of the Miller-Tydings amendment, excluded enforcement against nonsigners from the fair-trade exemption carved out of the antitrust laws.

The policy that 45 of the States has chosen as the best economic solution is effectively frustrated. All a merchant need do today to evade the law of his State is to attempt to cloak himself in the immunity of interstate commerce, leaving him free to flaunt the fair-trade laws and destroy a reputable commodity through use as a loss-leader. The fair-trade exemption must be clarified by Congress in order to obviate the effects of the recent judicial decisions. The nature of our Federal system demands that the 48 States should be permitted to choose for themselves whether or not to adopt fair-trade laws. Forty-five States have so chosen but the express will of the people of those States will be frustrated unless Congress gives practical effect to the verbal permission in the Miller-Tydings Act. My proposed amendment would do this and nothing more. It would not force a fair-trade law on any State but merely prevents the laws already enacted by 45 States from languishing on the statute books, incapable of enforcement in any situation involving interstate commerce.

The entire function of Federal laws concerning fair trade, serving merely as enabling legislation, makes any discussion of the merits of fair-trade laws irrelevant. Nevertheless, recognition of the necessity for action concerning the economic evils involved in cutthroat competition impels congressional action to render the State laws effective. The evil effects of cutthroat competition are clearly apparent in the case of a manufacturer and a small retailer. The manufacturer's most important property right, the value of his product, is threatened by its use as a loss-leader. The small retailer, unable to continue selling below cost as long as the big chains and department stores, faces extinction. The effect of this not only on the retailers involved, but on the national economy is apparent from the records of the Treasury Department, indicating that these small retailers paid a large percentage of the billions of dollars collected in corporation profits. The loss of this revenue, particularly when the cost of running our Government and our military program is ever increasing, will put an even greater tax burden on the consumer. For the greatest sufferer is the one who at first seems to be the sole beneficiary of a price war, the consumer. Once the ruthless and unfair methods of cutthroat competition have destroyed competition, the laws of supply and demand can no longer protect the consumer from artificially and destructively high prices. The consumer, lured into the store, purchases unneeded and unnecessary articles, initiating the very spiral of hoarding and inflation that our Government is now seeking to prevent and defeat. In the words of one of the great justices, Mr. Justice Brandeis, of the very Court which today has rendered fair-trade laws ineffective, "Far-reaching organized capital secures by this means the cooperation of the short-sighted unorganized consumer to his own undoing."

The fair-trade exemption in the Miller-Tydings Act and pending amendments making it effective permit the individual States to protect the consumer, retailer, and manufacturer from the evils of cutthroat competition, and in no way commits the Congress to a national policy. The seriousness of the economic problem has commanded action by the States. Only immediate action by Congress can prevent the complete inefficacy of State enforcement of the fair-trade laws, with the inevitable chaos of unrestrained cutthroat competition.

The fair-trade issue will shortly be brought before Congress. In hearings before the House Committee on the Judiciary, my bill and others were considered. Finally, the committee, cognizant of the fact that restoration of the law permitting resale-price maintenance to operate effectively was necessary to achieve protection for small and independent retailers and for manufacturers of trademarked products, recommended that fair-trade legislation be considered by Congress and reported out its own bill, H. R. 6925.

Previously the Interstate and Foreign Commerce Committee had reported out H. R. 5767, a bill designed for the same purpose, but written as an amendment to the Federal Trade Commission Act.

Discussion of these bills on the House floor will add greatly to the Washington heat already beginning to envelop us.

But it is my hope that my colleagues will be mindful of the conclusions reached by the House Select Committee on Small Business, which concluded:

"The events of the past year in the field of fair trade have been of grave concern to your committee. In particular, the Schwegmann decision and the ensuing price wars were viewed as matters of tremendous import to small business. Had the price wars continued, they could have done incalculable harm to countless small businesses. The memory of the early 1930's and the great numbers of small independent concerns that were then lost to the economy directly as a result of similar price wars is still fresh. The possibility is strong that the damage to fair trade wrought by the Schwegmann decision might well precipitate similar business failures should our economy suffer a sudden reversal. * * * It is not only the small independent merchant who suffers in a price war. The manufacturer and the consumer also suffer.

"And the leaders of price-cutting campaigns should realize that injury to other segments of the retail trade cannot benefit them. Gains realized from loss-leader selling are short-lived. The practice is a vicious one and defeats itself. No merchant, no matter how large, can afford to continue loss-leader selling indefinitely. He must engage in other practices in order to recoup his losses. And such other practices of necessity require that he sell other merchandise at high profits. The consumer must sooner or later discover the fallacy of the loss-leader-selling technique, and then the retailer loses the good will of his customers and their patronage. The good sense and recognition of their responsibilities should impel the overwhelming mass of the business community to the logic and wisdom of fair trade."

Mr. JAVITS. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, yesterday I served notice in the discussion on the rule that I would submit an amendment which sought to hew to the middle ground between satisfying the needs of the retailers and the needs of consumers. That amendment, in a word, would take the provision to which the gentleman from Texas [Mr. PATMAN] referred—that an item which is fair-trade priced had to be in competition with similar items—and expand that not only to similar items that are fair-trade priced but to similar items which are not fair-trade priced. I think the consumer needs that protection.

I just want to inform the Committee that I think it would be a mistake and would jeopardize my amendment, which

I think is very important, to introduce it at this stage and get it into this difficulty between two bills and two committees. So I shall refrain from introducing it. I do not intend to support the substitute until the McGuire bill is up for consideration, as I believe the House can work its full will on the terms and conditions on the McGuire bill.

Mr. PRIEST. Mr. Chairman, I ask unanimous consent that all debate on the pending substitute amendment, and all amendments thereto, close in 15 minutes.

Mr. CELLER. Mr. Chairman, reserving the right to object, will that involve the substitute which I will offer in the event that the Keogh substitute is defeated?

Mr. PRIEST. The request was only to the substitute which is pending, of course.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. HARRIS. Mr. Chairman, as one Member who has endeavored to give a great deal of attention and study to this very technical and difficult problem, I want to express my appreciation for the manner in which this debate has been conducted in order that the issues involved here might be brought to the attention of the House. I do want to say, however, I have somewhat of an aversion to many of the things that have been said. I think we should not get away from the basic problems that we seek to reach here with this legislation. There have been many things and many contentions thrown here in the debate, which, in my opinion, have for their purpose to deliberately confuse the issue that we are trying to settle. Everyone, I believe, recognizes that both bills before us now, the McGuire bill and the so-called Keogh substitute, offered by the distinguished gentleman from the Committee on the Judiciary, the gentleman from Illinois [Mr. REED], does get to the problem brought about by the Schwegmann case.

The additional issue that we try to reach is the problem that is brought about by the Wentling case. I yield to any member of the Committee on the Judiciary if they disagree with that statement.

Now, that being true, the problem that we must decide in trying to reach this issue is whether or not we are going to stick to the basic concept of enabling legislation in recognizing the States, or whether or not we are going to adopt a Federal fair-trade policy.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield briefly.

Mr. ROGERS of Colorado. Do I understand you to contend that under the McGuire bill the Federal Government would not be involved in any manner whatsoever?

Mr. HARRIS. I contend that all the McGuire bill does is to recognize the action of the States to legislate on this subject.

Mr. ROGERS of Colorado. But does it amend the Federal Trade Commission Act?

Mr. HARRIS. Yes; it does.

Mr. ROGERS of Colorado. Do you not concede in the Federal Trade Commission Act——

Mr. HARRIS. I get what the gentleman is after. My time is very limited and I cannot yield further. It does not set up a Federal fair-trade policy; it does not establish a Federal defense; nor does it establish a Federal cause of action; neither does it permit the Federal Trade Commission to become involved. Now, if you have any doubt about it, this being an amendment to the Federal Trade Commission law, let us see what the Chairman of the Federal Trade Commission said in a letter addressed to the gentleman from Tennessee [Mr. PRIEST]:

APRIL 4, 1952.

Hon. J. PERCY PRIEST,
Chairman, Subcommittee on Federal Trade Commission, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D. C.

DEAR MR. PRIEST: Reference is made to your letter of March 21, 1952, regarding H. R. 5767 and H. R. 6925, as reported by the Committees on Interstate and Foreign Commerce and on the Judiciary, respectively, and the request in your letter for a statement of the views of this Commission as to whether or not these bills, or either of them, might be construed to empower the Commission to proceed against persons who offer for sale or sell merchandise in interstate commerce below the price fixed in a resale price maintenance contract, and your request for any suggested amendments which would prevent such a construction.

Neither of these bills contains any language which either directs or specifically authorizes any action by this Commission. This still leaves open, however, a substantial question. Briefly stated, this question is whether or not, if the Congress establishes a policy which in effect declares that the selling of merchandise in interstate commerce at prices lower than those fixed in resale price maintenance contracts is an act of "unfair competition," such acts are then an "unfair method of competition" or "unfair * * * acts or practices" within the meaning of these terms as contained in section 5 (a) of the Federal Trade Commission Act.

In the case of H. R. 5767, the policy it would establish appears to be negative rather than affirmative. That is, the bill provides exceptions to the provisions of laws which would otherwise apply. The bill does not make the offering for sale or selling of merchandise at prices less than those fixed by resale price maintenance contracts an act of unfair competition under Federal law. In this setting the Commission believes that any argument that this bill would empower it to proceed against persons who sell merchandise in interstate commerce below the price fixed in a resale price maintenance contract would be quite tenuous. While it would be preferable in further minimizing such an argument, if the provisions concerning resale price maintenance were inserted at the end of the present section 5 (a) of the Commission act instead of between the first and second sentence of that section, as is now the case, the possibility of such an argument prevailing seems so remote as not to warrant suggesting any amendment.

In the case of H. R. 6925, however, subsection (d) of section 1 makes it an "act of unfair competition" under Federal law to offer for sale or sell, have transported for sale or resale, or deliver merchandise at prices less than those fixed by resale price maintenance contracts. This permits a persuasive argument that the act of unfair competition thus defined also constitutes a violation of section 5 (a) of the Commission act. The possibility of such a construction prevailing is believed to be sufficient to warrant an amendment to the bill.

The first sentence of subsection (d) of section 1 of H. R. 6925 now reads in part as follows:

"(d) Whenever by contract or agreement described in subsection (b) minimum resale prices may be established for a commodity in any State, Territory, or the District of Columbia, where such a contract or agreement is lawful, it shall be an act of unfair competition, actionable at the suit of any person damaged thereby, to wilfully and knowingly, in interstate commerce."

It is believed that the possibility of this Commission sustaining any action under the bill would be eliminated by amending the language quoted above to read as follows:

"(d) Whenever by contract or agreement described in subsection (b) minimum resale prices may be established for a commodity in any State, Territory, or the District of Columbia, where such a contract or agreement is lawful, it shall be an act of unfair competition and actionable exclusively at the suit of any person damaged thereby, to wilfully and knowingly, in interstate commerce, * * *"

As stated in reports made to your committee and to the Committee on the Judiciary upon the various bills to authorize resale price maintenance, the Commission is strongly opposed to any such legislation. The comments submitted herewith in response to your request should not be construed as indicating any change in the Commission's views respecting such legislation.

By direction of the Commission.

Sincerely yours,

JAS. M. MEAD,
Chairman.

Therefore, unless you provide an amendment to the Keogh bill, the Commission would be authorized to proceed under the Keogh bill. Consequently the Keogh bill gives to a bureau in the Federal Government authority to come before you and ask for funds in order that the provisions of the Keogh bill may be carried out.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I have only a short time.

The question of stipulated prices is one that has been brought in here. It is not the maximum price, as the gentleman said a moment ago. No one who does not volunteer to enter into an agreement can be proceeded against for anything except selling at less than the established price.

The Keogh bill is based on an altogether different concept than the McGuire bill, notwithstanding what they say. What we do in the McGuire bill is to give the States authority to correct existing situations with respect to predatory price practices. I say to you, if we adopt this substitute bill, we will be taking on a Federal fair-trade policy.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

The Chair recognizes the gentleman from North Carolina [Mr. DURHAM].

Mr. DURHAM. I do not think it is necessary for me to take up much time

after the explanation given by the gentleman from Arkansas. He always makes a plain explanation of measures so one can understand the bill. If you adopt this amendment which we are considering here at the present time, you are going to place 1,700,000 little small-business people under the jurisdiction of the Federal courts. The little-business man should not be subject to the Federal courts. It is expensive; he has got to pay larger lawyer fees and is much more expensive than State courts.

The other thing that is somewhat confused here is the fact that the McGuire bill does not force anybody to do one thing. Unless the manufacturer goes into the State and says "I want to put my article under fair trade"—if he does not do it he is still in the free commerce of the country and the retailer can sell it for any price.

If you adopt this Keogh amendment, you will place all business on a Federal basis where he can be told he has got to do it. That is just the main difference, as I see it.

So let us not force the little-business man to go into the Federal courts with every little thing that happens, because when a Federal inspector goes out he usually gets his man into court, for any trivial violation.

Another thing that has been somewhat confused is the fact also that the Keogh amendment nullifies the Sherman Act. I have never heard the gentleman from New York down here before advocating that we do away with laws to let monopolies run free, but that is exactly the situation he put himself in here when he argued that point.

The McGuire amendment amends the Federal Trade Act and does not amend the Sherman Act. That is another difference.

Let us not adopt this Keogh amendment. I am speaking here personally as a little-business man; I have experienced this and know what it will do to the little grocery store and the little drug store. They are already harassed with all kinds of taxes, and even the little drug store today has to take about half of the space of one side wall to tack up the permits to do business under Federal laws. For goodness sake, let us not put him in the position of having to go to the Federal courts; let this thing operate in the States. Forty-five States have adopted it; we should let them run it. Vote down the amendment and then let us adopt the McGuire bill.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. SCHENCK].

Mr. SCHENCK. Mr. Chairman, it would seem to me that we are letting ourselves become involved in some hair-splitting legalities. No other question has precipitated so much concern in my district among the small-business men, who form the very backbone of our economy. My mail has been very heavy from this group, from grocers, druggists, hardwaremen, and many other small-business men. I have sent copies of both the McGuire bill, the Keogh bill, and all pertinent information to the small-business men in my district. They have examined these things very, very carefully and have gone over them with their own attorneys. They have come to the unanimous conclusion that they want the McGuire bill as it is written now, without any amendments whatsoever.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. REAMS].

Mr. REAMS. Mr. Chairman, I rise in support of the McGuire bill and to oppose the Keogh amendment.

Mr. Chairman, when the United States Supreme Court ruled that State laws permitting the enforcement of minimum prices on brand merchandise were not binding on merchants who do not sign such an agreement, I made a public statement that I would sponsor or support a bill to enable the States to support such a regulation. Under these laws which had been adopted by 45 States all retailers selling brand merchandise were bound by an announced agreement between the manufacturer and any one of them.

The immediate effect of this Supreme Court decision was a wave of price wars with each merchant attempting to undersell the other. This did much damage to the small businessmen who could not afford "loss-leaders" as a come-on to attract customers. Only the very large firms profited by these price wars.

Believing that the merchant on the corner in our American neighborhoods is in many ways the cornerstone of our free enterprise and the community institution, I have, ever since this Supreme Court decision was announced, sought to aid in the passing of a bill to restore to the States the right to regulate fair trade on the State level.

Therefore, I am enthusiastically in support of the McGuire bill, H. R. 5767.

The Keogh bill, in my judgment, is not a substitute for the McGuire bill. It is a bill which would create Federal regulation of fair trade. It is an enabling bill calling for no appropriation but, undoubtedly, it would, if passed, be followed by an appropriation bill to implement it. I would estimate that to enforce the Keogh bill as a law $1,000,000 a year would be spent. The Keogh bill would produce a law which sets up a new enforcement body and new penalties to be policed by the Federal Government. It would forbid any person to advertise or offer for sale any fair trade article in interstate commerce.

The McGuire bill, H. R. 5767, on the other hand, gives the State the right to have a fair trade law and the responsibility of enforcing such if it is passed.

There are undoubtedly some members in each of three categories with reference to this matter. In the first group are those who do not want any regulation at all. They favor the very large stores which can afford to lose money on leading brands and nationally advertised items in order to draw customers who will make up for these losses in the purchase of other articles. The second group are those who want the Federal Government to extend itself further into private business by a fair trade law which would place the responsibility for enforcement and supervision of fair trade laws and practices on the Federal Government. The third group, and the one in which I fall, are those who favor the McGuire bill because it does protect the small-business man, the corner grocer and druggist, and because it leaves all regulation and enforcement of this fair trade law with the individual States. These States do not have to adopt such a law if they do not want to.

Texas, Missouri, Vermont, and the District of Columbia have not, as yet, adopted fair-trade laws. The other 45 States do have them and want the right to enforce them. This, in my judgment, is as it should be. I believe that we have reached the place where we should not burden the central government here in Washington with more bureaus, more power and more regulation of the individual.

I believe in and support the McGuire bill, H. R. 5767.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. PRIEST].

Mr. PRIEST. Mr. Chairman, first of all I want to refer to the colloquy mentioned by the distinguished gentleman from New York [Mr. CELLER] which occurred during the hearings, in which I was quoted, and properly quoted.

May I say that in the beginning of this study I had some very grave doubts in my mind about the nonsigner clause; but the more I studied the question the more I came to the conclusion that if we are to provide adequate protection to the small independent businessman in this country, particularly if any sort of business recession develops, we must have the nonsigner clause to make fair trade laws effective. I was properly quoted and, as I say, I had some grave doubts about it at the time, but I became convinced as the hearings proceeded and the more we heard testimony from small dealers that had been squeezed by price wars in some of our larger cities.

Mr. Chairman, in this closing minute of debate on the substitute, I simply want again to say that, in my opinion, we need legislation of this character, we need that legislation, as I see it, without making it a Federal policy.

We need legislation that will permit the States' fair trade laws to operate as they did operate from 1937 until May 1951, when the Supreme Court ruled in the Schwegmann case. We need that law, in my opinion, as soon as possible.

I believe the bill reported by the Committee on Interstate and Foreign Commerce amending the Federal Trade Act is the best possible legislative approach to the problem and I say that with great respect for all members of the great Committee on the Judiciary. I hope very much that the Committee will vote down the substitute and proceed, then, to approve the bill known as the McGuire bill, H. R. 5767.

Mr. COLE of Kansas. Mr. Chairman, will the gentleman yield?

Mr. PRIEST. I yield to the gentleman from Kansas.

Mr. COLE of Kansas. The gentleman from New York commented upon the fact that nonsigners were bound by the signature of one who was not a member

of that contract. May I point out, and ask the gentleman whether he agrees with me, that the nonsigner is not bound because he is not required in any way to buy any of the products which are covered by the agreement?

Mr. PRIEST. That is exactly true. May I go one step further. When a manufacturer signs a contract with a retailer under a fair trade law in a State, no other dealer in that State is bound until he has received notice that such a contract has been signed. Then he may dispose of his inventory if he does not desire to continue to sell that product at a fair trade price. He is not required to sell that product at all. If he sells the product after he has been notified that a contract has been signed, he is supposed to follow the agreement insofar as it affects minimum resale prices.

Mr. BROOKS. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is their objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BROOKS. Mr. Chairman, H. R. 5767 is an excellent bill. It should pass and become the law. It is a State rights bill and recognizes the ability of the State legislatures and of the State governments to pass and enforce laws at a State level with wisdom and judgment.

Ordinarily, Mr. Chairman, I am not much in sympathy with laws that reach down into the ordinary level of business transactions and seek to regulate them. Our country is vexed with regulations at a national level and our people feel that there is entirely too much red tape and Federal interference. This bill, however, puts the matter on the State level and permits the several States to act as they desire and in accordance with the wishes of their own people.

I am informed that 45 of the 48 States already have laws which seek to set forth what is known as fair-trade practices. The recent ruling of the Supreme Court of the United States, however, in the case of *Schweigman* v. *Calvert Distillery Corp.* (341 U. S. 384), May 21, 1951, knocked out the State laws and made them nonenforceable. This bill will have the effect of permitting the States to work out their own destinies and to protect the small-business man against certain cut-throat competition if they so desire. I am glad to say that Louisiana is one of the States which has enacted this type of legislation.

The best bulwark in this country which we have against the growth of collectivism in the form of communism is of course the small-business man. In communities where there exists a healthy small-business group, the level of civic welfare and interest taken by the small-business leaders in health, recreation and education tends to be higher than in those communities in which the business consists principally of a few large concerns. When these concerns are owned and managed from a distance the situation is much more pronounced. The small independent businessman, having a store on the corner in a community, performs a most necessary and worth-while service. Often times he makes a hand to mouth existence by working long hours at odd times to take advantage of a few sales and eeks out a difficult existence. When large corporations, controlling vast output, engage in unfair-trade practices, the corner drug store faces an impossible existence. In a ruthless type of competition he is often forced out of business, although as a corner store with groceries or drugs he is vitally needed to serve the nearby community.

It is argued that this measure will result in price rigidity and will not have a wholesome affect in the competitive market. There may be some truth to this contention. This is an experimental field for legislation and some States may pass unwise and unsound laws and the cure in some instances may be worse than the disease. These laws, however, are under control of the States themselves and may be changed from time to time. In a field of 48 States much good can be accomplished by letting the States attempt to work out this type of problem so long as they do not try to burden interstate commerce.

In closing what I have to say, Mr. Chairman, I make a strong appeal for assistance to small business. I have lived in both large and small communities. I have lived in cities and in rural areas. From the time I was a little boy I can remember back over the years of the services rendered by the corner drug store and grocery store. I know that they render a real worth-while service in our economy. They have made an effort to protect themselves, at times very ineffectively against the encroachment of huge combines of wealth spreading out fan-like throughout our country, usually having their origin in Wall Street. They have tried one means of protecting themselves after another but the situation of the small-business man, I have noticed, has become increasingly difficult and acute. It is, therefore, timely that we, the Congress of the United States, take some action recognizing the very valuable services rendered to our people by the small, independent businessman and passing a law which will have the effect of at least permitting him to obtain legislation on a local level which will be beneficial to him. I hope this measure is adopted by an overwhelming vote.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Illinois [Mr. REED.]

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 12, noes 111.

So the substitute was rejected.

Mr. CELLER. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 1, strike out everything after the enacting clause and insert the following: "That section 5 (a) of the Federal Trade Commission Act, as amended, is hereby amended to read as follows:

"'SEC. 5. (a) For the purposes of this section—

"'(1) The term "delivered cost" shall mean invoice cost to a seller less the value of discounts received by a seller in money or the equivalent, plus the cost of transportation incident to delivery to the seller, and plus applicable excise and sales taxes to the seller.

"'(2) The term "seller" shall mean a vendee, as used in this act, who purchases for resale.

"'(3) The term "loss-leader practice" shall mean selling a commodity, or advertising or offering a commodity for sale at retail at a price below the delivered cost of the commodity to the seller except that it does not include any of the following sales, or any advertisement or offer in connection therewith:

"'(A) Any sale of a commodity for the bona fide purpose of discontinuing dealing in such commodity or of discontinuing the seller's business, when plain notice of that fact is given to the public.

"'(B) Any sale of a commodity which is substantially damaged or deteriorated in quality if plain notice of the fact is given to the public.

"'(C) Any sale by an officer acting under an order of court.

"'(D) Any sale to any association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"'(E) Any sale of a perishable commodity if further retention of the commodity by the seller could reasonably be expected to result in a loss to the seller.

"'(F) Any sale which reasonable business practices require the seller to make in order to liquidate an inventory of a commodity to avoid insolvency or bankruptcy.

"'(G) Any seasonal clearance sale made in accordance with customary business practices in order to dispose of excess inventory.

"'(b) Any loss-leader practice which affects commerce is hereby declared to be unlawful and actionable at the suit of any person damaged thereby.

"'(c) (1) Any person injured in his business or property by any loss-leader practice hereby declared to be unlawful may sue therefor in any district court of the United States, as provided in section 4 of the Clayton Act, approved October 15, 1914, or in any State court of competent jurisdiction, and recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee. Any person threatened with injury by any loss-leader practice shall be entitled to injunctive relief against such threatened injury in any court of the United States, as provided in section 16 of the Clayton Act, or to sue for and have such relief in any State court of competent jurisdiction when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity in that State, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"'(2) Section 15 of the Clayton Act (providing for suits by the United States district attorneys to restrain violations of this act), shall not apply with respect to any loss-leader practice.

"'(d) (1) Nothing contained herein or in any of the antitrust acts shall render illegal any contract or agreement prohibiting a seller from reselling at a price below his delivered cost, any commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements prescribing minimum prices are lawful under any statute, law, or public

policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale, or for delivery to a vendee pursuant to a sale.

"'(2) Nothing contained herein or in any of the antitrust acts shall render illegal the exercise or enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which provides in substance that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the minimum prices prescribed in any such contract or agreement whether the person so advertising, offering for sale, or selling is or is not a party to such contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby: *Provided, however,* That the rights or right of action created by or under such contracts and agreements shall not apply where the minimum price prescribed in such contract is higher than the delivered cost to the seller: *And provided further,* That the rights or right of action created by or under such contracts and agreements shall not apply to any of the following sales, or advertisement or offer in connection therewith:

"'(A) Any sale of a commodity for the bona fide purpose of discontinuing dealing in such commodity or of discontinuing the seller's business, when plain notice of that fact is given to the public.

"'(B) Any sale of a commodity which is substantially damaged or deteriorated in quality if plain notice of the fact is given to the public.

"'(C) Any sale by an officer acting under an order of court.

"'(D) Any sale to any association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"'(E) Any sale of a perishable commodity if further retention of the commodity by the seller could reasonably be expected to result in a loss to the seller.

"'(F) Any sale which reasonable business practices require the seller to make in order to liquidate an inventory of a commodity to avoid insolvency or bankruptcy.

"'(G) Any seasonal clearance sale made in accordance with customary business practices in order to dispose of excess inventory.

"'(e) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the acts to regulate commerce, air carriers, and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce'."

Mr. CELLER (interrupting the reading of the substitute). Mr. Chairman, I ask unanimous consent that the further reading of the substitute be dispensed with and that it be printed in the RECORD at this point.

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

There was no objection.

Mr. CELLER. Mr. Chairman, all that this amendment does is to provide for the abolition of so-called loss leaders. Throughout the length of this debate we have heard tell that everybody in favor of either the Keogh bill or the McGuire bill was opposed to so-called loss leaders where retailers, in order to attract patronage to the store, would deliberately undercut and sell below cost, and indulge thereby in so-called loss-leader practices. I abhor that practice; I believe it is wrong and very hurtful and therefore I have offered this substitute amendment to punish it, to bar it, and to invoke sanctions upon those who are guilty of loss-leader selling. I think it is a vicious practice and should be condemned in the strongest terms. But in prohibiting sales below cost need we at the same time prevent all other types of legitimate competition which has proven to be the backbone of our Nation? Must we go to such extremes as to grant exemptions from our time honored antitrust laws and place our approval upon price-fixing contracts? That is going too far in my opinion. That is like, as indicated before, if you had a pain in your leg, why then just amputate the leg instead of getting at the cause of the pain and removing those causes. The cause of all the difficulty stems from the loss-leader selling. Therefore, what we should get at deliberately and without hesitation is loss-leader selling. Let us not get after ordinary and legitimate sales practices indulged in by wide awake and efficient merchants. Must we at the same time insure handsome profits to large fair-trade manufacturers and to certain concerns which support fair-trade bills? I put in the RECORD yesterday information and I will put more information in the RECORD today in my extension of remarks, facts which clearly indicate that about 51 out of 100 of the largest national advertisers, the largest concerns in the country, are in favor of these bills. Why are they in favor of them? Because they then have a grip, an ironclad grip upon the Nation, and they make of the retail merchant a mere conduit for the sale of the product that is thus nationally advertised. They are in favor of these bills, these very large oligarchic companies.

I also put in the RECORD and will put additional information in the RECORD to the effect that the chain store organizations are in favor of the fair-trade bills. Why are they in favor of them? Because of the high mark-ups that have been caused and created as the result of these fair-trade bills. There are higher profits in fair-traded articles, and these supermarkets and chain aggregations covet the sale of those types of goods. They thereby make up the differences that they may lose on grocery items. But the fair-trade articles in the main are pharmaceuticals and drugs. That is why these huge chain aggregations and these huge manufacturers are behind this bill.

Why, it is ridiculous to say this bill is primarily for the little merchant. The little merchant is deprived of his only strong weapon, competition, and his growth will be stunted. It is proof positive that in the District of Columbia and in the three fair-traded States there are less bankruptcies as far as retail establishments are concerned than there are in the fair-trade States where they have these fair-trade laws.

So I ask you, get at the seat of the trouble, vote against loss-leader selling, as is embodied in my substitute amendment.

I have pointed out to you already the dangers to small business which arise from permitting large manufacturers of fair-traded commodities to fix prices throughout the Nation. It is essential to recognize the threat to competition which extending the powers of these large producers entails. In the drug industry, four companies already control 68.5 percent of the output of medicinal chemicals, 92.1 percent of botanical products, 28 percent of pharmaceutical preparations, and 37.9 percent of biological products. The control of a few giant corporations in other fair-trading fields such as electrical appliances, small arms, and silverware is equally as high. Permitting these producers to enlarge their control of the Nation's economy even further by fixing the prices to be charged for their products in every retail outlet in 45 States of the Nation can only enhance the growth of these oligopolies and the concentration of economic power in a few large concerns.

I believe that the evils which those in favor of fair trade seek to extirpate can be dealt with in a manner which will not throttle the freedom of small business and enhance the already strong grip upon the economy exercised by the big manufacturers. Just what is the main objective which is urged in behalf of this measure? It is to prevent the unfair practice of so-called loss-leader selling in which important articles are disposed of by competitors below cost in order to destroy the business of their small rivals.

The distinguished gentleman from Texas [Mr. PATMAN] testifying before the Priest committee in favor of H. R. 5767 stated as follows:

> Loss-leader selling is not only deceitful and misleading which of course will be brought about if this is not enacted; but it is detrimental to the country (p. 12).

Mr. Nicholas S. Gesoalde, executive secretary of the New York State Pharmaceutical Association, in support of the McGuire bill, pointed out, and I quote:

> The public is protected through fair trade by preventing the use of predatory loss leaders to build up store traffic (p. 85).

The Senate Small Business Committee, in its latest annual report, speaking of the advantages of fair trade to the manufacturer, states:

> Fair trade does protect him against the evils of loss-leader selling and the possible destruction of his product and his business through price cutting (Annual Report, p. 214).

And, insofar as the retailer is concerned, the committee said:

> His margin of profit is fixed to yield him a fair return, and he is protected from destructive competition from others who might be able to afford to use the item as a loss leader (id., pp. 214–15).

Maurice Mermey, executive director of the Bureau of Education on Fair Trade, which is comprised of druggists and drug manufacturers who support the McGuire

bill, averred in his statement submitted to the Priest committee:

In curbing loss-leader selling, fair trade checks a pernicious type of unfair competition which particularly harms small business (p. 27).

It is abundantly evident from these statements that the abuse which those in favor of this legislation are endeavoring to curtail is that of loss-leader selling. It is to curb this evil of loss-leader selling that I now move to strike out everything after the enacting clause and insert the provisions of my loss-leader bill, which I have previously introduced into the House as H. R. 6986.

I wish to emphasize that in endeavoring to prohibit the sale of loss leaders through the device of resale price-maintenance agreements, not only is price cutting which is detrimental to competition prohibited, but all price reductions which are the very essence of competition are banned as well. Thus under fair trade, merchants may not reduce prices even one penny to reflect competitively legitimate savings accruing by virtue of greater efficiency, better selling practices, quantity purchases, or lower rents.

I am in favor of prohibiting loss-leader sales. I think it is a vicious practice which serves to injure small business and should be condemned in the strongest terms. But in prohibiting sales below cost, need we at the same time prevent all other types of legitimate competition which has proven to be the backbone of our Nation? Must we at the same time insure fat and handsome profits to large fair-trading manufacturers and to certain stores which support the fair-trade bills? Must we also penalize consumers by exacting from their already heavily taxed budgets the added tribute imposed by fair-trade legislation? Must we coerce all independent retailers throughout the 45 States to abide by a form of price fixing to which they were never a party?

If we must do all these things to prevent loss-leader selling, we place ourselves in the anamolous position of beheading our economy to prevent the headache of loss leaders, of amputating the limb because the leg is broken. And we will find ourselves emulating that notable physician of fable whose operation was a resounding success but whose patient died.

It can be shown that fair trade promotes monopoly and economic concentration; that it injures the competitive status of independent retailers; fosters the violations of the antitrust laws; and mulcts the consumer. How and why it does this, I cannot now set forth at length but wish that you would read my views in opposition to fair trade contained in House Report 1516 of this Congress beginning on page 19 where I have delineated these conclusions, with proper documentation, at considerable length.

I thereupon urge all of those who honestly wish to eliminate loss-leader selling to support my amendment which is designed to remedy this competitive abuse without incurring the concomitant dangers which inhere in resale price-maintenance agreements. Prohibiting loss-leader selling will aid small and independent business and promote competition. Fair trade will destroy the independence of small merchants and restrict competition and free enterprise.

In conclusion, I wish to read a letter in support of the loss-leader amendment which I have received from the Honorable W. T. Kelley, General Counsel of the Federal Trade Commission. In light of what I have said and in view of this letter, I sincerely request Members to support this amendment.

MARCH 12, 1952.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D. C.

DEAR CHAIRMAN: I have your press release No. 29 announcing the introduction of a bill to prohibit loss-leader selling.

I am in favor of such a bill as I believe selling below cost for an ulterior purpose is unfair and injurious to legitimate competition. The so-called fair trade bills in part prevent unfair competition but primarily, and in large part, prevent fair and legitimate competition. In fact, they eliminate all distribution efficiency between retailers and no longer would the public be benefited by a competition based on efficiency, service and the willingness of dealers to do business at a fair return.

My own conclusion is as follows: Where a retailer sells a branded article at a price determined by him with reference to an honest estimate of his own selling costs and the margin of profit which he considers legitimate for his whole business, he is not guilty of unfair trade or unfair competition even though the price is below that prescribed by the manufacturer. But where a retailer sells below cost or at so low a figure that he is obviously making an unreasonably low profit, and where his motive is not primarily to sell those goods but to advertise other goods, this is unfair and under those circumstances such methods should be forbidden. While illegitimate competition should not be tolerated, the law, in my judgment, should not go so far as to wipe out legitimate competition.

Congratulations on your efforts to protect the public from monopolistic enhancement of prices.

Sincerely yours,

W. T. KELLEY,
General Counsel.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. HOLIFIELD].

Mr. HOLIFIELD. Mr. Chairman, this is in effect a substitute bill that the gentleman from New York [Mr. CELLER] has presented. I have just read it on the Clerk's desk. It is several pages long. It attempts to do what the States will do within their own jurisdictions. They will write their own State fair-trade laws. I am sure it will be voted down.

In the little remaining time I have, I would just like to say that I have had 30 years of experience as a merchandiser, and I doubt very much if the gentleman from New York has had a year's experience in the retail merchandising business. I know what the problem is. I will tell you it is not the big chain stores and the others who want to put this thing through; it is the little-business man who has been forced to handle fair-trade merchandise in order to exist. In other words, he has to handle nationally branded merchandise because through the power of advertising the people demand it, and the people have confidence in nationally branded merchandise, and nationally branded merchandise is not as exorbitantly priced and the margin of profit for the retailer is smaller than that of nonbranded merchandise. Consumer acceptance makes it necessary for the small merchant to handle it: and if you take away the fair-trade protection from him, it means that you are going to kill the little-business man in America. The people have confidence in brand merchandise and confidence in the price because it is universally sold by the big stores as well as the little stores at the same price.

Mr. Chairman, I ask that this amendment be voted down.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. PATMAN].

Mr. PATMAN. I have not had time to read and understand this amendment. It is several pages long. It has not received the consideration and the approval of the committee headed by the distinguished gentleman from New York who introduced the amendment. It appears to be an attempt to deal directly with something that is entirely local. It is placing a Federal agency in charge of or supervising business activities of the smallest, independent businessman in the United States, who is doing just an intrastate business, or a very small local business—it makes no difference. It goes entirely too far. It is something that the Congress should not legislate on. It is something that might be all right for a State to legislate on, but I do not know that I would be in favor of the amendment even in a State. No one knows what it is, and certainly we should not adopt it as a substitute for a bill that has received the consideration of a fine committee, like the Committee on Interstate and Foreign Commerce for many weeks, which heard testimony of witnesses on both sides. The committee has presented a good bill to us, the McGuire bill, and I hope it is accepted without amendments.

FAIR TRADE: IN THE PATTERN OF THE ANTITRUST LAWS

Our economy is rightly called a free-enterprise economy. It is based on the theory that the fostering of full, vigorous competition is the best means of achieving the economic well-being of the American people. Nonetheless, under our economic system, free competition, like other forms of freedom, has never existed in an absolute and unlimited manner.

The whole growth of a free civilization has consisted in tempering, in the interest of society, the liberty of the individual to do as he pleases. This applies to the liberty to compete also. If by free is meant unbridled, there is no such thing as free competition in our society. The American people would

not tolerate such competition. No businessman is allowed to compete entirely on his own terms. He is always limited by what the public considers fair for all.

A great landmark in the recognition of this principle was the passage by Congress of the Sherman Antitrust Act in 1890. On the face of it, the Sherman Act restrained competition regarded as harmful to the public interest. But in a deeper sense, it safeguarded and preserved competition. For it outlawed those predatory activities of a small minority of businessmen which were aimed at destroying all their rivals and thus abolishing competition altogether.

Since the Sherman Act, Congress has successively enacted other measures which curb certain kinds of antisocial competition regarded as unfair or monopolistic. Among them were the Clayton Act, the Federal Trade Commission Act, the Food and Drug Act, the Securities and Exchange Act, and the Robinson-Patman Act.

The purpose of the fair-trade laws of the 45 States is also to curb unfair competition in order to promote fair competition. They restrain ruthless, commercial behavior which destroys competition by using superior dollar power alone to eliminate small competitors. The fair-trade laws curb the ruthless competition of those retailers who do not scruple to use trick prices and price-juggling to bewitch the consumer without benefit to her pocketbook.

Such retailers do not want to be fenced in. Like their predecessors in our history who bitterly opposed the antitrust laws and similar measures, they want to do as they please even when what they please to do harms society. They cry out that the right of free competition is being invaded, when what they mean by "free competition" is competition whose final outcome is the ending of all competition.

The legislative forerunners of the fair-trade laws were similarly viewed with alarm. The Sherman Act, in the course of congressional debate, was condemned as a statute which would crush competition. The Federal Trade Commission Act was called an infringement upon our basic liberties. It was prophesied that the Securities and Exchange Act would destroy the operations of the stock market and undermine the savings of the American people. I need hardly say, of course, that these laws are now universally regarded as among the most constructive legislation on our statute books.

The broad purpose of the antitrust laws is to prevent the growth of monopoly power and the evils consequent upon it. Accordingly, as a means toward this end, the antitrust laws prohibit horizontal price fixing, that is, any getting together of competitors who agree not to compete on price.

The broad purpose of the fair-trade laws is likewise to prevent the growth of monopoly power and the evils it produces. They also prohibit horizontal price-fixing. But as a means of restraining unfair competition, the fair-trade laws permit vertical resale price maintenance under conditions of full and fair competition. Vertical resale price maintenance must not be confused with horizontal price fixing. They are entirely different, and one has nothing to do with the other.

Horizontal price fixing is essentially an agreement among those who are on the same level in the distributive process, be they manufacturers or distributors, not to compete. Vertical resale price maintenance takes place between a manufacturer and his distributors, who are not on the same level in the distributive process and thus, of course, are not competitors. Furthermore, every fair-trade law requires that any product, in order to be fair-traded, be in free and open competition with similar articles produced by others.

It would be a mistake to concern ourselves with the technicalities expressed by the geometric adjectives, horizontal and vertical, to the exclusion of the human equation. For that is what really counts here. Both the antitrust laws and the fair trade exist for the sake of human beings, not abstract principles. They are designed to help the millions of ordinary men and women who constitute small business in this country, to make their livelihoods through honest, hard competition, free of the threat of being crushed by monopoly power.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, the Committee on Interstate and Foreign Commerce unanimously reported the McGuire bill. There were two reservations, but they did not express opposition. It is my information that the great Committee on the Judiciary had three viewpoints. One viewpoint was in favor of the McGuire bill. A second viewpoint was in favor of the Keogh proposal, which the committee reported favorably; and the third viewpoint was to do nothing at all to correct this situation. That viewpoint is expressed by the distinguished chairman of that committee, who offers this proposal as a substitute. In order to reach just exactly what he has in mind, he offers this amendment which does nothing.

I ask that the amendment be voted down.

The CHAIRMAN. The question is on the substitute amendment, offered by the gentleman from New York [Mr. CELLER].

The substitute amendment was rejected.

Mr. JAVITS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JAVITS to the committee amendment: On page 4, line 25, after the word "others", insert "and not subject to contracts or agreements prescribing minimum or stipulated prices as aforesaid."

Mr. JAVITS. Mr. Chairman, this amendment is designed to quiet the fears of consumers in respect of this bill. I believe that many Members sympathetic to the McGuire bill, like myself, have been impressed with arguments made by consumer groups, and feel that they should be taken into account. This amendment represents recognition and consideration of their viewpoint, and will not impede the essential purposes of the bill.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield to the gentleman from Arkansas.

Mr. HARRIS. Is it not a fact that the gentleman understands the purpose of the McGuire bill is enabling legislation?

Mr. JAVITS. I do, and I will explain my amendment in exactly those terms.

Mr. HARRIS. If the gentleman will yield further, is it not true that under the gentleman's restricting amendment, if it were to be adopted it would completely nullify the proposal to make this enabling legislation?

Mr. JAVITS. I do not feel that is so, and I will explain why.

Mr. HARRIS. I will be glad to hear the explanation.

Mr. JAVITS. The bill now provides that anyone who proposes to establish or stipulate a fair-trade price is to be exempted from the antitrust laws, and I quote:

If the particular item is in free and open competition with commodities of the same general class produced or distributed by others.

Otherwise, the person who seeks to establish a fair-trade price under this bill is not exempted from the Federal antitrust laws. We are, therefore, already giving limited exemption only, to wit, that the manufacturer or distributor must make up his mind that there are other items in competition with the item which he expects to submit to fair-trade law pricing. What my amendment does is add to this limitation. It says, in effect, "You shall not be exempt from the antitrust laws unless the items which are in competition with the items which you expect to price under the McGuire bill are items which are non-fair-trade priced." It was made clear a while ago that what is contemplated in this bill is that the item sought to be fair-trade priced shall be in competition with other items which are also fair-trade priced. The consumer is, therefore, in this position: His range of choice is only in buying among a group of items, all of which can be, and in most cases are, priced under the fair-trade laws. So that if he wants to buy toothpaste, if he is going to buy any standard brand, he must pay for some item which is priced under the fair-trade law. Under my amendment the manufacturer or distributor of toothpaste could fair-trade price his item only if in the toothpaste market generally there were non-fair-trade priced items in competition with his item.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. My time is limited. I cannot yield right now, but will do so if I can get a few minutes more time and the gentleman will then renew his request.

The specific point I would like to make is this: The only arguments that can be made against what I am here proposing are, "Let us leave this bill unamended; it is sacrosanct." We know that is not so. Or, "Let us not change anything which is contained in any State law,"

and the point will be made, as the gentleman from Arkansas [Mr. HARRIS] just made it, that this bill repeats words which are in most of the State fair-trade laws. But we are not dealing with words. We are dealing with substance.

The substance is this: The State fair-trade laws generally exempt the seller in the State from the State antitrust law, if there is one. This bill is an effort to exempt sellers on an interstate basis from the Federal antitrust laws. By my amendment we place on a further limitation of our own on that already in the bill itself, upon the exercise of that option to fair-trade price his item, which gives a particlular seller the exemption from the Federal antitrust laws. I say we should add to the limitation already in the bill the necessary provision which will protect consumers and quiet their fears that they will have no range of purchase in a particular item, except among commodities all of which are fair-trade priced. By introducing the competition of non-fair-trade priced items, we say to the consumer: "If you want to buy any national brand of toothpaste and you want to pay for it, that is your privilege, but you do not have to." We say to them, "There is a toothpaste you can buy which is not fair-trade priced."

I submit this amendment is very important. It goes to the heart of what consumers have been disquieted about in respect to this bill, and if adopted will give the independent retailer everything he wants, which is protection for his over-all business position, and at the same time will protect the consumers.

The CHAIRMAN. The time of the gentleman from New York has expired.

The question recurs upon the amendment offered by the gentleman from New York [Mr. JAVITS].

The question was taken; and on a division (demanded by Mr. JAVITS) there were—ayes 12, noes 93.

So the amendment was rejected.

Mr. COLE of Kansas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLE of Kansas to the committee amendment: On page 5, line 23, after the period insert the following: "Whenever by contract or agreement described in subsection (2) a stipulated or minimum resale price may be established for a commodity in any State, Territory, or the District of Columbia, where such a contract or agreement is lawful, it shall be an act of unfair competition, actionable at the suit of any person damaged thereby, to willfully and knowingly, in interstate commerce (1) sell or (2) have transported for sale or resale or (3) deliver pursuant to a sale, or otherwise deliver, such commodity in any such State, Territory, or the District of Columbia, where such a contract or agreement is lawful, at less than the price or prices so established in such contract or agreement. Any person, firm or corporation injured in his or its business or property because of the violation of this subsection (4) shall be entitled to sue for and have injunctive relief against threatened loss or damage by a violation of this subsection (4)."

Mr. COLE of Kansas. Mr. Chairman, the McGuire bill has corrected all of the difficulties involved by reason of the decision in the Schwegmann case. However, the decision in the Wintling case has pointed out another situation with respect to fair trade which has not been corrected in the McGuire bill. The amendment which I offer today merely plugs the loopholes in the fair-trade legislation.

My amendment provides for the protection of the merchants and retailers who are doing business in a fair-trade State; it protects them from raids on the part of mail-order houses and cut-rate retailers and wholesalers in non-fair-trade States. It protects them in this way: It provides enabling legislation which permits a person who has been damaged by these raids from unfair-trade States by shipping into the fair-trade States commodities at a lower price than could be obtained in the fair-trade States. This legislation does not create a Federal fair-trade law in any shape, manner, or form; this amendment does not permit any Federal agency to do anything; it does not permit any Federal prosecutor to take action; it does not permit anybody in Washington to take any steps to enforce the fair-trade laws of any State; it is merely enabling legislation.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. COLE of Kansas. I yield.

Mr. HARRIS. Would the gentleman explain to the committee, then, the meaning of the term in the gentleman's amendment: "It shall be an act of unfair competition"?

Mr. COLE of Kansas. The words must be read in connection with the entire amendment. They mean this: It shall be an act of unfair competition which may be corrected by a suit, and that suit may be brought by the party damaged. By that I mean it may not be brought by anybody in the Federal Government, may not be brought by any State, may not be brought by any agency of the Federal Government; it may not be brought by any Federal prosecutor. It means only that those who have been damaged by it can bring the action. It does not attempt to tell the States what sort of law they must pass.

This merely permits the States, may I say again, to pass such enabling legislation as they desire, and it will prevent other States from sending into that State commodities at a lower price than fair trade.

If you do not have this amendment, if you do not enact this amendment, you will not have a fair-trade law. Why? One of the best illustrations I can give is what occurs in my own State. We are adjacent to the State of Missouri, which is a non-fair-trade State. Merchants in Missouri attempt to send merchandise into Kansas, merchandise which in Kansas can be sold only under the fair-trade law. The merchants in Missouri attempt to send into Kansas and sell in that State, merchandise at a price lower than is permitted by law in Kansas. Thus they are circumventing the fair-trade law of Kansas. This amendment merely permits Kansas to protect itself from the unfair competition of a non-fair-trade State. Without this type of amendment you cannot have a true fair-trade State. With this amendment you can protect Kansas, a fair-trade State, from those who would attempt to circumvent its laws.

Mr. Chairman, I suggest that the membership consider this amendment very, very carefully because it violates no principle of the McGuire bill.

Mr. ROSS. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

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

There was no objection.

Mr. ROSS. Mr. Chairman, the McGuire fair-trade bill, H. R. 5767, has my wholehearted support. Its passage is essential because the fair-trade practices of producers and retailers that have proved themselves so beneficial over the years are now in serious danger. Briefly, this is what has happened. During the 1930's more and more businessmen, retailers and manufacturers alike, found the practice of resale-price maintenance advantageous. Resale-price maintenance is the setting of minimum retail prices of branded products by the manufacturer of those products.

This practice was encouraged by an ever-growing number of State legislatures that passed so-called fair-trade laws. Under these laws a manufacturer and retailers of his product can enter into contracts whereby the former establishes minimum resale prices which the latter are obligated to observe. All of these laws provide further that if a manufacturer negotiates a contract with one retailer in the State and announces the terms of this contract including his minimum prices to other retailers, he may enforce these prices on the latter, even though they have not entered into any such contract themselves. This is the so-called nonsigner provision.

The Miller-Tydings Act, passed in 1937, extended the provisions of State fair-trade laws which apply directly only to intrastate trade to interstate sales taking place within each State. It specifically exempted from the Sherman and Federal Trade Commission Acts contracts to maintain prices in interstate sales in States which have laws authorizing such contracts.

However, last May, in the Schwegmann case, the majority of the Supreme Court ruled that contracts between a manufacturer and a seller were not binding on nonsigning retailers. In other words, the nonsigner provision was declared invalid, and thereby much of the effectiveness of the fair-trade laws was lost.

The McGuire bill, introduced by Congressman JOHN A. MCGUIRE, of Connecticut, last October, is designed to overcome the defects of the Miller-Tydings Act while at the same time restoring the full effectiveness of the fair-trade laws, including the nonsigner provision. Other bills have also been introduced in the Congress since the Schwegmann case to restore fair-trade laws to full effectiveness, but no other is as comprehensive, and no other has the support of as wide a segment of the retail trade. H. R. 5767 has also received the endorsement of the Department of Commerce, the Small Business Committees of both Houses, and the House Committee on

Interstate and Foreign Commerce which favorably reported the bill.

The enactment of H. R. 5767 would remove the threat of price cutting by giant retailers and unethical operators in the 45 States having fair-trade laws for all the manufacturers and retailers who choose to carry on business in accordance with them. It provides further protection to small business in the case of fair-traded goods sold by mail order, by prohibiting setting prices to an out-of-State buyer lower than the minimum prices in the State where the mail-order operation is located.

Important as the language of the McGuire bill is in the interests of clarity, constitutionality, and legislative workability, the legal and technical wording of the bill need not detain us now. The important thing to recognize is the contribution this bill would make to fair trade, and to understand how important the restoration of effective fair trade is to the country.

Why should we have fair trade? Let me outline just a few of the reasons why I believe fair trade is in the best interests of the American people. Fair trade protects the consumer from the harmful effects of misleading loss-leader and price-baiting practices. Where the consumer is lured into a store by a low price on a well-known trade-marked item, only to be induced then to buy other items that have been correspondingly overpriced; he, the customer, has been unfairly victimized. That is unfair competition and the consumer is the loser.

Fair trade protects the reputation of the manufacturer on branded and trade-marked merchandise. Below-cost price cutting often reflects adversely on the quality of the trade-marked item, marked down to serve as a loss leader. Competitors tend to stop featuring the item, and may withdraw it altogether. Price cutting in this sense can be as adverse to the producer as physical misrepresentation.

Price cutting hurts not only the manufacturer; the effect on small retailers is even worse. Price cutting by giant distributors or sharpshooters may force independents out of business. As the Bureau of Education on Fair Trade rightly says:

> Fair trade is designed to give the small-business man a chance to compete fairly and on equal terms with large distributors, and thereby to preserve for small enterprises the field in which they can function most efficiently—that of distribution.

The consumer benefits from the use of standard brands and standard prices. Together they enable the customer to determine for himself whether he is getting the proper quality at the right price.

There is every evidence that fair-trade prices are fair prices and that they are competitively arrived at. Fair-traded items and other items are always in competition with each other. Surveys have shown that prices of fair-trade items have indeed resisted inflation better than prices of other goods. Fair-trade prices are not, as too many people mistakenly believe, rigid prices. They are changed by the manufacturer in response to the forces of supply and demand.

There is no evidence that fair-trade laws increase the cost of distribution. On the contrary, there is evidence that stores in fair-trade States have no higher, and sometimes lower, operating costs than those in the non-fair-trade areas.

Fair trade is the rule in the great majority of our States—45 of them in all—all except Missouri, Texas, Vermont, and the District of Columbia. The Miller-Tydings Act was expressly intended as enabling legislation designed to support existing State fair-trade statutes. The McGuire bill likewise is enabling legislation permitting the fair-trade States to carry out the principle of resale minimum price maintenance of branded goods where they wish, without at the same time interfering with the non-fair-trade States or the national interest.

Fair trade is, as we have seen, advantageous to the manufacturer, the wholesaler, the retailer, and the consumer. I like the way in which these advantages have been set forth in a clear and simple statement by the American Fair Trade Council, consisting of manufacturers practicing fair trade—resale price maintenance—as follows:

Fair trade is fair to the manufacturer because: First, he establishes his retail prices at a level that helps him maintain and improve quality; second, he eliminates the danger of entire markets being destroyed by ruthless price cutters; and, third, his salesmen can concentrate on selling without having to defend prices and discounts.

Fair trade is fair to the wholesaler because: First, he can maintain adequate inventories at more stable prices; second, his salesmen can concentrate on selling alone; third, he can have confidence in the quality of the product he sells; fourth, he becomes more the merchandiser and less a speculator; and, fifth, he knows fair trade is a real benefit to his retailers.

Fair trade is fair to the retailer because: First, he can recommend the products because of their quality; second, predatory retailers cannot steal his business because of loss leaders, causing him heavy inventory and operating losses; and, third, larger stocks are practical because speculation is reduced.

Fair trade is fair to the consumer because: First, quality is protected with products built up to a standard—not down to a price; second, long-term average prices are low; and, third, fair-trade prices tend to combat inflation. While all prices increased 59.3 percent from 1939 to 1947—prices of 7,334 fair-traded products increased only 1.39 percent.

The McGuire bill will assure the effective continuation of fair-trade practices. It will provide equal rights and equal protection to the great and the small of the business world. It will assure the consuming public trade-marked goods of highest quality at reasonable prices. It will provide, in the truest sense of the word, fair trade.

In the interest of the consumer and strengthening our American free-enterprise system, I urge passage of the McGuire bill.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 8 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas [Mr. COLE].

Mr. Chairman, in practice let us see what this amendment will do. It applies to the non-fair-trade States in particular—Texas, Missouri, Vermont, and the District of Columbia. It means in the case of a merchant in Texarkana, Tex., who advertises a certain product for sale and delivers anywhere in that territory, if some of his orders should come by telephone, mail, or otherwise from the State of Arkansas, where they have a fair-trade law, the merchant would have to stop his shipment at the State line. He could not go over into Arkansas at all. In other words, he would be prevented from selling to his Arkansas customers at the same price he sells to his Texas customers. That same example could be used for Kansas City, Mo., and Kansas City, Kans. It could be used in the case of other States and State lines.

It is going rather far in the Federal field in encroachment upon the rights of the States. The McGuire bill is justified as an enabling act to permit the States to do what is lawful in other States. But this amendment goes beyond that. This is an attempt to place the power of the Federal Government and a Federal agency in a State where the law does not apply at all.

Texas did not pass a fair-trade law. I think the Senate passed it one time and I believe the House passed it one time but for some reason unknown to me they never did get together and the law never got on the statute books. I am not familiar with what took place in our State legislature on this proposal but I do know it is not effective in Texas.

The fact is that Texas does not have it, Missouri does not have it, Vermont does not have it, and the District of Columbia does not have it, because Congress has never legislated a fair-trade law for the District of Columbia. This is an attempt to compel fair-trade prices in States that have never adopted the law at all. It is entirely contrary to the concept we have in advocating the McGuire bill. In advocating the McGuire bill we say it is a States' rights bill. We just permit the States to carry out the contracts that the States have said that they want carried out, and because there is a State line between them, why we will permit it in interstate commerce under the McGuire bill. But here you are placing a burden upon the merchants in those States where they have no fair-trade law. You restrict his efficiency, you restrict the value of his advertising. You take in cities like Kansas City, half of the benefit of advertising goes over into Kansas, and vice versa. But here you could not deliver the goods in one of these States; you would be absolutely stopped at the State line. It would be a violation of the law to deliver the goods.

Mr. COLE of Kansas. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Kansas.

Mr. COLE of Kansas. Of course, it would be a violation of the law if the gentleman please. Why? Because the sale is a Kansas transaction, is it not? It is the Kansas law. We are attempting to protect the fair-trade law in Kansas.

Mr. PATMAN. But we do not give Kansas the right to enforce interstate commerce laws. Here is a case where you are giving Kansas the power to stop interstate commerce, and I doubt that you could give Kansas that power under the Constitution if you wanted to. You do not have the power to do it. Only the Congress can exercise the power over interstate commerce.

Mr. COLE of Kansas. The Federal Government has done it on numerous occasions: One, where Kansas was protected in its prohibitory law and the other in the sale of cigarettes.

Mr. PATMAN. This is an attempt to anticipate a great injury, a bad loophole. I do not think it will ever occur. You are anticipating exceptions, and you are trying to make arrangements to take care of an exception that will probably never happen. It will probably never occur. So let us pass the bill like it is, and then if we should discover something that is badly needed, if it is needed, later on we can take care of it.

Mr. McGUIRE. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Connecticut.

Mr. McGUIRE. Is it not true that the State legislatures could correct the situation raised in the Wentling decision?

Mr. PATMAN. Yes. The other States will probably pass a law, and there will be no necessity for this. You are anticipating a situation that will probably never exist in the world, and in the administration of this law, if you discover evils, if you discover loopholes, if you discover things that will happen that should not happen, we will come back to the Congress with that, and if there is a bad loophole in connection with this legislation or if there is a great injury, we can correct it later on.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, this is one of the provisions that was contained in the substitute offered by the gentleman from Illinois a little while ago which the Committee did not agree to. This is paragraph (d) of section 1 of that bill, and where it says "it shall be an act of unfair competition" that would be an amendment to the Federal Trade Commission Act. It definitely does establish a Federal cause of action, and therefore I think that the Committee will take the same action, from my own viewpoint on the proposal, as it did on the Keogh proposal.

Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. COLE].

The amendment was rejected.

Mr. CRAWFORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. CRAWFORD to section (3) of H. R. 5767: Paragraph (3) is amended by adding at the end thereof the following proviso: *"Provided, however,* That in the exercise of enforcement of any right or right of action as is exempted from the antitrust laws by this subsection, it shall be a complete defense to a charge of unfair competition for the defendant to show that the party prescribing the minimum or stipulated prices has failed to make reasonable efforts to insure compliance, by those in competition with the defendant, with such prescribed or minimum prices."

Mr. CRAWFORD. Mr. Chairman, this amendment is designed specifically for the purpose of protecting retail merchants against distributors or wholesalers who desire to give competitors of a merchant, free goods as a special inducement. The language I have used is taken from page 3, lines 10 to 17, of the Keogh bill. It plainly states:

That in the exercise or enforcement of any right or right of action as is exempted from the antitrust laws by this subsection, it shall be a complete defense to a charge of unfair competition for the defendant to show that the party prescribing the minimum prices has failed to make reasonable efforts to insure compliance, by those in competition with the defendant, with such prescribed minimum prices.

This is language which should be in the bill.

If groceryman A is selling something and sells it below the price set by the distributor or the wholesaler, and you bring charges against him and he can show that the wholesaler or the distributor gave free goods to a competitor of groceryman A, you have no right in equity or otherwise to prosecute groceryman A when you are feeding free goods to a competitor down the street somewhere. This amendment is designed specifically for that purpose. If anybody on the Committee wants to object to it, I would like him to ask me about it and give me the reasons why.

Mr. HARRIS. As I understood the gentleman's question, he would like to have the reason why we would be opposed to the amendment?

Mr. CRAWFORD. Why it should not be in the bill.

Mr. HARRIS. Because it violates the concept that we are trying to reach here, and that is enabling legislation recognizing the action of States. The gentleman's amendment would set up a Federal defense in connection with the problems that arise under State fair-trade laws.

Mr. CRAWFORD. Where does it set up any Federal defense?

Mr. HARRIS. The language the gentleman just read. It is the language of the Keogh bill, beginning in line 12 on page 3.

Mr. CRAWFORD. That is right.

Mr. HARRIS. It is an amendment to a Federal statute. The gentleman says, "It shall be a complete defense to a charge of unfair competition," and so forth. That would certainly establish a Federal defense.

Mr. CRAWFORD. It simply amends your Federal Trade Act, and that is exactly what the McGuire bill does. It amends the Federal Trade Act, and it puts the proviso in here that you cannot crucify a small groceryman or druggist by prosecuting him for not complying when the distributor or producer who set the prices on the goods are giving his competitor down the street free goods to enable the competitor to put him out of business. If there is anything unfair about that kind of an amendment, I will take the consequences. That ought to be in the bill.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield to the gentleman from Texas.

Mr. PATMAN. I am in sympathy with what the gentleman says, that we should stop such unfair practices.

Mr. CRAWFORD. Surely.

Mr. PATMAN. However, I appeal to the gentleman that he is not stopping it here.

Mr. CRAWFORD. No, I am not stopping it. I am simply making it so that you cannot prosecute one man for doing a thing while you are feeding his competitor down the street to do it.

Mr. PATMAN. Is not the gentleman writing into this bill here something that has never been done in law? In other words, the gentleman says, "If you do not enforce it against other people you cannot enforce it against me." If you had all laws written that way you never could enforce any of them.

Mr. CRAWFORD. You are sanctifying a proposition here. It is not the little retailer down the street that is doing the harm, it is the distributor or the producer who fixes the prices and who feeds the free stuff to the competitor that does the harm.

Mr. PATMAN. Does not the gentleman have his argument mixed up in this? I know he is sincere in this and I know he knows a lot about it. I know all about his experience. I see the reason for his concern. But he is talking in one place about dealing with the merchant, and this law relates to the merchant dealing with the customer. There is a great difference between the manufacturer dealing with the merchant and the merchant dealing with the customer.

Mr. CRAWFORD. The McGuire bill provides that the producer or the distributor may set these minimum prices.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. HARRIS, and by unanimous consent, Mr. CRAWFORD was allowed to proceed for three additional minutes.)

Mr. CRAWFORD. The McGuire bill provides the distributor and producer may set the price. That is on page 4, subparagraph 2. The bill also provides that you could prosecute this fellow, the signer or the nonsigner. On what ground, and by what line of reasoning can you justify prosecuting grocery man A for not complying when the producer or distributor who initiates the deal is feeding free goods to some competitor down the street to grocery man A.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield.

Mr. PATMAN. For the same reason that you prosecute every person who violates the plain law.

Mr. CRAWFORD. That does not apply at all because you are starting out by letting the producer or distributor fix the price. They set the pattern. Why do you want to prosecute a fellow, when the fellow who fixes the price shovels free goods to a competitor down the street.

Mr. PATMAN. I respectfully suggest that the two are not related. The two are not related. One is with reference to unfair practices as between the manufacturer and the producer to the retailer, and the McGuire bill relates to the transaction between the retailer and the consumer.

Mr. CRAWFORD. They are related, but if you do not want to protect the little man, that is your affair.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield.

Mr. CELLER. The gentleman's amendment provides for what is commonly known in the law as the clean hands doctrine; is that not correct?

Mr. CRAWFORD. Yes.

Mr. CELLER. And it is the present law even under the present situation where a retailer who is complained of says that the manufacturer has not in good faith endeavored to maintain the price that he shall be absolved from that price. That is the present law, and your amendment simply restates the present law; is that not correct?

Mr. CRAWFORD. Exactly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CRAWFORD].

The amendment was rejected.

AN ANSWER TO THE OPPONENTS OF FAIR TRADE

Mr. McKINNON. Mr. Chairman, in the debate Wednesday on the McGuire bill, H. R. 5767, the opponents of fair trade made a number of charges which must not go unanswered. It is hard to understand how such a false indictment can be made by anyone who believes in the importance of strengthening the small business economy and our system of free competition.

If this country is to lead the nations of the world along the road to democracy, we must demonstrate to them that a democracy guarantees freedom of opportunity. Freedom of opportunity means, above all, that new firms can compete with established business without being driven to the wall by predatory and oppressive tactics of price cutting, unfair methods of competition, and monopoly. It is not by mere chance that we have the highest standard of living in the world. It is due, rather to a constant fight to maintain the status of small and independent business in our communities. It has been demonstrated time and time again that our future as a free and democratic nation depends upon the success and survival of small business.

California was the pioneer State in developing fair-trade legislation. As early as 1931 the people of that State decided that the independent retailer needed protection from the predatory tactics of mass distributors. We know the charges made by the opponents of fair trade are unfounded. Let me reply to these accusations, one by one.

THE CHARGE THAT FAIR TRADE DOES NOT HELP SMALL BUSINESS

The most extravagant argument of all against fair trade is the claim that it does not help even the small firms in whose interests it is adopted. Can it be that the nearly 2,000,000 independent retailers who have learned from harsh experience that unrestrained price cutting is a threat to their very existence have been wrong all these years? I just cannot believe that.

Fair trade merely helps to place the independent retailer on a par with the mass distributors. The latter rarely have any advantage in lower costs of operation. Their competitive strength lies in purely strategic weapons derived through unfair concessions in buying, ability to absorb local losses, and the sheer weight of massed capital. They have many devices at their command which do for them what fair trade does for the small-store keeper. They can distribute through agencies. Or, like the chain stores, they can control prices all the way from producer to consumer. Fair trade merely equalizes these advantages.

Small business needs fair trade so that it can compete for the customer's favor on the basis of honesty, efficiency, services, and skill. Fair trade is designed to give the small-business man a chance to compete fairly and on equal terms with large distributors and thereby to preserve for small enterprises the field in which they can function most efficiently—that of distribution.

THE CHARGE THAT FAIR TRADE IS MONOPOLISTIC IN CHARACTER

Then there is the assertion that fair trade is inherently monopolistic in character; that it means the elimination of price competition among retailers; and that it is a general denial of the principles of free competition. Actually, nothing could be further from the truth.

Do not forget that fair trade, control, such as it is, operates on a vertical basis rather than horizontal. Competition between manufacturers continues to exist. A fair-trade law merely permits the making of contracts by which an individual producer establishes minimum resale prices on his own products. These prices vary with each producer and respond fully to consumer preferences and the laws of supply and demand. National brands compete with each other and with private brands. The consumer is always protected.

Furthermore, to be on the fair-trade list, an article must be in free and open competition with similar articles produced by others. A fair-trade product is always a competitive product. Collusion between manufacturers of different brands to establish the same price and thereby to eliminate price competition with each other is specifically forbidden by the fair-trade laws as it is by the Miller-Tydings Act itself. No less an authority than the United States Supreme Court declared, in upholding the constitutionality of the Illinois Fair Trade Act, that the act does not attempt to fix prices nor does it delegate such power to private persons.

Finally, fair trade is itself a positive deterrent to monopoly. Price cutting is discriminatory in effect and a powerful tool for the suppression of competition. By preventing price cutting, fair trade is a strong barrier to price discrimination and hence monopoly. It serves to curb predatory and unfair commercial practices.

THE CHARGE THAT FAIR TRADE INJURES THE CONSUMER

In the debates on fair trade many members of the House expressed concern over the effects of fair trade on the consumer. The assumption is that the retailer can be helped only at the expense of the consumer. This concern is quite proper. Nevertheless I am convinced that fair trade is as much in the interest of the consumer as it is of the retailer.

In the first place, there is no reliable evidence that fair trade prices are high prices. It is very easy to find specific commodities which sell for less in the District of Columbia or in any other non-fair-trade area than in fair-trade States. It is just as easy to find articles which sell for more. Only a broad statistical study can really supply a satisfactory answer. Many of these have been made. Putting them all together, one must recognize that in general the consumer pays nothing for fair trade. If anything, fair-trade prices seem to be lower than non-fair-trade prices.

A recent study, for instance, indicates that since 1939 prices of fair-trade articles have resisted inflation better than prices of other goods. According to this study, the prices of 7,334 controlled drug products increased only 3.1 percent from 1939 to 1947, whereas food prices went up 93 percent and the over-all cost of living rose 59 percent. If all prices had behaved like fair-trade prices, we would not be burdened today with such a high cost of living.

The reason that fair trade does not raise prices is simple. A manufacturer establishing fair-trade prices must set them low enough so that he will not be undersold by his competitors. No manufacturer who has spent thousands, or perhaps millions, of dollars to establish his brands would take such a risk. He will put his prices as low as possible, and those prices will be in effect everywhere.

We must not overlook the fact that fair-trade pricing is merely one of many manifestations of standard pricing. Only $5,000,000,000 worth, or approximately 4 percent of total retail sales, represented national brands sold under fair trade. Standard pricing is used without recourse to fair trade and would continue to be used if all the fair-trade laws were repealed. Daily newspapers, magazines, automobiles, household appliances, gas and oil products, home furnishings, some wearing apparel, and many other products are sold at standard prices.

Furthermore, loss-leader selling is a form of advertising. The more loss leaders a store offers, the higher its operating costs go. Generally, therefore, the types of stores which depend on price cutting to attract patronage are the ones which exact the highest average margins. In the last analysis all operating costs are

paid by the consumer. The public cannot get something for nothing.

There is no reason to assume that fixed prices will weaken the drive toward greater efficiency and the reduction of costs. Fair trade results in uniform prices but not in uniform profits. A given reduction in costs has as great an effect on profits under fair trade as under free trade. The drive for efficiency is no whit less now than it was prior to general fair trade. Eventually the consumer shares with the retailer in the advantage of fair trade.

THE NONSIGNER ISSUE

The real issue before us is whether the Miller-Tydings Act should be amended so as to validate the provisions in State laws which authorize sellers to enforce price maintenance against retailers who refuse to cooperate on the basis of voluntary agreements. Some who believe in fair trade on a so-called voluntary basis object to the supposed coercive character of these nonsigner clauses.

A little study will show that these objections are groundless. The basic reason for the nonsigner provision is the very practical fact that, without it, systematic price maintenance is usually not effective. The confirmed price cutter naturally will not voluntarily sign a contract that deprives him of the bait he uses in his type of selling.

Now, the number of confirmed price cutters is very small, but the presence of even a single price cutter in a market has a demoralizing effect on the entire price structure. "One bad oyster spoils the stew and one price cutter makes the whole market sour." If one retailer starts to cut prices, others must follow. There is no limit to the extent to which prices may be slashed or to the number of dealers that may become involved. The only way to avoid the flood is to stop the first trickle.

If one accepts the basic philosophy of fair trade, there is no sane reason for objecting to the nonsigner clauses. Obviously, if price cutting is unfair, the restrictions must be directed at price cutters. These are the ones who refuse to sign contracts.

Enforcement against nonsigners is necessary for the protection of contract rights. To hold that fair-trade contracts are good when voluntarily signed but that they cannot be protected against noncontract nullification "is to say that the body may live but the heart must die."

The proposed bill is fair, democratic, and the American way of doing things. It is merely the principle of majority rule applied to commercial practices. The retailer is not forced to sell articles subject to price maintenance. He can sell only free goods or can develop his own private brands. Only if a retailer elects to deal in fair-trade goods and to retain their distinguishing trade-marks is he affected by the fair-trade contract. The McGuire bill is necessary to protect small business, preserve our competitive institutions, and to maintain a sound foundation to our entire economic system.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MILLS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 5767) to amend the Federal Trade Commission Act with respect to certain contracts and agreements which establish minimum resale prices and which are extended by State law to nonsigners, pursuant to House Resolution 586, he reported the bill back to the House, with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Mr. DOLLIVER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and twenty-one Members are present; a quorum.

The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 196, noes 10.

Mr. CELLER. Mr. Speaker, I object to the vote on the ground that there is no quorum present.

The SPEAKER. The Chair has just counted, and there were 221 Members present; a quorum.

Mr. CELLER. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

So the bill was passed.

The title was amended so as to read: "A bill to amend the Federal Trade Commission Act with respect to certain contracts and agreements which establish minimum or stipulated resale prices and which are extended by State law to persons who are not parties to such contracts and agreements, and for certain other purposes."

A motion to reconsider was laid on the table.

Mr. PRIEST. Mr. Speaker, I ask unanimous consent that all Members have five legislative days in which to revise and extend their remarks on the bill H. R. 5767.

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

There was no objection.

SPECIAL ORDER GRANTED

Mr. D'EWART asked and was given permission to address the House on Monday next for 15 minutes, following the legislative business of the day and any other special orders heretofore entered.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

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

There was no objection.

PROGRAM FOR WEEK OF MAY 12

Mr. MARTIN of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for 1 minute in order to ask the gentleman from Massachusetts [Mr. McCORMACK] about the program for next week.

Mr. McCORMACK. On Monday there are two bills out of the District Committee:

H. R. 4262 dealing with the height of buildings, which I understand applies to one particular building.

S. 258, amending the law in relation to unlawful entry.

Then continuing Monday and Tuesday:

H. R. 5368 relating to the Santa Margarita, Calif., water project.

H. R. 4323, a continuation of consideration of the bill relating to the General Services Administration, which was about completed, as you remember.

House Joint Resolution 430, the adoption of the Puerto Rico Constitution.

House Resolution 278, a resolution out of the Rules Committee in relation to an inquiry into certain radio and television programs.

House Resolution 596, a similar resolution relating to books and magazines.

House Resolution 558, the usual resolution for the appointment of a committee in connection with campaign expenditures.

I imagine that none of these resolutions will take much time.

As I stated yesterday, should there be any roll calls on any of those matters I shall ask unanimous consent that the roll call go over to the following Thursday.

On Tuesday, of course, there is a primary in Virginia, and on Wednesday there is a primary in Georgia.

Wednesday: Memorial services of the House. There will be no legislative program that day, nothing but the memorial services.

Thursday, Friday and Saturday: The first order of business Thursday will be the conference report on the tidelands bill, then H. R. 7373, the legislative appropriation bill for 1953. I am putting on the program S. 677, which relates to the Marine Corps personnel, with the understanding, however, that if a rule is reported out on the mutual assistance bill, and if it is the desire of the members of the Committee on Foreign Affairs that it come up, that bill will be considered first. Those are all matters of consultation. I have not consulted with them and I do not want to make any statement which would be considered by any member of the Foreign Affairs Committee on either side as arbitrary or presumptuous on my part. But assuming that a rule is reported out, and it is agreeable to the

membership of the Foreign Affairs Committee, that will come up. I think that situation is understood.

The State of Oregon's primary day is on Friday. Of course, if any roll call should come on that day I shall take action to protect Members on roll calls that might come up that day. I would imagine, however, just speculating, that if the mutual assistance bill is reached sometime Thursday or Friday there would be no roll call on that day because that would take 2 or 3 days. I would also imagine, speculating again, that there might be rather intensive and extensive debate on the Marine Corps bill. The program outside of whether the mutual assistance bill will come up after the legislative appropriation bill or the Marine Corps bill is definite.

Mr. MARTIN of Massachusetts. The understanding is that the Marine Corps bill will possibly follow the ECA bill?

Mr. McCORMACK. Yes. I am keeping it right there. I have made certain promises and under no condition would I break those promises. I am keeping it on the program.

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

Mr. MARTIN of Massachusetts. I yield to the gentleman from California.

Mr. HINSHAW. I would like to ask the distinguished majority leader when it is contemplated that the McFarland amendments to the Federal Communications Act are intended to be placed on the program? As I understand, a rule has been granted.

Mr. McCORMACK. I have a pretty stiff program for next week.

Mr. HINSHAW. The Committee on Interstate and Foreign Commerce has worked long and hard on this bill and we are ready to bring it to the floor. We would like to have that opportunity as soon as possible.

Mr. McCORMACK. The gentleman from Massachusetts appreciates that fact but he has his problems, too. I can assure the gentleman I shall program it just as quickly as I can. We have to have a regard for the primaries that take place, and that makes it rather difficult. We have to give consideration to our Members who have primaries. The membership has been very kind in appreciating that fact.

Mr. HINSHAW. I hope that the gentleman can program the bill fairly soon because we have been waiting for a long time.

Mr. McCORMACK. How long since the rule has been reported?

Mr. HINSHAW. About a week.

Mr. McCORMACK. That is not very long.

Mr. HINSHAW. Perhaps 2 weeks. There was a time when there were no rules and we would hope that that might come again.

Mr. McCORMACK. I will program it as soon as I can. I assure the gentleman there is not the least inclination on my part to not program it. I shall do so as quickly as I can.

Mr. HINSHAW. I know the gentleman in the other body is interested in it.

Mr. McCORMACK. Mr. McFARLAND would have a lot of influence with the gentleman from Massachusetts.

Mr. MARTIN of Massachusetts. I thank the gentleman.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

The SPEAKER. Under previous order of the House the gentlewoman from Massachusetts [Mrs. ROGERS] is recognized for 60 minutes.

WILLIAM N. OATIS

Mrs. ROGERS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks at this point in the RECORD, and to include extraneous matter.

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

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, the House will remember that I introduced a resolution which would sever diplomatic relations with Czechoslovakia if William Oatis were not released within 90 days. This resolution did not pass. A modified resolution was passed which provided that trade with Czechoslovakia would be very much reduced. Nothing has developed of any great importance since that time, except that our Ambassador saw William Oatis in the flesh, I think it was last week, and apparently he looked reasonably well. They gave him a Bible and a music book, but nothing has happened concerning his release.

Mr. Speaker, a petition for a United Nations writ of habeas corpus to free William N. Oatis, Associated Press correspondent, will be filed today with the Human Rights Commission in New York. The petition sets a precedent in international judicial procedure. If it succeeds, it will establish a magna carta for the world. As the House knows, I have been fighting to effect the release of Mr. Oatis since his imprisonment by Czechoslovakia more than a year ago. Last year I introduced a resolution to sever relations with the Soviet satellites over his arrest. This petition that will be filed with the United Nations was prepared by Luis Kutner, a prominent Chicago attorney, an authority of the law of habeas corpus. He has freed more than a thousand persons wrongfully convicted during his career. The plea is based on the following legal arguments:

That Oatis was convicted without due process because he was denied counsel before trial, because he was tortured into a false confession, because the evidence was fabricated, because the trial was not held in public, nor conducted by an impartial tribunal.

That the United Nations has jurisdiction in the case by virtue of the human-rights provision of the Charter of the United Nations and its Declaration of Human Rights and that without the establishment of habeas corpus procedures it would be operating in a legal vacuum.

That Czechoslovakia as a signatory to the United Nations Charter has assumed in good faith the obligations concerning the enforcement of human rights, regardless of race, nation, color, or religion.

That as a member of the human race and as a citizen of a signatory power—the United States—Oatis is entitled to the United Nations collective responsibility to insure that he shall not be deprived of his human rights.

Under this petition, the United Nations may order the immediate release of Oatis in its custody, pending final decision by the International Court of Justice, which will review the facts in the case.

The petition in no way affects whatever means or methods that are now being pursued by the State Department. It has no bearing on any diplomatic conversations that are going on, if any.

The freedom of the press is involved in this.

This petition is a test of the United Nations and a challenge to its power to act. If the Human Rights Commission and the General Assembly follow through on it, then it will at least give evidence that they mean what they said about protection of human rights, and that they are more than a debating society.

I feel the petition points the way to the extension on a world scale of our Anglo-Saxon and democratic forms of justice which guarantee a fair and impartial trial to all people.

If Czechoslovakia refuses to abide by the writ of habeas corpus then it automatically proves itself beyond the pale of civilized nations and unwilling to cooperate for a just world the United Nations then can vote proper sanctions.

Mr. Speaker, other countries who have released our American citizens have done so only after they have almost blackmailed the United States into paying money.

Mr. Speaker, I shall read a letter which will be sent by Mr. Kutner to Mrs. Franklin Roosevelt:

MAY 8, 1952.

THE HONORABLE MEMBERS OF THE ECONOMIC AND SOCIAL COUNCIL,
United Nations Building,
New York, N. Y.

In re William N. Otis, petition for United Nations writ of habeas corpus.
(Attention: Mrs. Eleanor Roosevelt.)

DEAR MRS. ROOSEVELT: Pursuant to the appropriate provisions of the Charter of the United Nations and the Declaration of Human Rights, I am filing herewith legal documents which I believe will result in the freedom of William N. Oatis.

I respectfully invite your cooperation and the support of the Economic and Social Council for the proper processing of the following documents:

I. Request by Luis Kutner for and on behalf of William N. Oatis that the United States join in as party-movant in the presenting, filing, and prosecution of the petition for a United Nations writ of habeas corpus for William N. Oatis, a citizen of the United States.

II. Petition of Luis Kutner for and on behalf of William N. Oatis for a United Nations writ of habeas corpus.

I trust that the members of the Economic and Social Council, and ultimately other jurisdictional organs of the United Nations, will agree with the consensus of international lawyers that the Charter and the Declaration of Human Rights should not operate in a legal vacuum. The Oatis case should eliminate that condition.

I sincerely hope that the enclosed legal instruments will once and for all set up the technique that will remedy deprivations of human rights on behalf of all members of the human race on the face of this globe as envisaged and guaranteed by the Charter and the Declaration of Human Rights.

These documents will not only set up the legal methods to remedy and free Oatis, but will also cast in concrete terms guidance for action in all future cases of like character.

It is desirable that the International Court of Justice, the international judicial organ of the United Nations, should be called upon for concrete action and decision on the specific questions of law invoked by the Oatis case. Therefore, of necessity the Oatis case should establish the actual procedure for guidance in the future.

Under the Charter and the Statute of the International Court of Justice the legal questions involved in the Oatis case are capable of being adequately answered by the application of judicial techniques within the existing framework of law.

Be assured of my desire to prosecute the enclosed documents in harmony with your thoughts and the suggestions of the members of the Economic and Social Council and the General Assembly.

Very respectfully yours,

LUIS KUTNER.

Mr. Kutner will present a petition before the General Assembly of the United Nations, which I will read:

UNITED NATIONS, EX REL., LUIS KUTNER, FOR AND ON BEHALF OF WILLIAM N. OATIS, PETITIONER, V. CZECHOSLOVAKIA, RESPONDENT—REQUEST BY LUIS KUTNER FOR AND ON BEHALF OF WILLIAM N. OATIS THAT THE UNITED STATES JOIN IN AS PARTY-MOVANT IN THE PRESENTING, FILING, AND PROSECUTION OF THE PETITION FOR A UNITED NATIONS WRIT OF HABEAS CORPUS FOR WILLIAM N. OATIS, A CITIZEN OF THE UNITED STATES

To the United States Members of the Economic and Social Council:

1. That whereas the Economic and Social Council is responsible under the authority of the General Assembly for promoting, inter alia, (a) universal respect for, and observance of, human rights and fundamental freedoms for all;

2. That whereas the Council is also specifically empowered to (a) make or initiate studies, make recommendations to promote respect for, and observance of, human rights and fundamental freedoms; (b) prepare draft conventions for submission to the General Assembly; (c) call international conferences on matters within its competence; (d) perform services at the request of members of the United Nations; (e) take steps to give effect to its recommendations, it is, therefore, specifically requested by Luis Kutner for and on behalf of William N. Oatis, a citizen of the United States and a member of the human race, as follows:

1. That appropriate steps be initiated to make the United States a party-movant in the presenting, filing, and prosecution of the petition for a United Nations writ of habeas corpus for William N. Oatis, who is wrongfully deprived of his liberty in derogation and violation of the Charter and Declaration of Human Rights by the signatory Czechoslovakia.

2. That appropriate steps be initiated for causing the petition for a United Nations writ of habeas corpus in behalf of William N. Oatis to come before the General Assembly, and that the Economic and Social Council follow the petition to issuance, hearing, and conclusion (arts. 21, 41–42).

3. That the Economic and Social Council take whatever steps it deems necessary and proper to enforce the rights of William N. Oatis as a citizen of the United States and a member of the human race under the Charter and Declaration of Human Rights to free him of his unlawful conviction and incarceration by the signatory Czechoslovakia.

LUIS KUTNER
(For and on behalf of William N. Oatis).

Mr. Speaker, I will read the petition which Mr. Kutner will present before the General Assembly of the United Nations:

UNITED NATIONS, EX REL, LOUIS KUTNER, FOR AND ON BEHALF OF WILLIAM N. OATIS, PETITIONER, V. CZECHOSLOVAKIA, RESPONDENT—PETITION OF LOUIS KUTNER FOR AND ON BEHALF OF WILLIAM N. OATIS, FOR A UNITED NATIONS WRIT OF HABEAS CORPUS

To: the Members of the General Assembly:

Luis Kutner, for and on behalf of William N. Oatis, invokes the jurisdiction of this General Assembly of the United Nations under and by virtue of its Charter and Declaration of Human Rights for leave to file and prosecute the within petition for a United Nations writ of habeas corpus praying for the discharge of William N. Oatis for his unlawful conviction and incarceration by the respondent Czechoslovakia, and in support thereof avers:

I

That he is a citizen of the United States.

II

That the United States (is) a signatory to the Charter of the United Nations.

III

That the facts leading up to the arrest, trial, conviction and incarceration of William N. Oatis, in derogation and violence of his rights under the Charter of the United Nations and the declaration of human rights are as follows:

On or about April 23, 1951, William N. Oatis was chief of the bureau for the Associated Press in Czechoslovakia. His American origin was Marion, Ind. On April 23, 1951, respondent caused his arrest without a proper warrant having first issued and held him incommunicado. His arrest became known almost 72 hours after he disappeared from sight. He was denied a chance to see a lawyer, to communicate with friends and even denied the right to see the United States diplomatic representative. The United States Embassy through its ounselor, Tyler Thompson, requested of the respondent, orally and also by formal note, that he be permitted to interview Willian N. Oatis. The Czechoslovakian Foreign Ministry stated that it would consider or look into the request. After a long delay the Czech Foreign Ministry informed the United States Embassy through Counselor Tyler Thompson that the charges against Oatis were:

(1) Activities hostile to the state;

(2) Gathering and disseminating information considered secret by Czechoslovakia;

(3) Spreading malicious information regarding the Czech state through illegal news organs for which purpose he misused Czech citizens.

From the time of his being taken into custody up until the time of his trial which concluded July 4, 1951, Oatis was denied permission to speak, consult, or contact any American official, in order to properly prepare for trial against the charges with counsel of his own choosing. He was subjected to repeated inhuman methods of cruelty and torture, depriving him of his free will, reducing his mental state to that of a somnambulistic automaton, toward the end of compelling to plead guilty to the alleged offenses which he did not commit and of which the respondent was well aware.

That at the time of the purported trial, a person known as one Dr. Bartos was designated by the five-man court as defense counsel for Oatis. That in truth and in fact, Dr. Bartos although labeled a defense counsel, actually vigorously prosecuted Oatis after a plea of guilty had been unwillingly and without free will extorted from Oatis.

The respondent did not introduce any competent evidence to prove the charges made.

That Oatis was deprived of a public trial in that no representatives, either diplomatic or as observers, were permitted in the courtroom during the trial

That the arrest of Oatis without access to friend, embassy representative or trusted legal counsel, his forced confession to fabricated charges was a shabby conviction and a sham or pretense of a legal trial and a denial of liberty and international justice.

The action against Oatis was a climax in the treatment of American citizens in Czechoslovakia. Prior to the Oatis arrest it had been necessary for the United States State Department to recognize it was no longer safe for American citizens to go to that country and to prohibit private travel there until further notice.

Respondent cannot honestly deny that its action against Oatis was in deprivation of his rights as guaranteed under the Declaration of Human Rights in that, if Oatis had been remotely tainted with the charges against him, the renewal of his press and visitor credentials 1 week before his arrest would not have taken place.

That Oatis' credentials were renewed on or about April 15 and were due to expire June 30, 1951.

The statement by the presiding judge asserting a mitigating sentence was imposed because Oatis "admitted guilt in court and assisted in exposing espionage activities of western diplomatic attachés and correspondents," in itself was an outrageous fabrication and a direct affront by a signatory nation to the principles of the Charter and to the provisions of the Declaration of Human Rights.

The signatory Czechoslovakia has attempted an unmitigated hoax on the intelligence of world opinion. Oatis had all the facade of legal procedure. It was in fact a kangaroo court staged before the kleig lights of propaganda. Its purpose was purely intimidation and propaganda intended to strike the United States, the United States press services, and the free press of the world.

The charges by the signatory Czechoslovakia of Oatis' confession of "espionage" were actually an admission before the world of the real truth that an American reporter was acting in the highest tradition of his profession and was attempting, under the most unfavorable conditions, to present a true and honest picture of conditions and events in Czechoslovakia, as he saw them.

The trial was a transparent excuse for respondent to utilize the courtroom as a forum for permitting the prosecution to attack American foreign policy and falsely state that "the United States was engaging in a network of espionage against Czechoslovakia and other Communist-ruled people's democracies."

IV

JURISDICTION

This General Assembly has jurisdiction over the subject matter and the parties hereto by virtue of the following:

1. Under the Charter and the Declaration of Human Rights any person on earth, and particularly a citizen of a nation subscribing to the U. N. Charter, has the right, either individually, or in association with others, to petition (or by other process to communicate with) the authorities of the United Nations to remedy a wrong committed by another nation that deprives him of his liberty or human rights.

2. The signatory powers, retaining the inviolability of their sovereignty in the administration of their domestic affairs and without impairing the sovereignty of each signatory nation, have assumed under charter articles 55–56 the obligation that

implementation of human rights throughout the world is a matter of international concern and a special responsibility of the United Nations.

3. All signatory states assume the legal and moral obligation to guarantee citizens of all nations found within their national borders their rights to life, liberty and property, equality before the law, immunity from torture and inhuman punishment, presumption of innocence, a fair and open trial, the right and choice of counsel, no ex post facto laws, freedom of speech, freedom of religion, and the freedom of assembly.

4. The General Assembly has the inherent power to create the methods, vehicles, or organs to carry out the objects and purposes of the United Nations by virtue of the Charter and the Declaration of Human Rights, to wit:

THE CHARTER

Preamble

The preamble reads, inter alia:

"We, the peoples of the United Nations determine * * * to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women * * * and for these ends * * * to practice tolerance * * * to unite our strength * * * and to ensure, by the acceptance of principles and the institution of methods * * * to employ international machinery for the promotion of the economic and social advancements of all peoples, have resolved to combine our efforts to accomplish these aims.

"Accordingly * * * have agreed to the present Charter of the United Nations."

Chapter I, article I, purposes: The four purposes of the United Nations are, inter alia:

3. "To cooperate * * * in promoting respect for human rights and fundamental freedoms to all."

Article 2, principles (inter alia):

2. "Members are to fulfill in good faith the obligations they have assumed under the Charter."

5. "They are to give the United Nations every assistance in any action it takes in accordance with the Charter."

Chapter II, article 8: "The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs."

Chapter IV, article 13, provides, inter alia: "The General Assembly shall initiate studies and make recommendations for the purpose of (a) promoting international cooperation in the political field and encouraging the progressive development of international law and its codification; (b) promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

"The General Assembly shall adopt its own rules of procedure."

Article 22: "The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions."

Chapter IX, article 55: "With a view to the creation of conditions of stability * * * necessary * * * for the principle of equal rights * * * the United Nations shall promote * * * (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Chapter X, article 62: "The Economic and Social Council may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."

Article 68: "The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights."

DECLARATION OF HUMAN RIGHTS (IMPLEMENTATION OF THE CHARTER)

Preamble

"Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

"Whereas member states have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms."

The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement.

Article 3: "Everyone has the right to life, liberty, and the security of person."

Article 5: "No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment."

Article 7: "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination."

Article 8: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

Article 9: "No one shall be subjected to arbitrary arrest, detention, or exile."

Article 10: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Article 11: "Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guaranties necessary for his defense."

V

Alternative Jurisdictional Principles

The General Assembly makes policies and is the parliament of the world. It has the responsibility of recommending United Nations action at any time to execute its purpose, to build a better world for all peoples and especially to preserve and protect human rights.

The General Assembly has the inherent power under the provision of the Charter to initiate appropriate measures to restrain and rectify threats and deprivations of human rights to each and every individual on the face of the globe.

The General Assembly has the power and jurisdiction to affirm the basic principles of international law as they have existed for more than 6,000 years and as a tribunal create its own power and procedures to enforce preservation of fundamental human rights.

The General Assembly is the sole judge of its own competence in its assumption of jurisdictional responsibility to enforce separate and collective human rights under the Charter.

Correlative Jurisdiction

International Court of Justice

The International Court of Justice as the principal judicial organ of the United Nations forms an integral part of the present Charter.

That notwithstanding article 34, paragraph 1 "Only states may be parties in cases before the Court," this Court has jurisdiction on all cases "which the parties refer to it."

This Court has compulsory jurisdiction, inter alia, of: (1) any question of international law; and (2) the evidence of any fact which if established would constitute a breach of international obligation.

The Court in deciding disputes submitted to it in accordance with international law applies, inter alia: (1) the general principles of law recognized by civilized nations; (2) jurisdictional decisions of the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of the rules of law.

Article 93, I: "All members of the United Nations are ipso facto parties to the statute of the International Court of Justice."

Article 94, I: "Each member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party."

Article 96: "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question."

Miscellaneous Provisions

Article 104: "The organization shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purpose."

Article 105: "The organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfillment of its purposes."

VI

Contentions

1. That William N. Oatis is innocent of the crimes charged by the signatory power of Czechoslovakia.

2. That he did not engage in activities hostile to the state nor gather and disseminate information considered secret by the state, nor did he spread malicious information regarding the Czech state through illegal news organs, nor did he misuse Czech citizens.

3. That he was denied a public trial.

4. That he was unjustly and unlawfully charged, convicted, and sentenced for alleged crimes which never occurred.

5. That the prosecuting authorities suppressed evidence which clearly established the innocence of the relator Oatis.

6. That his trial was a sham and pretense and in actuality a means to deprive him of his liberty without due process of law.

7. That the entire affair was a frame-up and a hoax constructed solely for the purpose of depriving the petitioner of his rightful freedom and liberty.

8. That the conviction of Oatis was secured by the use of false testimony, known to be false by the prosecution of the signatory nation Czechoslovakia.

9. That signatory nation Czechoslovakia, in order to convict Oatis, knowingly, wilfully, deliberately, and without cause or excuse committed gross fraud in clear violation to the international concept of due process of law.

10. That the signatory respondent Czechoslovakia by violating the concept of human rights, which it is pledged and obligated to protect and preserve, violated the international concept of due process principle, to wit: "A defendant charged with crime has a right to a fair and impartial trial according to law, and the law does not provide one method for trying innocent persons and another for trying guilty persons, as all persons charged with crime are presumed to be innocent until they are proven guilty beyond a reasonable doubt according to the established methods of procedure."

11. That the signatory respondent Czechoslovakia violated another concept of due process known to international law as "the failure to observe that fundamental fairness essential to the very concept of justice."

12. That it is a basic principle that the international conception and requirement of due process, which is the keystone of human rights under the Charter and under the

Declaration of Human Rights, cannot be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but a means of depriving a defendant of liberty through a deliberate deception by the presentation of testimony known to be perjured. That a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation.

13. That the signatory respondent Czechoslovakia, by its corruption of administrative processes, set in motion forces which deprived Oatis of due process of law.

14. That this case comes squarely within the international rule of law and requires all the aspects to be tested and appraised under the totality of facts legal principle.

15. That because William N. Oatis was denied due process of law as guaranteed to him by the Charter of the United Nations and by the Declaration of Human Rights his conviction and sentence thereunder are void and he should be discharged and set at liberty.

16. That the respondent signatory Czechoslovakia be denied the right to indulge in any technical jurisdictional arguments in restraint of liberty. That this General Assembly need not be reminded that technical arguments should very well be indulged in behalf of liberty.

17. That a signatory nation, though enjoying sovereign integrity by assuming the obligations of the Charter and the Declaration of Human Rights, should not exercise any technical or physical advantages over any person within its borders in violation of his human rights.

18. That petitioner William N. Oatis having no available remedy to effectively seek relief from his illegal and unlawful conviction, has only the remedy of habeas corpus remaining under his rights as a citizen of a signatory state and as a subject in the world community under the Declaration of Human Rights.

VIII

Argument: William N. Oatis should be freed through a United Nations writ of habeas corpus

The William Oatis case is a direct affront to the civilized peoples of the world who have now reached the international level of legally codifying and enforcing human liberty, human dignity, and human rights.

Unless direct legal action is instituted for the release of William Oatis before an international tribunal of competent jurisdiction, the infamy of his trial and conviction will impair if not destroy the intent, purpose, and principle of the Charter and the Declaration of Human Rights.

Today there is a legal remedy available which will not only free William N. Oatis but will set a precedent to prevent future Oatis cases. That the remedy to free William N. Oatis lies within the fabric and jurisdictional scope of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Court of Justice, and the Security Council.

Tribunals and organs within the structure of the Charter are in existence competent to act as a human-rights court with power to remedy injustices committed in violation of human rights of citizens of other nations.

There are sanctions and realistic effective methods to punish the guilty respondent government. There are applicable articles and provisions to persuade correction of the violation or else the offending respondent can be persuasively induced to mend its ways.

Under its present scope and authority, guilty signatories to the United Nations Charter can be bound by any ruling through the competent tribunal. Enforcement can be either economic or military; cessation of diplomatic relations. As a last resort there is the power of world opinion.

The legal remedy in behalf of William N. Oatis which would once and for all test the entire fabric of the Charter and its human dignity and human rights articles is a United Nations writ of habeas corpus.

The writ of habeas corpus has long been a sword and shield in the long struggle for freedom and constitutional government. It is a potent weapon against tyranny in every form and guise. It is the weapon against tyranny of the transient majority who are heedless of the justice and rights of minorities. It is the bulwark of a human being against suppressed evidence that tends to give justice elusive qualities that become illogical and dangerous attacks on the fundamental principle of democracy. It brings to book those who display scornful attitudes to human rights.

It is the highest prerogative writ in the law and its purpose is to obtain the release of persons illegally restrained of their liberty. It is the most effectual protector of the liberty of the human that any legal system has ever devised.

The right to petition to a tribunal to ascertain the legality of a person detained has marched through history ever since the Magna Carta was wrested from King John on the banks of the Thames in June 1215.

The Charter of the United Nations is the twentieth-century Magna Carta of the world family of nations who not only seek to establish and sustain a peaceful world but also to protect and preserve fundamental human rights and the diginity and worth of the human person.

All signatory nations have agreed to accept the obligations of the United Nations Charter. Throughout history there have been many paper declarations of human rights and freedoms but until such time as a formal legal document was filed to crystallize and test the enforcement and preservation of human liberty and rights, they remained paper declarations.

The Charter is more than a legal instrument. It is also a declaration and constitution of world interdependence. The United Nations world organization can only endure on the principle of justice, and justice must be based on human freedom and dignity.

The Charter being cosmopolitical in nature requires a cosmojudicial writ for all humans on this globe. It requires a judicial and procedural weapon to courageously establish and police international human rights.

There is no more valuable protection to the personal liberty of the citizen against executive, or judicial, or police invasion than the time honored writ of habeas corpus.

The United Nations writ of habeas corpus can become the binding instrument of a world civilization. It will guarantee the individual and corporate values of mankind. It will act as the functional mediator between unconditional injustices and civilized righteousness.

This petition for the United Nations writ of habeas corpus is the first of its kind under the United Nations Charter and the first in legal history. It requires the immediate translation into more definite terms the effective implementation for enforcing the human-rights principle which the Charter enunciates.

Under the basic law of habeas corpus a petition in behalf of William Oatis can be filed by anyone, be it friend or a kin, setting up the complaining facts either on information or belief, or by direct allegation of ultimate fact. The petition for United Nations writ of habeas corpus can be filed as a matter of Charter right before the entire General Assembly.

The United Nations General Assembly has the power, by resolution, to order the signatory nation of Czechoslovakia to show cause and by what legal rights William N. Oatis is being detained. The entire matter can then be referred to an appropriate organ or assigned to jurisdiction of the International Court of Justice to render an advisory opinion. The Court should request the next organ in the procedure, the Human Rights Commission, to assist in the mobilization of all the facts. The Human Rights Commission acts under the Economic and Social Council which has as one of its functions "to promote respect for an observance of rights and fundamental freedom for all."

The Court should issue the writ commanding the signatory nation of Czechoslovakia to produce William Oatis in open court and submit to the testing of the legality of his detention. Under the totality of facts in habeas corpus law each side can present evidence in support of its respective positions.

Under article 93, "all members of the United Nations are ipso facto parties to the Statute of the International Court of Justice." Should signatory nation, Czechoslovakia, the respondent herein, ignore the writ of habeas corpus then the International Court of Justice has the right to proceed ex parte and take evidence and hand down its ruling. Its decision can be enforced by the Security Council (art. 94).

The real purpose of this is to establish the procedural machinery, so that humans throughout the world can have an impartial and international tribunal to appeal to, should they feel that their individual rights and liberty have been trampled on.

The United Nations writ of habeas corpus provides the individual human being personal security and dignity. Anything short of an effective United Nations writ would be to create an impractical expedient of ostrich diplomacy.

The writ is vital to enabling citizens of any and all states to develop and live within the sphere of human tranquillity without fear of illegal and unjust police invasions anywhere on this earth.

The writ can make the United Nations a temple of human justice and not a cave of despairing individual human dreams and hopes.

Human beings cannot live constructively on the operative level if they are compelled to exist in a void because the United Nations operate in a legal vacuum.

William Oatis is in a doubly enviable position to cause the prosecution of a United Nations writ of habeas corpus as a citizen of the signatory United States and as a member of the human race.

The United Nations must not mince or avoid its responsibility to take steps to strengthening the fabric structure of the Charter. The United Nations Government requires participant members to act interdependently, legally, humanely, intellectually, realistically, and morally.

The facts of the case clearly show that the conviction of Oatis (on a plea of guilty) was secured by the use of false testimony, fraud, and the suppression of vital credible evidence which is a denial of due process and a clear violation of the pertinent provisions of the Charter of the United Nations and the Declaration of Human Rights.

The basic law is established that habeas corpus lies in a case where a conviction has been in disregard of the due process rights of the accused and where the writ is the sole effective means of protecting his rights.

There is precedent for the competence of the jurisdiction of the General Assembly and the International Court of Justice to act in behalf of William Oatis.

Since 1946 it has acted in a number of disputes between United Nations' members and concerned itself with the treatment of subjects of nations under article 30 of the Statute of the International Court of Justice: "The Court shall frame rules for carrying out

its functions. In particular, it shall lay down rules of procedure."

It has time and again interpreted the Charter provisions on a nonrestrictive basis. For example, the International Court of Justice, being the principal judicial organ of the United Nations, rendered advisory opinions in the Tunis, Morocco cases, conducted hearings into the treatment of Indians in the Union of South Africa, acted in the Indonesian question, the Palestine question, and others.

In the case of the treatment of Indians in the Union of South Africa, Vishinsky stated: "Justice must, indeed, be secured and that it should be secured by an international court. This international court is here. It is yourselves, it is all of us. It is our organization which should deliver its verdict."

Further precedent for the United Nations through the International Court of Justice to issue its writ of habeas corpus and to order a full hearing is found in the procedure laid down in the Iran oil question.

It is to be remembered that after Iran decided to nationalize oil, Great Britain's offer to arbitrate was turned down. Finally the Iranians agreed to negotiate. When the negotiations collapsed, Great Britain appealed to the United Nations on September 28, 1951. Within 3 days (October 1) the United Nations agreed to consider the case.

Since habeas corpus is the most important writ in the law, the United Nations could, because of the overwhelming legal precedent favoring the immediate consideration of a case involving human liberty, give the petition of William Oatis priority on its agenda.

Further citable authority for the propriety of a United Nations writ of habeas corpus is to be found in the tentative draft Covenant of Human Rights designed to form the second part of the International Bill of Rights, of which the first part is the Universal Declaration of Human Rights.

The covenant promises more than a formulation of an ideal. It promises a legal as well as a moral obligation upon those people who accept it to act in accordance with its precepts. Article 10 of the covenant declares, inter alia:

"1. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing, by an independent and impartial tribunal established by law. The press and public may be excluded from all or part of a trial for reasons of morals, public order or national security, or where the interest of juveniles so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interest of justice; but the judgment shall be pronounced publicly except where the interest of juveniles otherwise requires.

"2. Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guaranties, in full equality:

"(a) To be informed promptly of the nature and cause of the charge against him;

"(b) To defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case where he does not have sufficient means to pay for it;

"(c) To examine, or have examined, the witnesses against him and to obtain compulsory attendance of witnesses in his behalf who are within the jurisdiction and subject to the process of the tribunal;

"(d) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

"(e) No one shall be compelled to testify against himself, or to confess guilt."

The covenant is a remarkable undertaking to insure rights which have traditionally been regarded as being solely of national concern. Though such a right might be challenged as invading national sovereignty, it is a powerful moral suasion to compel the world to recognize the right of individual position.

This view is shared in a United States Department of State bulletin, Progress Report on Human Rights, by James Pomeroy Hendrick, legal adviser to the Chairman of the Commission on Human Rights.

The covenant, being in treaty form, when finally completed and approved by the General Assembly will be submitted to governments for ratification and will be binding on states which ratify it. It is inconceivable that Czechoslovakia as a signatory member of the Charter will decline to ratify it.

Following the 1950 session of the Commission on Human Rights, Acting Secretary of State Webb said:

"It is vitally important that the United Nations carry forth vigorously its program for promoting and encouraging respect for human rights and for fundamental freedoms." He observed that "one of the major aspects of the United States foreign policy is to continue its support for improving the conditions for freedom everywhere through the organs of the United Nations and through all other available means."

The Charter of the United Nations creates a sacred contract with every individual in being and to be on the face of the globe.

The early conceptions voiced by various statesmen were to the effect that individuals could not petition the United Nations for redress. That opinion has changed in the last 5 years.

On October 25, 1951, Benjamin Cohen, Assistant Secretary General of the United Nations, on the occasion of the sixth anniversary ceremony termed the organization "as not merely a political organization dealing with conflicts, but also a constructive institution concerned with the welfare of the individual human being."

Dr. H. L. Perizweig, consultant with the Economic Council of the United Nations on the same occasion stated:

"The United Nations represents in the international scene something like the common law in the English-speaking world. The development of common law in England was accomplished through centuries of effort from step to step and finally it achieved supremacy over local jurisdictions.

"The United Nations through the universal Declaration of Human Rights has lifted up the sights of the nations with a conception of human freedom which no single government dared to oppose when it was adopted in the General Assembly. This declaration has been woven into the fabric of human aspiration. It has broken the frontiers of sovereignty."

In the report of the proceedings of the American Bar Association, section of international and comparative law, September 5 and 6, 1949, the United States Ambassador at Large, Philip C. Jessup, clarified the new attitude of the United Nations. In support of his thesis that the United Nations does protect individuals, he cited John Foster Dulles as saying that "United Nations was created not merely to protect state against state but to protect individuals." His remarks may be summed up as follows:

"The present effort is to put content into the Charter provisions respecting human rights. The representatives drafting the charter selected the promotion and encouragement of respect for human rights and fundamental freedoms as one of the purposes of the United Nations. They charged the General Assembly with the duty of assisting in the realization. They have made it mandatory that the 'United Nations shall promote universal respect and observance of human rights and fundamental freedom.' This provides an obligation. The obligation is to transform the promise into hope and reality. There is unity of law—a unity which overrides divergence of substance and procedure. We recognize great legal maxims which express general legal truths."

The declaration of human rights is standard and as such, being a general guiding principle, must be translated into definite legal rules. When we have the rule, we shall need machinery for its effective implementation. If we had already attained a Ciceronian unity of law and a spiritual unity in our philosophical concept of the place of the individual in human society, it could be argued that respect for human rights is not a matter for international concern. The ordinary process of law enforcement is indeed a matter within domestic jurisdiction—yet even here international law has long recognized and our Government and international tribunals have long asserted that there is a standard of civilized justice. The failure to live up to that standard resulting in injury to an alien individual has long been acknowledged to engage a state's international responsibility to pay damages.

We start with the premise that every person has an actual and legal interest in the preservation of the human rights of his fellow men. Neither the law, nor the view behind that premise can be successfully challenged. Our problem is then a problem of method. The method can be charted as a precedent for the future.

A heavy responsibility rests upon us and upon the like-minded peoples of the world. Openly and covertly the dignity and worth of the human person is being assailed. We care about that and we are not ashamed to admit or afraid to proclaim it. We have an opportunity to participate, to lead in participating in the long process of realizing the aims and aspirations embodied in the Universal Declaration of Human Rights—Why should we neglect this opportunity because this is the beginning rather than the end? We are working with an idea and ideas take time to mature and bear fruit. Is it not worth while to recapture the spirit of a former president of the American Bar Association who said:

"The triumphant march of the conquering hero is admirable and to be greeted with huzzas, but the conquering march of an idea which makes for humanity is more admirable and more to be applauded."

John Foster Dulles also addressed a meeting and he stated, inter alia:

"There are many people who do not want to have international conventions which will effectively regulate human conduct in relation to human rights. They think that there should be diverse, local standards. They are certainly entitled to hold that point of view, and a strong case can be made for recognizing that the one indispensable sanction is community opinion, and where that is lacking, any enforcement is problematic; however, those who genuinely want communities to be under the compulsion of agreed international standards, as exemplified by a human-rights or genocide convention should, I think, envisage those standards in terms of law which operates on individuals, not upon the States, and which are enforceable by the court, not by armies. Of course, everything cannot be done at once. But to abandon this goal would involve substituting pious words for an effective result."

James Simsarian, Assistant Chief of the United Nations Department of State, also stated, inter alia:

"The flagrant excesses of the Nazi and Fascist regimes preceding and during World War II shocked the conscience of mankind into a realization that there could be no assurance of stability and order in an international society which placed no clear and express obligation on states concerning the rights of persons within their borders. From this has developed the firm conviction that human rights and fundamental freedoms must be given international protection. Further impetus has been given to this conviction by the persistent denial of human rights and fundamental freedoms in such countries as the U. S. S. R., Hungary, Bulgaria, and Rumania."

On December 10, 1949, on the first anniversary of the adoption of the Universal Declaration of Human Rights, Mrs. Eleanor Roosevelt, and the President of the General Assembly of the United Nations, Carlos Romulo, both voiced the conclusion that the United Nations have made a world community of individuals founded upon sacred contracts of each and every individual on the face of the globe. Mrs. Roosevelt stated that these human rights are fundamental and represent common agreement in the world community. General Romulo stated that the United Nations means something; that it is dedicated to fight against intolerance and injustice.

On the power of the International Court to act with judicial firmness as contrasted to political timidity, Manley O. Hudson, former judge of the Permanent Court of International Justice had this to say (October 20, 1951):

"The Court is not required to make any preliminary inquiry into its jurisdiction to deal with the merits of a case before exercising its power."

There is no doubt that the General Assembly would grant the right of petition for a United Nations writ of habeas corpus on behalf of William N. Oatis.

The declaration of principle and concrete provisions for the protection of human rights and fundamental freedoms are genuine aspirations of the overwhelming majority of the signatory nations for the protection of human rights.

Secretary Acheson, in an address to the United Nations General Assembly, has directly and unequivocally laid the groundwork for legal implementation in the protection and preservation of human rights throughout the world. He stated: "The Charter recognizes that social progress and higher standards of life grow from larger freedoms. Man does not live by bread alone. The Universal Declaration of Human Rights constitutes a long stride forward in our efforts to free men from tyranny and arbitrary constraint. The United States attaches great importance to this work of the United Nations."

This statement is of paramount importance in view of it being made during the time when nations are still playing the old game of territorial aggrandizement and competing armaments.

A United Nations writ of habeas corpus on behalf of William N. Oatis may well be the first concrete rallying ground that will legally establish the rights of man in the world community to petition an international tribunal to remedy wrong inflicted upon him by a nation other than his own.

Until the fabric of the Charter of the United Nations is put to a test by a petition for a United Nations writ of habeas corpus in behalf of William N. Oatis (or any other person wrongfully detained and wrongfully deprived of his liberty) the world will never know whether international substantive law is an illusion or whether it is a reality that will preserve the liberty of an individual.

The United Nations through its General Assembly and correlative organs can establish the first precedent of complete respect for the United Nations writ of habeas corpus as a protector of civil liberty that characterizes United Nations authority. The world now has an International Assembly of Nations, International Court of Justice, International Covenant and Declaration of Human Rights, and International Bill of Rights.

What it now must have is an international writ of habeas corpus to enforce those rights that concern human liberty and human dignity.

The United Nations writ of habeas corpus served upon the respondent nation ordering it to comply therewith, which failure to respond would invoke the coercive power of the Security Council and expose to world public opinion any nation that denied human freedoms or deprived an individual of his freedom without due process of law.

The United Nations writ of habeas corpus would buttress the faith in the United Nations with citation of Security Council enforcement and efficiency.

The United Nations writ of habeas corpus can establish the keystone legal precedent that humane international law governs individuals and the United Nations has international concern that individual rights are paramount and cannot easily be nullified by a national government.

The United Nations writ of habeas corpus could establish the law and procedure for applying and enforcing the power inherent in the United Nations, the International Court, and the Security Council.

The United Nations writ of habeas corpus precedent established by Oatis can easily be the legal weapon whereby the United Nations can become a united world with a realistic world community.

Without the habeas corpus writ, the Charter may exist merely as the product of naked power politics and not the honest impulse toward genuine world concern over all individuals.

The case of William N. Oatis will not have been in vain if out of his suffering there is born a new international legal weapon for human liberty and dignity.

The United Nations must recognize that the function of a United Nations writ of habeas corpus is not to correct a practice but only to ascertain whether the procedure complained of has resulted in unlawful detention. It must be aware that the impact of the procedure on the person seeking the writ is crucial. If the challenged procedure can be said to have been corrupt and illegal ab initio, then all proceedings thereunder have made it unfair and have denied to that person wrongfully incarcerated due process of law.

The United Nations has made a contract with every human individual in being and to be on the face of the globe. It is a contract of great sanctity and must be given immunity from attack by any sovereign national state that accepts the Charter of the United Nations.

United Nations must militantly respond to the illegally sanctioned judicial plight of the human individual, regardless of "race, age, color, or religion."

United Nations must show its daring and its mastery, and seize its first great occasion to affirm its power of judicial review when it is alleged under oath that a human being has been wrongfully deprived of his human rights and human dignity by a nation not his own.

United Nations must set a precedent for its judicial statesmanship.

United Nations is going through the formative period of the world's political life as a family of sovereign nations and world individuals—a decisive move now will determine its later legal configurations.

Constrained diplomacy, the payments of ransom, timidity to call a signatory state to the bar of international justice violates the concept of international due process. What counts alone is the just action of the United Nations. If it fails to act with vigor and dispatch, it thereby underwrites its ultimate dismemberment as a world influence.

United Nations has the advantage of working with the course of history.

United Nations should have the vision to guarantee that a nation's judicial power is coextensive and interdependent with the rising scale of the worth of human dignity.

William N. Oatis should and can be freed through a United Nations writ of habeas corpus.

Prayer

Wherefore, Luis Kutner, for and on behalf of William N. Oatis, the petitioner herein by virtue of the foregoing facts, jurisdictional averments, contentions and arguments respectfully moves this honorable assembly—

1. To exercise forthwith its jurisdiction over the subject matter and over the parties herein named;

2. To issue a United Nations writ of habeas corpus instanter requiring signatory respondent Czechoslovakia to show cause why the General Assembly should not direct respondent to forthwith set William N. Oatis at liberty.

3. To create an appropriate organ or commission for the taking of evidence with the authority empowering them to issue subpenas and subpenas duces tecum so that all evidence oral and written records and documents be produced in open hearing.

4. To direct and order the signatory respondent Czechoslovakia to produce in open hearing the petitioner William N. Oatis and that he be given access to legal counsel of his own choosing and free will.

5. To do any and all acts necessary and proper that it deem meet in the premises according to equity, international conscience and law, and the Charter and the Declaration of Human Rights.

Respectfully submitted.

LUIS KUTNER
(For and on behalf of William N. Oatis).

AFFIDAVIT

Luis Kutner being first duly sworn on oath deposes and says that he has read the foregoing petition by him subscribed for and on behalf of William N. Oatis, and that the matters of facts therein contained are true in substance and in fact and as to the other matters therein contained, he verily believes them to be true, to the best of his knowledge, information, and belief.

LUIS KUTNER.

Subscribed and sworn to before me this 8th day of May A. D. 1952.

_____,
Notary Public.

Mr. Speaker, it is my firm conviction that the United Nations will be very glad to act upon the facts presented, and I believe that William Oatis will be freed.

REPORT ON H. R. 7778

Mr. LARCADE. Mr. Speaker, on behalf of the gentleman from Arkansas [Mr. TRIMBLE], I ask unanimous consent that he may have until midnight tonight to file a report on the bill H. R. 7778.

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

There was no objection.

THE JENSEN AMENDMENT

Mr. JENSEN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes and to revise and extend my remarks.

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

There was no objection.

Mr. JENSEN. Mr. Speaker, it is generally conceded that the provisions of the Jensen amendment in the form provided in this act is the best approach and method to painlessly reduce the number of personnel, and I urge the conferees to restore the amendment in the form adopted and passed by the House, deleting subsection (e) for the reasons recommended and outlined on pages 2 and 3 of this statement.

The Labor-Federal Security bill was reported in the House on March 20, debated and passed on March 25, 1952—CONGRESSIONAL RECORD, pages 2836 to 2864. It was reported in the Senate on April 24, passed and sent to conference April 29—CONGRESSIONAL RECORD, pages 4548 to 4558.

JENSEN AMENDMENT

The amendment—CONGRESSIONAL RECORD, page 2863, March 25, 1952—is as follows:

SEC. 705. No part of any appropriation or authorization contained in this act shall be used to pay the compensation of any incumbent appointed to any civil office or position which may become vacant during the fiscal year beginning on July 1, 1952: *Provided*, That this inhibition shall not apply—

(a) to not to exceed 25 percent of all vacancies;

(b) to positions filled from within the Department of Labor, the Federal Security Agency, and related independent agencies provided for in this act;

(c) to offices or positions required by law to be filled by appointment of the President by and with the advice and consent of the Senate;

(d) to employees engaged in law enforcement in the Food and Drug Administration;

(e) to employees of St. Elizabeths Hospital and Freedman's Hospital;

(f) to employees of educational institutions;

(g) to employees of the Vocational Rehabilitation Service of the District of Columbia;

(h) to employees of the Public Health Service:

(i) to employees in grades CPC 1, 2, and 3: *Provided further*, That when the total number of personnel subject to this section has been reduced to 85 percent of the total provided for in this act, such limitation may cease to apply and said 85 percent shall become a ceiling for employment during the fiscal year 1953, and if exceeded at any time during fiscal year 1953 this provision shall again become operative.

EXPLANATION OF THE JENSEN AMENDMENT

This amendment is similar to an amendment which was adopted by the House to the Labor-Federal Security Agency bill and four other appropriation bills during the last session of the Congress.

The first paragraph of the amendment is self-explanatory in regard to the payment of compensation of any employee appointed to any civil office or position which may become vacant during the fiscal year beginning July 1, 1952, with the following limitations:

(a) Prohibits the Labor Department, Federal Security Agency and related independent agencies from filling more than 25 percent of their vacancies from outside sources. The objective of this provision is to reduce the personnel down to the 85 percent level at the earliest possible date in order to effect the desired savings.

(b) Permits the affected governmental units contained in this act to fill positions within the same organization.

(c) Exempts offices or positions required by law to be filled by Presidential appointment by and with advice and consent of the Senate.

(d) Exempts all employees of the Food and Drug Administration who are actually engaged in law enforcement, such as inspectors, attorneys, et cetera, who perform specific duties as the law enforcement arm of this unit.

(e) Exempts all employees of St. Elizabeths Hospital and Freedman's Hospital. Although this provision was in the Jensen amendment of last session—it was then, as in this instance superfluous, because the employees of both of these hospitals are exempt under subsection (h) of the amendment—they being under the jurisdiction of the Public Health Service, Federal Security Agency.

The functions of St. Elizabeths Hospital were transferred from the Department of Interior, to the Federal Security Agency by section 11, (a) of Reorganization Plan IV, effective June 30, 1940.

The functions of Freedman's Hospital were likewise transferred from the Department of Interior to the Federal Security Agency by Reorganization Plan IV of 1940.

I recommend that the conferees delete this subsection (e) from the Jensen amendment, for the reasons before stated.

(f) Exempts all employees of educational institutions provided for in this act.

(g) Exempts all the personnel of the Vocational Rehabilitation Service of the District of Columbia, of which there are approximately 24 who are serving 2,400 disabled clients, and which service includes medical, psychiatric, and surgical care, vocational training, vocational guidance, and the placement into remunerative employment. The purpose of this organization is to rehabilitate and restore to self-support disabled clients of the District of Columbia who otherwise would be burdensome tax consumers.

(h) Exempts all employees of the Public Health Service. The activities of this Service are organized into four bureaus: Office of the Surgeon General, Bureau of Medical Services, Bureau of State Services, and the National Institutes of Health.

The Congress has created the following advisory councils to assist the Surgeon General in carrying out specific functions: National Adivsory Health Council, National Advisory Cancer Council, National Advisory Dental Research Council, National Advisory Heart Council, National Advisory Mental Health Council, Federal Hospital Council, and the Water Pollution Control Advisory Board. The employees of all the advisory councils are included in the National Institutes of Health of which the Assistant Surgeon General is the Director.

The National Institute of Arthritis and Metabolic Diseases, the National Microbiological Institute, the National Institute of Neurological Diseases and Blindness, and the Division of Research Grants are also under the supervision of the Director of the National Institutes of Health.

(i) Exempts all the employees in grades CPC 1, 2, and 3, which are the lower grades in these classified services.

CPC 1 includes all classes of positions the duties of which are to run errands, check parcels, or to perform other light manual tasks with little or no responsibility. This grade is intended only for messenger boys and girls.

CPC 2 is the lowest grade for adult employees. Characteristic positions in this grade are unskilled laborers, char employees, adult messengers, elevator operators, and kitchen helpers and waiters in Government institutions.

CPC 3 includes custodial or office labor positions which perform work requiring some skill, training, or experience, or involving some degree of responsibility. Characteristic of this grade are semiskilled laborers, chauffeurs, truck drivers, leaders of a group of charwomen, firemen of low-pressure heating boilers, messengers who also do light manual or office labor tasks with some responsibility.

The salaries of employees in these grades range from $1,510 to $3,032 per annum. I have exempted these employees because of the large personnel turn-over and the inability of the Government to secure replacements.

The Classification Act of 1949, as amended, defines the 10 grades of the crafts, protective, and custodial schedule—CPC—in rather broad terms, but in the lower grades of CPC 1, 2, and 3 it is fairly specific as to examples of the work.

The last paragraph of the Jensen amendment provides that when the Government units subject to this act have decreased their personnel to 85 percent of the total number of employees provided for in the bill, the provisions of the amendment cease to apply and shall become an employment ceiling for the 1953 fiscal year, and if exceeded at any time the provisions of the amendment shall again become operative.

EFFECTS OF THE JENSEN AMENDMENT

The 1953 budget estimate for the Department of Labor was for 5,697 employees exclusive of the defense activities. The House Subcommittee on Appropriations cut only an estimated 577 employees from budget estimates as submitted. It has also been estimated that my amendment would reduce that number of personnel another 400 providing a ceiling of 4,720 employees, resulting in a savings in round figures of approximately $2,000,000 per annum.

The Joint Committee on Reduction of Nonessential Federal Expenditures, of which Senator BYRD, of Virginia, is chairman, reported that the Department of Labor at the end of June 1951 had 7,801 employees, and at the end of March 1952 had 7,824 employees.

The 1953 budget estimate for the Federal Security Agency was for 39,364 employees. It has been estimated that the

committee cut 947 employees from the budget as submitted. It has also been estimated that the effect of my amendment would reduce the total personnel as recommended by the House committee in the amount of 2,660 employees, which would result in a savings of $13,300,000.

The Joint Committee on Reduction of Nonessential Federal Expenditures reported at the end of June 1951 that the Federal Security Agency had 35,912 employees, which included personnel of the Howard University and Columbia Institute for the Deaf, and as of the end of March 1952 they had 35,196 employees.

The Jensen amendment is also applicable to the National Labor Relations Board; the National Mediation Board; the Federal Mediation and Conciliation Service; and the Railroad Retirement Board, and as disclosed by the House committee report no reduction was made in their budget estimates.

REASONS FOR THE JENSEN AMENDMENT

It is my contention that the Jensen amendment in the form adopted by the House provides the most effective and least painful method of reducing the overstaffing of the Labor Department, Federal Security Agency, and allied agencies provided for in this act.

The reductions made by the House subcommittee were negligible. The budget estimates, as has been the custom for many years, was for more employees than they already have, and it follows that it was expected the House subcommittee and the Congress would reduce these estimates.

The reductions made by the House subcommittee levels with the present personnel load and provided in instances for additional employees. The Jensen amendment provides the only method of reducing the personnel provided for in this act bcause the limitations are placed upon the number of employees actually provided for when the bill was reported to the House.

I have spent months and untold numbers of hours, both during the daytime and burning the midnight oil, in perfecting the amendments I submitted to the various appropriation bills.

I am not in agreement with the changes made in the Senate to my amendment as it is meaningless to apply the reductions to the budget estimates, which are in excess of their present number of employees. It was the crippling provision of making the reduction applicable to the budget estimates that caused me to immediately after the adjournment of the first session of this Congress to initiate an extensive study and research program regarding the effects of my amendment as finally enacted.

COMPTROLLER GENERAL OF THE UNITED STATES

It has been my good fortune in these studies to have the able assistance and cooperation of the Comptroller General of the United States, the Honorable Lindsay C. Warren, who is wholeheartedly in accord with my efforts in this instance.

JENSEN-FERGUSON AMENDMENT

The Comptroller General determined that the Jensen-Ferguson amendment of last session, enacted in the five appropriation bills was applicable to a total of 34 departments, agencies, commissions, boards, and so forth. I secured from each of these 34 units at various times, data and information as to the effect of the amendment. On at least two occasions I required the various units to furnish me with extensive detailed reports and information in regard to their personnel.

LIBRARY OF CONGRESS

I also requested the Legislative Reference Service of the Library of Congress to make a study and furnish me with an estimate of the comparable quantitative effects of my amendments in the form as originally adopted in the House and as later modified in the Senate and agreed to by the conferees. This was a very extensive study which was conducted by Dr. George B. Galloway, the senior specialist, American Government for the Library. He presented me with an excellent detailed report and I appreciate the cooperation and assistance given me.

JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES

Also, I was furnished at various times with very valuable informative data, reports and information by the Joint Committee on Reduction of Nonessential Federal Expenditures, of which Senator BYRD, of Virginia, is chairman. I am grateful for the excellent cooperation and assistance I received from this committee and members of its staff, which is under the able direction of Mr. Heywood Bell, to whom I am indebted for much friendly cooperation and assistance.

In the preparation and submission of my amendment to this bill I have had all necessary information and reports to support my position as to its various provisions which I contend merits the earnest consideration and appropriation of the conferees.

FERGUSON-BRIDGES AMENDMENT

The Senate Labor-Federal Security Appropriation Subcommittee reported H. R. 7151 on April 24—Senate Report 1486, Eighty-second Congress, second session—with a substitute for the Jensen amendment, section 705 of the bill—pages 41–42, H. R. 7151, and page 12, Senate Report No. 1486.

It is because of my great respect and admiration for Senators FERGUSON and BRIDGES that I dislike very much to take exception to the provisions of their amendment as adopted in the Senate. I know their legislative acts and conscientious efforts are always directed and meant to effectively contribute to the general welfare. However, it is my considered opinion that in the presentation of their amendment they erred because a careful reading of the Jensen amendment as adopted by the House will disclose that it will do a more effective job for better government in relation to this act by painlessly reducing the number of employees and thus result in a more efficient operation of the effected Government units and resulting in dollar savings to the taxpayers.

I have been reliably informed that there was no discussion of the provisions of the Jensen amendment during the hearings conducted by the Senate subcommittee. A careful examination of a printed copy of the hearings discloses that only once was the amendment mentioned and then very briefly—pages 692–693, Senate hearings.

I have been advised that the substitute to the Jensen amendment was adopted by the whole committee prior to approval and clearance for Senate consideration. The substitute sponsored by Senator FERGUSON, of Michigan, appears on pages 41 and 42 of the act as reported in the Senate on April 24.

The bill with amendments was considered in the Senate on April 29—CONGRESSIONAL RECORD, April 29, pages 4548–4558.

During the consideration and debate—CONGRESSIONAL RECORD, April 29, page 4552—Senator FERGUSON offered what he classified as a perfecting amendment on behalf of himself and Senator BRIDGES, of New Hampshire, in lieu of the amendment reported by the Senate committee on page 41, line 10, to page 42, line 10, which follows:

SEC. —. (a) No part of any appropriation made by this act for any purpose shall be used for the payment of personal services in excess of an amount equal to 90 percent of the amount requested for personal services for such purpose in budget estimates heretofore submitted to the Congress for the fiscal year 1953; and the total amount of each appropriation, any part of which is available for the payment of personal services for any purpose, is hereby reduced by an amount equal to 10 percent of the amount requested in such budget estimates for personal services for such purpose. Nothing in this section shall be construed as effecting reductions beyond a reduction of 10 percent from the budget estimates for personal services.

(b) This section shall not apply to—

(1) employees in hospitals, dispensaries, clinics, or quarantine stations;

(2) Food and Drug Administration;

(3) educational institutions;

(4) National Institutes of Health, National Cancer Institute, mental health activities, National Heart Institute, and dental-health activities;

(5) employees paid wholly from trust funds, or funds derived by transfer from trust accounts, or to employees paid from appropriations of, or measured by, receipts; and

(6) National Mediation Board.

The foregoing amendment was adopted and the bill was passed by a voice vote.

COMMENTS—FERGUSON-BRIDGES AMENDMENT, CONGRESSIONAL RECORD, APRIL 29, PAGE 4552

(a) Provides that no funds shall be used for payment of personal services beyond 90 percent of amounts requested in the budget estimates for the fiscal year 1953.

My amendment, as passed by the House, applies to the total number of personnel as included in the bill when it was reported out of the committee for House consideration and placed the ceiling for employment during fiscal year 1953 at 85 percent of the total provided for in the bill.

The Jensen amendment, as adopted and passed by the House, provides for a 15-percent reduction on the total number of personnel provided for in the bill. In brief, the Senate provision would amount to no reduction at all, whereas

my amendment not only provides for a specific reduction on a known total of personnel, it also further provides that when the 85-percent reduction has been reached it shall be the ceiling, and if at any time exceeded the amendment shall again become operative. This last-named provision is not in the Senate amendment. If it is desirable to make a personnel reduction, a safeguard should be provided to continue the reduction; otherwise the effort will result in a useless expenditure of time.

(b) (1) Exempts employees in hospitals, dispensaries, clinics, or quarantine stations. I am in agreement with this provision, with reservations. However, I am of the opinion that the provisions of my amendment in regard to these employees is much better. I provide for a direct approach and your attention is invited to the provisions of section 705 (e), in which I specifically exempt all the employees of St. Elizabeths Hospital and Freedmen's Hospital, and in subsection (h) I also exempt all the employees of the Public Health Service.

I was in error in exempting the employees of St. Elizabeths and Freedmen's Hospitals because they are under the jurisdiction of the Public Health Service, and I recommend that this subsection (e) of my amendment be deleted because it is superfluous as I provide for the exemption of all employees of the Public Health Service in subsection (h) of the amendment.

In regard to the explanation of my position and recommendation in regard to the deletion of subsection (e) I respectfully refer you to pages 2 and 3 of this statement.

With reference to the coverage of the Jensen amendment regarding the employees of the Public Health Service and its allied councils, hospitals, et cetera, please refer to my explanation of subsection (h) on page 3 of this statement.

It is apropos that in addition to the explanation hereinbefore mentioned that the Public Health Service has jurisdiction and the Bureau of Medical Services operates 24 hospitals and 19 out-patient clinics and 103 out-patient offices where merchant seamen, Coast Guard personnel, and other legal beneficiaries receive hospitalization, medical and dental care, and preventive health services, and also provides internship and clinical experience for medical students and graduates of Howard University.

(b) (2) I am partially in agreement with this provision of the Ferguson-Bridges amendment because it exempts all of the employees of the Food and Drug Administration. The budget request for 1953 is for 1,079 employees. I find no justification to exempt all the employees of this administration, but I am heartily in favor of exempting those employees engaged in law enforcement and I so provided in my amendment and refer you to section 705 (d) of the bill. Please refer to my explanation of subsection (d) on page 2 of this statement.

(b) (3): This subsection is similar to subsection (f) of my amendment and I am in agreement with same. It exempts all employees of educational institutions provided for in this act.

(b) (4): Exempts the employees of the National Institute of Health, National Cancer Institute, mental health activities, National Heart Institute, and dental health activities. These employees are under the jurisdiction of the Public Health Service. I exempt all employees of that Service and invite your attention to the explanation of subsection (h) of the Jensen amendment on page 3 of this statement.

(b) (5): Exempts all the employees who are paid wholly from trust funds or funds derived by transfer from a trust account; also employees paid from appropriations of, or measured by, receipts. The provisions of this subsection were not included in the Jensen-Ferguson amendment of last session and I am unable to find justification for the exemption of these employees with the exception of those engaged in law enforcement.

The provisions of this subsection as adopted and passed in the Senate would exempt all of the employees of the Railroad Retirement Board which at the close of business March 1952 numbered 2,194; all of the employees of the Bureau of Old-Age and Survivors Insurance of which there are now 13,836 on the rolls, and the budget estimate for fiscal year 1953 is for 14,703. The Ferguson-Bridges amendment also exempts all of the employees of the Bureau of Federal Credit Unions. This Bureau had 139 employees at the close of business March 1952 and the budget request for fiscal year 1953 is for 190 employees. I respectfully refer the conferees to read the testimony in the hearings of the House subcommittee which begins on page 220, part I, Federal Security Agency, and also the hearings of the Senate subcommittee, page 192 and pages 342–350. A cursory examination of these hearings, as well as both the House and Senate reports will disclose that there is absolutely no justification for the exemption of the Bureau of Federal Credit Unions; and in my opinion this Bureau should be abolished.

This subsection would likewise exempt all of the employees in the inspection service of the Food and Drug Administration, but in this instance it is not applicable because (b) (2) of the Ferguson-Bridges amendment exempts all of the employees of that governmental unit.

(b) (6): Exempts all the employees of the National Mediation Board of which there were 114 on the rolls during the month of March this year. I am of the opinion that this is a very stable and well-administered organization, but efficiency and a limited personnel should not be the criterion for exemption in this instance. This Board has jurisdiction over railroad and airline cases. The Jensen-Ferguson amendment of the last session did not exempt these employees and I find no justification for doing so in this act.

FERGUSON-BRIDGES-BYRD AMENDMENT, CONGRESSIONAL RECORD, APRIL 29, PAGES 4554–4555

The amendment is as follows:

SEC. 707. (a) No appropriation or authorization contained in this act shall be available to pay—

(1) for travel of personnel;

(2) for personal services of personnel above basic rates; or

(3) for transportation of things (other than mail);

more than 90 percent of the amount which the budget estimates heretofore submitted in connection with such estimates heretofore submitted in connection with such appropriation or authorization contemplated would be expended therefrom for such purposes, respectively; and the total amount of each appropriation, any part of which is available for any such purposes, is hereby reduced by an amount equal to 10 percent of the amount requested in such budget estimates for such purpose.

(b) This section shall not apply to appropriations for—

(1) activities for hospitals, dispensaries, clinics, or quarantine stations;

(2) food and drug administration;

(3) educational institutions;

(4) National Institutes of Health, National Cancer Institute, mental health activities, National Heart Institute, and dental health activities;

(5) activities paid wholly from trust funds, or funds derived by transfer from trust accounts, or to employees paid from appropriations of, or measured by, receipts; and

(6) National Mediation Board.

Subsection (a) of the Ferguson-Bridges-Byrd amendment, with the exception of paragraphs (1), (2), and (3) thereof, is similar to subsection (a) of the Ferguson-Bridges amendment—CONGRESSIONAL RECORD, April 29, page 4552—as agreed to in the Senate.

Paragraphs (1), (2), and (3) of subsection (a) of the Ferguson-Bridges-Byrd amendment proposes a limitation of 90 percent of the amounts recommended in the budget estimates affecting travel of personnel, for personal services of personnel above basic rates—that is, for overtime or for transportation of things other than mail, as explained by Senator FERGUSON in the Senate on April 29—CONGRESSIONAL RECORD, pages 4554–4555.

I favor the foregoing limitations with reservation. The limitation should be for 85 percent because the reductions in the Labor-Federal Security bill, H. R. 7151, below the budget estimates have been negligible, and I support my position in regard thereto in explanations heretofore set forth in this statement.

However, it is my considered opinion that any limitations placed upon the activities, subject to the provisions of paragraphs (1), (2), and (3) of subsection (a) of the Ferguson-Bridges-Byrd amendment, should be made specifically to the applicable provision of this act, and not made a part of any substitute amendments subsequently adopted and agreed to in the Senate. In brief, this later suggestion on my part provides a direct approach in each instance to the affected provision of the act.

With reference to subsection (b), paragraphs (1), (2), (3), (4), (5), and (6) of the Ferguson-Bridges-Byrd amendment, these provisions are similar to the same numbered paragraphs of subsection (b) of the Ferguson-Bridges amendment—CONGRESSIONAL RECORD, April 29, page 4552—and my comments, exceptions, reservations, and recommendations have been fully explained and set forth previously in this statement, especially on pages 7, 8, 9, 10, 11, and 12.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. EBERHARTER and to include extraneous matter.

Mr. CLEMENTE and to include a newspaper article.

Mr. LANE in three instances and to include extraneous matter.

Mr. WOOD of Idaho and also to extend his remarks and include an article by J. H. Gipson of the Caxton Printers of Idaho, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $273.

Mr. BEAMER in two instances and to include extraneous matter.

Mr. AUCHINCLOSS and to include a letter.

Mr. MCGREGOR and to include an address by Rev. Edward D. Gates, of Peoria, Ill.

Mr. JENISON and to include an editorial.

Mr. SCHENCK and to include a newspaper story on Wright Field.

Mr. SMITH of Wisconsin in three instances and to include extraneous matter.

Mr. ANGELL and to include extraneous matter.

Mr. GREEN and to include an editorial.

Mr. WALTER in two instances, in one to include an announcement of the National Catholic Welfare Council Conference, and in the other to include an editorial from the New York Times.

Mr. HELLER in three instances, in each to include extraneous matter.

Mr. PHILBIN in three instances.

Mr. DORN.

Mr. SEELY-BROWN.

Mr. ARENDS and to include a letter.

Mr. BUSBEY and to include a statement he made in regard to his bill in SEC.

Mr. SCHENCK.

Mr. MEADER and to include extraneous matter.

Mr. GROSS and to include extraneous matter.

Mr. VURSELL.

Mr. RABAUT in three instances, in each to include extraneous matter.

Mr. MITCHELL in three instances, in each to include extraneous matter.

Mr. ROGERS of Colorado and to include a survey by Ernst & Ernst dealing with fair trade.

Mr. RIEHLMAN and to include an editorial.

Mr. HAYS of Arkansas (at the request of Mr. PRIEST) and to include extraneous matter.

Mr. MCKINNON (at the request of Mr. MCCORMACK) to extend his remarks in the RECORD prior to the termination of debate in Committee of the Whole on the fair-trade bill.

Mr. MCCORMACK and to include an editorial relating to Mr. KENNEDY, of Massachusetts.

Mr. BENDER in three instances.

Mr. MOULDER (at the request of Mr. PRICE) and to include a newspaper article.

Mr. PRICE and include a statement from William Green, before the Armed Services Committee today, with an analysis of H. R. 7647.

Mr. EBERHARTER (at the request of Mr. MCCORMACK) and include an accompanying statement.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 106. An act to amend the act entitled "An act to regulate the practice of optometry in the District of Columbia"; to the Committee on the District of Columbia.

S. 1310. An act amending the act of May 7, 1941 (55 Stat. 177; 30 U. S. C., 1946 ed., secs. 4f–4o), providing for the welfare of coal miners, and for other purposes; to the Committee on Education and Labor.

S. 2703. An act to amend the act entitled "An act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes," approved April 23, 1924, as amended, and for other purposes; to the Committee on the District of Columbia.

ENROLLED BILLS SIGNED

Mr. STANLEY, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 2962. An act for the relief of Maude S. Burman.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 171. An act for the relief of Mrs. Hildegard Pielecki Kennedy;

S. 569. An act for the relief of May Hosken;

S. 853. An act for the relief of Dr. Ying Tak Chan;

S. 1045. An act for the relief of the estate of Susie Lee Spencer;

S. 1085. An act for the relief of Kane Shinohara;

S. 1121. An act for the relief of Matsuko Kurosawa;

S. 1154. An act for the relief of Edi Bertoli, Gino Guglielmi, and Serafinio Ballerni;

S. 1333. An act for the relief of Maria Seraphenia Egawa;

S. 1686. An act for the relief of Albert Goldman, postmaster at New York, N. Y.;

S. 1692. An act for the relief of Hilde Schindler and her minor daughter, Edeline Schindler;

S. 1697. An act for the relief of Sister Maria Gasparetz;

S. 1796. An act for the relief of Bruno Leo Freund;

S. 1812. An act for the relief of Janice Justina King;

S. 1833. An act for the relief of Barbara Jean Takada;

S. 1853. An act for the relief of Hidemi Nakano;

S. 2102. An act for the relief of Alcide Orazio Marselli and Angelo Bardelli;

S. 2210. An act for the relief of Richard A. Seidenberg;

S. 2294. An act for the relief of Carl Himura;

S. 2307. An act for the relief of Holger Kubischke; and

S. 2463. An act for the relief of Harvey T. Gracely.

BILLS PRESENTED TO THE PRESIDENT

Mr. STANLEY, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 586. An act to authorize the Secretary of the Interior to sell certain land on the Chena River to the Tanana Valley Sportsmen's Association, of Fairbanks, Alaska;

H. R. 4199. An act to authorize the transfer of certain lands of the Blue Ridge Parkway from the jurisdiction of the Secretary of the Interior to the jurisdiction of the Secretary of Agriculture; and

H.R. 5652. An act to authorize the construction of a dam and dike to prevent the flow of tidal waters into North Slough, Coos County, Oreg.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. ALLEN of California, from May 13 to May 19, and from May 23 to June 10, on account of official business.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 2 o'clock and 43 minutes p. m.), under its previous order, the House adjourned until Monday, May 12, 1952, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1407. A letter from the Acting Attorney General, transmitting copies of orders of the Commissioner of Immigration and Naturalization suspending deportation as well as a list of the persons involved, pursuant to the act of Congress approved July 1, 1948, Public Law 863, amending subsection (c) of section 19 of the Immigration Act of February 5, 1917, as amended (8 U. S. C. 155 (c)); to the Committee on the Judiciary.

1408. A letter from the Acting Attorney General, transmitting a letter relative to the case of David Hernandez-Mendoza, file No. A–7394261 CR 33023, requesting that it be withdrawn from those now pending before the Congress and returned to the jurisdiction of the Department of Justice; to the Committee on the Judiciary.

1409. A letter from the Acting Attorney General, transmitting a letter relative to the cases of Helena Romana Wojciciki nee Gedziorowska, file No. A–7802296 CR 33728, Andrzej Maria Wojcicki, file No. A–7802295 CR 33728, Jagna Ewa Wojcicki, file No. A–7802294 CR 33728, requesting that they be withdrawn from those now pending before the Congress and returned to the jurisdiction of the Department of Justice; to the Committee on the Judiciary.

1410. A letter from the Acting Attorney General, transmitting copies of orders of the Commissioner of Immigration and Naturalization granting the application for permanent residence filed by the subjects of such orders, pursuant to section 4 of the Displaced Persons Act of 1948; to the Committee on the Judiciary.

1411. A letter from the Assistant Secretary of Defense, transmitting a draft of a proposed bill entitled, "A bill to provide for the restoration and maintenance of the U. S. S. *Constitution* and to authorize the

disposition of the U. S. S. *Constellation*, U. S. S. *Hartford*, U. S. S. *Olympia*, and U. S. S. *Oregon*, and for other purposes"; to the Committee on Armed Services.

1412. A letter from the Assistant Secretary of Defense, transmitting a draft of a proposed bill entitled "A bill to authorize the Army Medical Service Graduate School to award master of science and doctor of science degrees in medicine, dentistry, veterinary medicine, and in the biological sciences involved in health services, and for other purposes"; to the Committee on Armed Services.

1413. A letter from the Administrator, General Services Administration, transmitting a report on contracts negotiated under section 302 (c) (10) of Public Law 152, Eighty-first Congress, as amended, covering the 6 months ending December 31, 1951; to the Committee on Expenditures in the Executive Departments.

1414. A letter from the President, Board of Commissioners of the District of Columbia, transmitting a draft of a proposed bill entitled "A bill to revive section 3 of the District of Columbia Public School Food Services Act"; to the Committee on the District of Columbia.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

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

Mr. CELLER: Committee on the Judiciary. House Joint Resolution 445. Joint resolution authorizing the President of the United States to proclaim the 7-day period beginning May 18, 1952, as Olympic Week; without amendment (Rept. No. 1851). Referred to the House Calendar.

Mr. COOLEY: Committee on Agriculture. S. 1517. An act to amend the act of June 4, 1897, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes," as amended, to enable the Secretary of Agriculture to sell without advertisement national forest timber in amounts not exceeding $2,000 in appraised value; with amendment (Rept. No. 1852). Referred to the Committee of the Whole House on the State of the Union.

Mr. TRIMBLE: Committee on Public Works. H. R. 7778. A bill to authorize emergency appropriations for the purpose of erecting certain post-office and Federal-court buildings and for other purposes; with amendment (Rept. No. 1853). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TRIMBLE:

H. R. 7778. A bill to authorize emergency appropriations for the purpose of erecting certain post-office and Federal court buildings, and for other purposes; to the Committee on Public Works.

By Mr. AUGUST H. ANDRESEN:

H. R. 7779. A bill to amend the Social Security Act, as amended, to permit individuals entitled to old-age or survivors insurance benefits to earn $250 per month without deductions being made from their benefits; to the Committee on Ways and Means.

By Mr. DAVIS of Tennessee:

H. R. 7780. A bill to provide for emergency flood-control work made necessary by recent floods, and for other purposes; to the Committee on Public Works.

By Mr. MANSFIELD:

H. R. 7781. A bill to assist the several States in providing scholarships to enable high-school graduates of Indian blood to pursue their education at colleges and universities; to the Committee on Education and Labor.

By Mr. O'HARA:

H. R. 7782. A bill to amend section 315 of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. RANKIN:

H. R. 7783. A bill to increase certain rates of veterans' compensation provided for specific service-incurred disabilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIMPSON of Pennsylvania:

H. R. 7784. A bill to amend section 433 (b) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. SMITH of Mississippi:

H. R. 7785. A bill to create a committee to study and evaluate public and private experiments in weather modification; to the Committee on Interstate and Foreign Commerce.

By Mr. COX:

H. Res. 638. Resolution to authorize the expenditure of certain funds for the expenses of the Select Committee To Investigate Foundations; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ANFUSO:

H. R. 7786. A bill for the relief of Rosario Balzano; to the Committee on the Judiciary.

By Mr. BURLESON:

H. R. 7787. A bill for the relief of Fumiko Nakane; to the Committee on the Judiciary.

By Mr. DORN:

H. R. 7788. A bill to provide for the issuance of a license to practice chiropractic in the District of Columbia to Anderson Brown; to the Committee on the District of Columbia.

By Mr. JUDD:

H. R. 7789. A bill for the relief of Golda I. Stegner; to the Committee on the Judiciary.

By Mr. KLEIN:

H. R. 7790. A bill for the relief of Tong Su Lien; to the Committee on the Judiciary.

By Mr. MANSFIELD:

H. R. 7791. A bill for the relief of the Sacred Heart Hospital; to the Committee on the Judiciary.

By Mr. RABAUT:

H. R. 7792. A bill for the relief of Mrs. Maria Verrecchia; to the Committee on the Judiciary.

SENATE

FRIDAY, MAY 9, 1952

(Legislative day of Thursday, May 1, 1952)

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

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

Eternal Father, ere our wistful yearnings break into the faltering words of our stammering tongues Thou seest our deepest needs; Thou knowest that as the hart panteth after the water brooks, so thirst our souls after Thee.

Save us from presumptuous pride that feigns an understanding that it does not possess. Open our inner eyes that with all our seeing we may not miss the beauty and strength of a spiritual world, more real even than the dust beneath our feet or the feathered songsters that wing their trackless way above our heads. As those into whose unworthy hands has been placed the crying needs of stricken humanity, may the thoughts of our minds and the sympathies of our hearts, the words of our lips, and the decisions of our deliberations be acceptable in Thy sight, O Lord, and be as trees whose leaves are for the healing of the nations. Amen.

THE JOURNAL

On request of Mr. MCFARLAND, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, May 7, 1952, was dispensed with.

MESSAGES FROM THE PRESIDENT— APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 9, 1952, the President had approved and signed the bill (S. 2160) to authorize the Attorney General to admit persons committed by State courts to Federal penal and correctional institutions when facilities are available.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to each of the following bills of the House:

H. R. 4387. An act to increase the annual income limitations governing the payment of pension to certain veterans and their dependents, and to preclude exclusions in determining annual income for purposes of such limitations; and

H. R. 4394. An act to provide certain increases in the monthly rates of compensation and pension payable to veterans and their dependents, and for other purposes.

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

H. R. 1699. An act for the relief of Mrs. Michaline Borzecki;

H. R. 5543. An act for the relief of Mrs. Elisabeth Rosalia Haste;

H. R. 5767. An act to amend the Federal Trade Commission Act with respect to certain contracts and agreements which establish minimum or stipulated resale prices and which are extended by State law to persons who are not parties to such contracts and agreements, and for certain other purposes; and

H. R. 7405. An act to provide for an economical, efficient, and effective supply management organization within the Department of Defense through the establishment of a single supply cataloging system, the standardization of supplies, and the more efficient use of supply testing, inspection, packaging, and acceptance facilities and services.