James Willette; without amendment (Rept. No. 2394). Referred to the Committee of the Whole House.

Mr. JONAS: Committee on the Judiciary. H. R. 4755. A bill for the relief of Mrs. Emily Wilhelm; with amendment (Rept. No. 2395). Referred to the Committee of the Whole House.

Mr. LANE: Committee on the Judiciary. H. R. 5376. A bill for the relief of the estate of Rene Weil; with amendment (Rept. No. 2396). Referred to the Committee of the Whole House.

Mr. MILLER of New York: Committee on the Judiciary. H. R. 5485. A bill for the relief of Mr. and Mrs. Edward Levandoski; without amendment (Rept. No. 2397). Referred to the Committee of the Whole House.

Mr. FINE: Committee on the Judiciary. H. R. 5541. A bill for the relief of Capt. Walter C. Wolf; without amendment (Rept. No. 2398). Referred to the Committee of the Whole House.

Mr. LANE: Committee on the Judiciary. H. R. 7365. A bill for the relief of Clifford Robinson; without amendment (Rept. No. 2399). Referred to the Committee of the Whole House.

Mr. GOODWIN: Committee on the Judiciary. H. R. 7368. A bill for the relief of Felix Garcia and others; without amendment (Rept. No. 2400). Referred to the Committee of the Whole House.

Mr. LANE: Committee on the Judiciary. H. R. 7687. A bill for the relief of Jack Carpenter; without amendment (Rept. No. 2401). Referred to the Committee of the Whole House.

Mr. JONAS: Committee on the Judiciary. H. R. 7827. A bill for the relief of Ruth D. Crunk; without amendment (Rept. No. 2402). Referred to the Committee of the Whole House.

Mr. GOODWIN: Committee on the Judiciary. H. R. 8001. A bill for the relief of Paul D. Banning, chief disbursing officer, Treasury Department, and for other purposes; without amendment (Rept. No. 2403). Referred to the Committee of the Whole House.

Mr. GOODWIN: Committee on the Judiciary. H. R. 8205. A bill for the relief of Homer C. Boozer and others; without amendment (Rept. No. 2404). Referred to the Committee of the Whole House.

Mr. WALTER: Committee on the Judiciary. Senate Concurrent Resolution 81. Concurrent resolution favoring the suspension of deportation of certain aliens; without amendment (Rept. No. 2410). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MULTER:

H. R. 8443. A bill to assist cooperative and other nonprofit corporations in the production of housing for moderate-income families and for other purposes; to the Committee on Banking and Currency.

By Mr. DOLLINGER:

H. R. 8444. A bill to assist cooperative and other nonprofit corporations in the production of housing for moderate-income families, and for other purposes; to the Committee on Banking and Currency.

By Mr. BEAMER:

H. R. 8445. A bill to amend the Foreign Trade Zones Act; to the Committee on Ways and Means.

By Mr. BENNETT of Michigan:

H. R. 8446. A bill to amend title II of the Social Security Act to reduce the retirement age from 65 to 60, to provide that widows may become entitled to benefits thereunder at age 50, and to increase monthly insurance and lump-sum death payments thereunder by 20 percent; to the Committee on Ways and Means.

By Mr. GAMBLE:

H. R. 8447. A bill authorizing appointments to the United States Military Academy and the United States Naval Academy of sons of certain members of the Armed Forces who died as a direct result of active service on or after June 27, 1950; to the Committee on Armed Services.

By Mr. PHILBIN:

H. R. 8448. A bill to amend the National Service Life Insurance Act of 1940 to provide for a refund of premiums in certain cases where the insured failed to apply for a waiver of such premiums; to the Committee on Veterans' Affairs.

By Mr. GWINN:

H. R. 8449. A bill to prevent the application or exercise of monopoly power by employers and labor organizations in their dealings with employees, to amend the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Mr. HOFFMAN of Michigan:

H. Res. 721. Resolution declaratory of committee's authority; to the Committee on the Judiciary.

By Mr. MURDOCK:

H. Res. 722. Resolution to provide funds for the expenses of the investigation authorized by House Resolution 698; 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. BATES of Massachusetts (by request):

H. R. 8450. A bill for the relief of Pasquale De Leonibus; to the Committee on the Judiciary.

By Mr. MARTIN of Massachusetts:

H. R. 8451. A bill for the relief of Mrs. Betty E. Lamay; to the Committee on the Judiciary.

H. R. 8452. A bill for the relief of Mr. and Mrs. Clarence M. Augustine; to the Committee on the Judiciary.

By Mr. SADLAK:

H. R. 8453. A bill for the relief of Bronislaw (John) Waz; to the Committee on the Judiciary.

PETITIONS, ETC.

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

783. By Mr. BUSH: Petition of Rotary Club of Lock Haven, Pa., for immediate action by the Federal Government in the construction of flood-control devices in the valley of the West Branch of the Susquehanna River; to the Committee on Public Works.

784. By the SPEAKER: Petition of James I. Hadar, New Brunswick, N. J., relative to a redress of grievances involving violation of civil rights, etc.; to the Committee on the Judiciary.

SENATE

WEDNESDAY, JULY 2, 1952

(Legislative day of Friday, June 27, 1952)

The Senate met at 10 o'clock a. m., on the expiration of the recess.

Rev. John C. Millian, D. D., district superintendent, Methodist Church, offered the following prayer:

Holy and Great God of all nations and peoples, we bow here in humble reverence before Thee asking Thy divine blessing for the living of this day. Make us spiritually sensitive that we may clearly discern Thy divine leading. Broaden our minds that we can accept Thy truth. Bestow upon us moral courage that we fail not to speak and act for right and righteousness. May we during this day be worthy of this great Nation founded upon Thy moral and spiritual laws.

May there go out from these legislative halls such acts and messages of love and understanding that all the world will be brought to oneness of mind and unity of purpose that will enable Thy holy spirit to bring peace on earth, good will to all men. Amen.

THE JOURNAL

On request of Mr. HUMPHREY, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, July 1, 1952, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed the bill (S. 523) for the relief of Walter Duschinsky, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 2605) to amend certain tax laws applicable to the District of Columbia, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 76) favoring the suspension of deportation of certain aliens, with an amendment, in which it requested the concurrence of the Senate.

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

H. R. 1126. An act for the relief of Erkki Mainio Sakari Salo;

H. R. 1159. An act for the relief of Mrs. Helga Josefa Wiley;

H. R. 1707. An act for the relief of Frederick George Boughton;

H. R. 1711. An act for the relief of Mrs. Margaret D. Surhan;

H. R. 2075. An act for the relief of the A. C. Israel Commodity Co., Inc.;

H. R. 2171. An act for the relief of Robert E. Robinson and Gerald L. Harris;

H. R. 2181. An act for the relief of the Trust Association of H. Kempner;

H. R. 2217. An act for the relief of Alfonso Gatti;

H. R. 2352. An act for the relief of Mrs. Towa Tanoue;

H. R. 2601. An act for the relief of Mrs. Olympia Cuc;

H. R. 2780. An act for the relief of Clara Gabriel;

H. R. 2898. An act for the relief of Mr. and Mrs. Joseph W. Furstenberg;

H. R. 2972. An act for the relief of Harold Joe Davis;

H. R. 3268. An act for the relief of Mrs. Jane P. Myers;

H. R. 3426. An act for the relief of Sui Kin Chun;

H. R. 3502. An act for the relief of Arthur Staveley;

H. R. 3523. An act for the relief of Mrs. Lau Hong Shee;

H. R. 4296. An act for the relief of the legal guardian of Franklin Jim, a minor;

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

H. R. 4398. An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims of the Columbia Basin Orchard, the Seattle Association of Credit Men, and the Perham Fruit Corp.;

H. R. 4561. An act for the relief of Norberto Linaza Yrigoyen and Maria Josefa Maseda Lopez;

H. R. 4760. An act for the relief of Irene Proios (nee Vahianos);

H. R. 4841. An act for the relief of James Oliver Farlow;

H. R. 4909. An act for the relief of Arthur J. Boucher;

H. R. 5180. An act for the relief of Jungo Tsutsumi;

H. R. 5206. An act for the relief of Gregg Ted Lewis;

H. R. 5207. An act for the relief of Julio Mercado Toledo;

H. R. 5435. An act for the relief of Mrs. Karl Doege;

H. R. 5519. An act for the relief of Mrs. Agnes Trukett;

H. R. 5618. An act for the relief of Young Wai Kit;

H. R. 5841. An act for the relief of Winston Brothers Co. and the Utah Construction Co.; Roy L. Bair and Co. and James Crick and Sons; J. A. Terteling and Sons, Inc., and T. E. Connolly, Inc.;

H. R. 6274. An act to authorize the issuance of a patent in fee to Charles I. Chattin;

H. R. 6515. An act for the relief of Tracy Ann Corley (Elisabeth Lecorche);

H. R. 6712. An act for the relief of Hisami Yoshida;

H. R. 6788. An act for the relief of Mrs. Muriel J. Shingler, doing business as Shingler's Hatchery;

H. R. 6903. An act for the relief of Rose Martin;

H. R. 6904. An act for the relief of Kiyoshi Nabeshima;

H. R. 6915. An act for the relief of Raymond Scott Hill;

H. R. 6938. An act for the relief of Wong Gook Ying;

H. R. 6942. An act for the relief of Junko Arima and Yuri Arima;

H. R. 6969. An act for the relief of Bozie Lincoln Donalson;

H. R. 6978. An act for the relief of Gerald A. and Lynn W. Roehm;

H. R. 6983. An act for the relief of Gevork Zohrab Bandarian;

H. R. 7054. An act for the relief of Miyako Toda;

H. R. 7094. An act for the relief of Pio Valensin;

H. R. 7477. An act for the relief of Carol R. Gray;

H. R. 7565. An act for the relief of Anna Bosco Lomonaco;

H. R. 7665. An act for the relief of Annalyn Earley;

H. R. 7667. An act for the relief of Marie Luise Elfriede Steiniger;

H. R. 7713. An act for the relief of Gisela Helen Snowdy;

H. R. 7817. An act to provide for emergency flood-control work made necessary by recent floods, and for other purposes;

H. R. 7833. An act for the relief of Prof. Werner Richter and Prof. Max Horkheimer;

H. R. 7850. An act for the relief of Leopold Laufer and Elfriede Laufer;

H. R. 8163. An act for the relief of Hildegard Hobmeier;

H. J. Res. 8. Joint resolution to authorize and direct the Secretary of the Interior to study the respective tribes, bands, and groups of Indians under his jurisdiction to determine their qualifications to manage their own affairs without supervision and control by the Federal Government; and

H. J. Res. 492. Joint resolution authorizing the printing and binding of a revised edition of Cannon's Procedure in the House of Representatives and providing that the same shall be subject to copyright by the author.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 235) providing that the briefs for the Government and others, and the record filed in the Supreme Court of the United States in the Steel Seizure case, be printed as a House document; and that additional copies be printed, in which it requested the concurrence of the Senate.

TRANSACTION OF ROUTINE BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Senators may make insertions in the RECORD and transact other routine business, without debate.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON AGRICULTURAL EXPERIMENT STATIONS

A letter from the Assistant Secretary of Agriculture, transmitting a printed report on the Agricultural Experiment Stations, for the fiscal year ended June 30, 1951, to be substituted for the typewritten report on the same subject matter, transmitted to the Senate on January 2, 1952 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF UNITED STATES ADVISORY COMMISSION ON INFORMATION

A letter from the Chairman, United States Advisory Commission on Information, transmitting, pursuant to law, a report of the Commission dated July 1952 (with an accompanying report); to the Committee on Foreign Relations.

RELIEF OF CERTAIN EMPLOYEES OF TREASURY DEPARTMENT

A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation for the relief of certain employees of the Department of the Treasury who, while in the course of their official duties, suffered losses for personal property by reason of war conditions and whose claims for such losses have been considered and approved by the Secretary of the Treasury upon the recommendation of a Treasury Claims Board (with accompanying papers); to the Committee on the Judiciary.

REPORT OF IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report of the Service for the fiscal year 1951 (with an accompanying report); to the Committee on the Judiciary.

CERTIFICATIONS OF COST OF REHABILITAION AND REPAIR OF CERTAIN PUBLIC AIRPORTS DAMAGED BY MILITARY FORCES

Two letters from the Acting Secretary of Commerce, transmitting, pursuant to law, certifications by the Administrator of Civil Aeronautics of the cost of rehabilitation and repair of damages caused by the United States military forces at certain public airports (with accompanying papers); to the Committee on Interstate and Foreign Commerce.

AMENDMENT OF CIVIL AERONAUTICS ACT OF 1938 RELATING TO EXEMPTION OF AIR CARRIERS IN CERTAIN CASES

A letter from the Chairman, Civil Aeronautics Board, transmitting a draft of proposed legislation to amend section 412 of the Civil Aeronautics Act of 1938, as amended, to provide for the exemption of air carriers in certain cases from the requirement of filing contracts with the Civil Aeronautics Board, and for other purposes (with accompanying papers); to the Committee on Interstate and Foreign Commerce.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A letter in the nature of a petition from the Newark Annual Conference of the Methodist Church, Newark, N. J., signed by Hans Holborn, chairman, relating to support for the United Nations, and so forth; to the Committee on Foreign Relations.

A resolution adopted by the Atlantic District of the Lutheran Church-Missouri Synod, at Bronxville, N. Y., relating to the forcible return of Korean prisoners of war, and so forth; to the Committee on Foreign Relations.

A telegram embodying a resolution adopted by the western branch, American Public Health Association, Berkeley, Calif., signed by L. Amy Darter, secretary-treasurer, relating to medical care for Indians; to the Committee on Interior and Insular Affairs.

A telegram embodying a resolution adopted by the Governors' Conference at Houston, Tex., signed by Frank Bane, secretary, relating to the exemption from State and local taxation the activities of private contractors performing services for the Atomic Energy Commission; to the Joint Committee on Atomic Energy.

A resolution adopted by the Grand Lodge, Order of Sons of Italy in America, at Swampscott, Mass., favoring the enactment of legislation to grant American citizenship to parents of any person who has served honorably in the services of the Armed Forces of the United States; to the Committee on the Judiciary.

A letter in the nature of a petition from the International Union of Electrical, Radio, and Machine Workers, CIO, Washington, D. C., signed by James B. Carey, president, relating to an investigation of the General Electric Co., and its relations with its employees, and so forth (with an accompanying paper); to the Committee on Labor and Public Welfare.

A cablegram in the nature of a memorial signed by Jose Garcia, of Sabana Grande, Puerto Rico, remonstrating against the so-called Johnston amendment to the constitution of Puerto Rico; ordered to lie on the table.

NOMINATION OF THOMAS C. BUCHANAN TO BE COMMISSIONER OF FEDERAL POWER COMMISSION—TELEGRAM FROM MAYOR OF MILWAUKEE, WIS.

Mr. WILEY. Mr. President, the State of Wisconsin deeply deplores the unfortunate action of the Senate Interstate Commerce Committee in failing affirmatively to recommend the nomination of Commissioner Thomas C. Buchanan for another term on the Federal Power Commission.

We deplore the fact that his nomination experienced such delay in the committee, so that we are now confronted

with the fact that, with but a few days of the session remaining, the possibility of bringing up the nomination on the floor for debate seems dim.

Prior to the action by the Interstate and Foreign Commerce Committee, I had been pleased to receive a fine telephone call from the distinguished chief executive of my State, the Honorable Walter P. Kohler, Jr., who urged my vigorous support for Commissioner Buchanan. Governor Kohler made this request not just for an individual but as a matter of principle—in view of the fact that Chairman Buchanan, as a matter of principle, so loyally protected the interests of Wisconsin consumers and consumers elsewhere throughout the Nation, particularly in the Phillips Natural Gas Rate case.

I enthusiastically assured Governor Kohler of my full support of Commissioner Buchanan.

I have been happy, moreover, to receive a telegram from the mayor of Milwaukee, the Honorable Frank P. Zeidler, on this same issue.

I believe that Government agency personnel who faithfully perform their duties should be rewarded for their efforts, rather than punished.

I do not reflect on those of my colleagues who happened to vote against the renomination or against a report one way or the other, but I do present this frank judgment of the senior Senator from Wisconsin and of the people of my State. I earnestly hope that his nomination may still be brought up or, that if it is not, that he will receive at the very minimum an interim appointment.

I send Mayor Zeidler's telegram to the desk and ask unanimous consent that it be printed at this point in the RECORD and appropriately referred.

There being no objection, the telegram was referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the RECORD, as follows:

MILWAUKEE, WIS., *July 1, 1952.*

Senator ALEXANDER WILEY,
Senate Office Building,
Washington, D. C.:

Your enthusiastic support of the public's interest in just natural gas rates as demonstrated by your activity in the Phillips case prompts me to urge that you do all in your power to support the continuation of Commissioner Buchanan as a member of the FPC.

FRANK P. ZEIDLER,
Mayor of Milwaukee.

TREATY-MAKING FUNCTIONS OF CONGRESS—AMENDMENT OF CONSTITUTION—RESOLUTION OF INTERNATIONAL CONVENTION OF KIWANIS, SEATTLE, WASH.

Mr. MUNDT. Mr. President, among the happiest and most fruitful experiences of my life have been my associations with and my membership in Kiwanis. For over a quarter of a century, I have worked in the organization and I have watched it grow.

There is no other organization that surpasses Kiwanis in its desire to preserve those things which are American. It is always inspired by the highest patriotic motives.

Among the resolutions adopted by the International Convention in Seattle this year is one dealing with a proposed amendment to our Constitution. I believe that it deserves the careful attention of Congress and of the people of this country. Under the direction of its able and aggressive president, Claude B. Hellmann, of Baltimore, Md., Kiwanis has again sponsored and supported a number of resolutions which are aimed at the goal of keeping America strong. The particular amendment to which I wish to call attention deals with the important functions of Congress in making treaties. I call attention of all members of the Senate to this important proposal.

I ask unanimous consent that the resolution be printed in the RECORD.

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

7. PROPOSED AMENDMENT TO CONSTITUTION OF THE UNITED STATES

Whereas there is pending in the Senate of the United States a Senate resolution to the effect that an amendment be made to the Constitution of these United States for the purpose of clarifying the effect of any action by the Senate of the United States in respect of the treaty-making power, reading as follows:

"A provision of treaty which conflicts with any provision of this Constitution shall not be of any force or effect. A treaty shall become effective as internal law in the United States only through legislation by Congress which it could enact under its delegated powers in the absence of such treaty: Therefore be it

"*Resolved,* That Kiwanis International endorse in principle the suggested amendment to the Constitution of the United States relating to the making of treaties and executive agreements, designed to prevent the treaty-making power from being used as a means of amending the Constitution and Bill of Rights."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs:

S. 2320. A bill to provide the basis for authorization of irrigation works in connection with Chief Joseph Dam, to provide for financial assistance thereto from power revenues, and for other purposes; with amendments (Rept. No. 2051); and

H. R. 6544. A bill to amend the act of June 28, 1948 (62 Stat. 1061), relating to the establishment of the Independence National Historical Park; without amendment (Rept. No. 2052).

By Mr. ELLENDER, from the Committee on Agriculture and Forestry:

H. R. 5055. A bill to authorize the exchange of certain lands of the United States situated in Ontonagon County, Mich., for lands within the Ottawa National Forest, Mich., and for other purposes; without amendment (Rept. No. 2053);

H. R. 7952. A bill to authorize the combination of the Truck Crop Insect Laboratory and the Citrus Insect Laboratory of the Bureau of Entomology and Plant Quarantine, located at Alhambra and Whittier, Calif., respectively, and to provide for new quarters; without amendment (Rept. No. 2054); and

H. R. 8170. A bill relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended; without amendment (Rept. No. 2055).

By Mr. JOHNSON of Colorado, from the Committee on Interstate and Foreign Commerce:

S. 2657. A bill to amend the act of June 28, 1944 (ch. 294, title III, 58 Stat. 414); with amendments (Rept. No. 2058).

S. 2815. A bill to amend the Federal Airport Act in order to extend the time during which requests may be made for reimbursement damages to public airports resulting from military operations; with amendments (Rept. No. 2068).

By Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce:

S. 3438. A bill to extend the provisions of the act of May 20, 1926, as amended, so as to further regulate the interstate shipment of fish; without amendment (Rept. No. 2056); and

S. J. Res. 166. Joint resolution to extend the time for use of construction reserve funds established under section 511 of the Merchant Marine Act, 1936, as amended; without amendment (Rept. No. 2057).

By Mr. McCARRAN, from the Committee on the Judiciary, without amendment:

H. R. 850. A bill for the relief of Mary Isumi (Rept. No. 2059);

H. R. 880. A bill for the relief of Giuseppe Biolzi (Rept. No. 2060);

H. R. 5618. A bill for the relief of Young Wai Kit (Rept. No. 2061);

H. R. 6278. A bill for the relief of Samuele Rossi (also known as Renato Rossi (Rept. No. 2062);

H. R. 6978. A bill for the relief of Gerald A. and Lynn W. Roehm (Rept. No. 2063);

H. R. 6983. A bill for the relief of Gevork Zohrab Bandarian (Rept. No. 2064);

H. R. 7667. A bill for the relief of Marie Luise Elfriede Steiniger (Rept. No. 2071);

H. R. 7833. A bill for the relief of Prof. Werner Richter and Prof. Max Horkeimer (Rept. No. 2065); and

H. R. 7850. A bill for the relief of Leopold Laufer and Elfriede Laufer (Rept. No. 2066).

By Mr. PASTORE, from the Committee on Post Office and Civil Service:

S. 3435. A bill to authorize the Postmaster General to provide for the use in first- and second-class post offices of special canceling stamps or postmarking dies in order to encourage voting in general elections; without amendment (Rept. No. 2069).

By Mr. MURRAY, from the Committee on Labor and Public Welfare:

S. 2300. A bill to authorize the Commissioner of Education to encourage the further development and growth of the educational drama and music programs in the State and land-grant and other accredited nonprofit colleges and universities, and for other purposes; with amendments (Rept. No. 2072).

By Mr. HUMPHREY, from the Committee on Labor and Public Welfare:

S. 2999. A bill to amend the Labor Management Relations Act, 1947, so as to provide a more effective method of dealing with labor disputes in vital industries which affect the public interest; with amendments (Rept. No. 2073).

By Mr. HUNT, from the Committee on Armed Services:

H. R. 8222. A bill to authorize the loan of certain naval patrol-type vessels to the Government of Japan; without amendment (Rept. No. 2074).

By Mr. McCLELLAN, from the Committee on Government Operations:

H. R. 5350. A bill to amend further the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes; with amendments (Rept. No. 2075).

INCREASE IN LIMIT OF EXPENDITURES FOR HEARINGS BEFORE COMMITTEE ON ARMED SERVICES—REPORT OF A COMMITTEE

Mr. RUSSELL. Mr. President, from the Committee on Armed Services, I report an original resolution increasing the limit of expenditures for hearings before the Committee on Armed Services.

The VICE PRESIDENT. The resolution will be received and, under the rule, referred to the Committee on Rules and Administration.

The resolution (S. Res. 347), reported by Mr. RUSSELL from the Committee on Armed Services, was referred to the Committee on Rules and Administration, as follows:

Resolved, That the Committee on Armed Services is hereby authorized to expend from the contingent fund of the Senate, during the Eighty-second Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134 (a) of the Legislative Reorganization Act approved August 2, 1946.

REPORT ON STUDY OF COMMODITY CREDIT CORPORATION RELATING TO STORAGE AND PROCESSING ACTIVITIES (S. REPT. NO. 2048)

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted, pursuant to Senate Resolution 256, authorizing the Committee on Agriculture and Forestry to investigate storage and processing activities of the Commodity Credit Corporation and alleged dealings in gas and oil interests by employees of the Farm Credit Administration, a report on the study of Commodity Credit Corporation relating to storage and processing activities, which was ordered to be printed.

PARTICIPATION OF SMALL BUSINESS IN MILITARY PROCUREMENT—REPORT OF A COMMITTEE (S. REPT. NO. 2070)

Mr. MOODY, from the Select Committee on Small Business, submitted a report on the participation of small business in military procurement, which was ordered to be printed, with illustrations.

DISPOSITION OF SURPLUS PROPERTY, JEFFERSON BARRACKS, MO.—INTERIM REPORT OF A COMMITTEE (S. REPT. NO. 2049)

Mr. HOEY. Mr. President, from the Committee on Government Operations, I submit, pursuant to S. Res. 251, authorizing the Committee on Expenditures in the Executive Departments, now the Committee on Government Operations, to carry out certain duties, an interim report, relating to the disposal of surplus property at Jefferson Barracks, Mo. It is a unanimous report which the Permanent Subcommittee on Investigations has made to the Committee on Government Operations concerning its investigation into the sale of Government-owned surplus property at Jefferson Barracks, Mo. This subcommittee, since its creation in 1948, has made a number of investigations into the improper activities of influence peddlers in government. The subcommittee has also made a number of reports to the Senate dealing with the same subject. I am of the opinion that these inquiries which have spotlighted the corrupt and improper activities of these peddlers of influence have assisted in alerting the Congress and the public to the problem which existed. The subcommittee from time to time has also made various recommendations and suggestions with a view of curtailing and, if possible, eliminating the influence racket.

The VICE PRESIDENT. The report will be received and printed.

Mr. HOEY. Mr. President, as a result of our investigation into the sale of certain surplus property at Jefferson Barracks, which is covered in the report just submitted to the Senate, and in the light of other inquiries by our staff, the subcommittee has found that our criminal laws are not adequate to deal with these influence peddlers. Therefore, on behalf of myself, the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Kentucky [Mr. UNDERWOOD], the Senator from Wisconsin [Mr. MCCARTHY], the Senator from South Dakota [Mr. MUNDT], and the Senator from California [Mr. NIXON], I introduce for appropriate reference a bill which is designed to strengthen our criminal laws in this regard. I am happy to point out that each of the other six Members of the Senate Permanent Subcommittee on Investigations has joined with me in cosponsoring this bill.

The bill would invoke criminal penalties against, first, those who would engage in actual influence peddling; second, those who would hire or attempt to hire influence peddlers; and, third, those who would solicit business for an influence peddler.

The criminal penalty in this bill is a $5,000 fine or 2 years in prison, or both. In addition there is a civil penalty providing for the recovery of triple damages in those cases where persons offer or actually pay money to influence peddlers. There is also an informer section in this proposed statute which is very similar to the informer sections found in our internal revenue and similar laws.

While I realize that it is too late in this session of Congress for any positive action to be taken on the bill, I and the other members of the subcommittee are of the opinion that the passage of this or similar legislation will serve as a strong deterrent to those who would engage in the business of selling or buying influence in Government affairs. The purpose in introducing the bill at this time is to give the Congress opportunity to study this proposed legislation prior to the next session of Congress.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill (S. 3450) to safeguard the operations of Government agencies from certain pernicious influences, and for other purposes, introduced by Mr. HOEY (for himself and other Senators), was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That (a) chapter 11 of title 18 of the United States Code, entitled "Bribery and Graft," is amended by inserting at the end thereof the following new section:

"§ 224. Payment or acceptance of consideration for exertion of improper influence upon Government officer or employee:

"Whoever, directly or indirectly, offers, gives, or agrees to give to any other person any money or thing of value for attempting, purporting, promising, or undertaking to exert improper influence upon any officer or employee of the United States with respect to his performance or nonperformance of any act incident to his official duty relating to any official matter; or

"Whoever, directly or indirectly, receives or consents or agrees to receive from any other person any money or thing of value for attempting, purporting, promising, or undertaking to exert on behalf of such other person any improper influence upon any officer or employee of the United States with respect to his performance or nonperformance of any act incident to his official duty with respect to any official matter; or

"Whoever, directly or indirectly, solicits or procures the payment or transfer to any person of any money or thing of value by any other person for attempting, purporting, promising, or undertaking to exert, on behalf of such other person, any improper influence upon any officer or employee of the United States with respect to his performance or nonperformance of any act incident to his official duty with respect to any official matter—

"Shall be fined not more than $5,000 or imprisoned not more than 2 years, or both.

"As used in this section—

"(a) the terms 'person' means any individual, corporation, partnership, firm, association, trust, or other legal entity;

"(b) the term 'improper influence' means influence (1) arising from a personal, business, professional, fraternal, or political relationship asserted by any person to exist, directly or indirectly, between such person and any officer or employee of the United States, and (2) asserted by such person to be or to have been effective to obtain, from or through the intervention of such officer or employee, with respect to any official matter (A) special, more expeditious, or more favorable consideration or action than that obtainable in the ordinary and regular conduct of public affairs, or (B) action, decision, or disposition more favorable than that warranted by the merits of such matter;

"(c) the term 'official matter' includes—

"(1) the actual or proposed execution of any contract or commitment by any agency of the United States;

"(2) the actual or proposed procurement of any property of any agency of the United States;

"(3) the actual or proposed sale or disposition of any property by any agency of the United States;

"(4) any claim of or against the United States;

"(5) any loan or other financial assistance by any agency of the United States; and

"(6) any question, matter, cause, proceeding, or controversy pending for decision or determination before any court or agency of the United States; and

"(d) the term 'property' includes any interest in real or personal property, and the rendition of service other than the personal services of one individual."

(b) The section analysis appearing in such chapter is amended by inserting at the end thereof the following:

"224. Payment or acceptance of consideration for exertion of improper influence upon Government officer or employee."

SEC. 2. (a) Any person who offers, gives, or agrees to give to any other person, or who receives, or consents or agrees to receive from any other person, any money or thing of value in violation of section 224 of title 18 of the United States Code shall be liable to pay to the United States a penalty in an amount equal to three times the amount or value of such money or thing of value.

(b) Such penalty may be recovered in a civil action brought by the United States in any district court for a judicial district in which the defendant resides, is found, or transacts business, and all process in any such action may be served in any such district. In any such action subpenas issued by such court may run into any other judicial district.

(c) Any person who furnishes to the Attorney General, any officer or employee of the Department of Justice, or any United States attorney original information leading to the recovery from any other person of any penalty under this section may be awarded and paid by the Attorney General from the amount so recovered a compensation equal to 10 percent of the penalty so recovered.

(d) As used in this section, the term "person" means any individual, corporation, partnership, firm, association, trust, or other legal entity.

BILLS INTRODUCED

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

By Mr. CARLSON:

S. 3449. A bill to provide for the issuance of a special postage stamp in commemoration of the establishment of the Chicago, Rock Island & Pacific Railroad Co.; to the Committee on Post Office and Civil Service.

By Mr. HOEY (for himself, Mr. MCCLELLAN, Mr. HUMPHREY, Mr. UNDERWOOD, Mr. MCCARTHY, Mr. MUNDT, and Mr. NIXON):

S. 3450. A bill to safeguard the operations of Government agencies from certain pernicious influences, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. HOEY when he introduced the above bill, which appear under a separate heading.)

By Mr. BRICKER:

S. 3451. A bill to provide for the issuance of a special postage stamp in honor of Henry Holcomb Bennett and in commemoration of Flag Day, 1953; to the Committee on Post Office and Civil Service.

By Mr. MURRAY:

S. 3452. A bill for the relief of Svetoyar Peodorovic; to the Committee on the Judiciary.

By Mr. CASE:

S. 3453. A bill to credit the Oglala Sioux Tribe with the proceeds of Oglala Sioux tribal lands; to the Committee on Interior and Insular Affairs.

By Mr. SALTONSTALL:

S. 3454. A bill for the relief of Vesa Reijo Luukkonen; to the Committee on the Judiciary.

By Mr. MURRAY (for himself and Mr. HUMPHREY):

S. 3455. A bill to establish a program of financial aid to students in higher education, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. MURRAY when he introduced the above bill, which appear under a separate heading.)

By Mr. HENNINGS:

S. 3456. A bill providing for the construction of a highway and appurtenances thereto, traversing the Mississippi Valley; to the Committee on Public Works.

By Mr. LEHMAN:

S. 3457. A bill for the relief of Francisco Alvarez Suarez; to the Committee on the Judiciary.

PROGRAM OF FINANCIAL AID TO STUDENTS IN HIGHER EDUCATION

Mr. MURRAY. Mr. President, on behalf of myself and the Senator from Minnesota [Mr. HUMPHREY], I introduce for appropriate reference a bill to establish a program of financial aid to students in higher education, and for other purposes. I ask unanimous consent that a brief summary of the bill be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and apppropriately referred, and, without objection, the summary will be printed in the RECORD.

The bill (S. 3455) to establish a program of financial aid to students in higher education, and for other purposes, introduced by Mr. MURRAY (for himself and Mr. HUMPHREY), was read twice by its title, and referred to the Committee on Labor and Public Welfare.

The summary presented by Mr. MURRAY is as follows:

SUMMARY OF THE PROPOSED STUDENT AID ACT OF 1952

Under the bill, Federal aid would be made available to selected students in higher education in the form of scholarship stipends. The bill would also provide for Federal insurance of loans to students made by institutions of higher education. The institution, however, could assign its rights under such insurance to a financial institution as security to obtain funds for making loans to students.

Any high-school graduate would be eligible to apply for a scholarship. From among those applying, those showing greatest promise would be granted certificates showing that they are American scholars. Stipends would be granted to the neediest among these scholars, the amount of the stipend varying with the demonstrated need of the recipient, but not exceeding $800 per academic year. The recipient could attend any bona fide college or university of his choice which admits him; and so long as he continued in good standing at the educational institution, his stipend would be paid directly to him in installments suited to the demands of the academic year.

During a time of active hostilities or when found by the President to be necessary in the interest of national defense, at least 60 percent of the stipends must go to students engaging in studies which are determined in a manner prescribed by the President to be related to the national defense or defense-supporting activities. Scholars receiving stipends thus earmarked must, in general, continue their studies in the designated fields if they wish to continue receiving their stipends.

The stipends are subject to annual renewal for the normal course of time necessary to complete the work for the first post-high-school degree, the amount of the stipend being fixed each year in terms of the financial need of each student.

The bill would authorize appropriations not exceeding $32,000,000 for scholarship stipends for the fiscal year 1953, $64,000,000 for the next year, $96,000,000 for the third year, and $128,000,000 thereafter. Each State would be allotted a proportionate share of the funds available each year, the amount being based on the number of high school graduates in the State and the number of youths between the ages of 18 and 21. The number of persons aided would depend on the amount of money appropriated by Congress; but the bill contemplates that when the program is in full operation approximately 50,000 to 60,000 men and women will enter college or university each year with the aid of Federal stipends of varying amounts.

Scholarship commissions in each State would receive applications from students, conduct the objective examinations to select the abler among the applicants, assess the financial need of those qualifying as scholars, and certify to the Commissioner of Education the persons eligible to be certified as scholars and those among the able whose financial need justifies the payment of a stipend, with the amount of the stipend in each case.

A national council on student aid, composed of twelve persons representative of individual, organizational, and professional interests in education and of the public, would advise and assist the Commissioner in the development of principles to guide the State commissions in the selection of persons for scholarship certificates and stipends, and on other important policy matters arising in the administration of the act. Provision is also made for consultation between the Office of Education and the various Federal agencies, such as the Atomic Energy Commission, the National Science Foundation, and the Department of Defense, which operate special programs of aid to undergraduate and graduate students. The bill is so drawn as to assure full coordination of the Federal scholarship program with other federally supported programs which aid students in higher education, such as the proposed ROTC program.

The loan insurance program would eventually be self-financing, with the participating colleges and universities paying insurance premiums in to a revolving fund established in the United States Treasury out of which 80 percent of the loss on each insured student loan would be paid. The interest rate charged the student would be geared to the average interest paid on marketable United States Treasury obligations (now between 2¼ and 2½ percent). The institution would be permitted to charge the student this rate plus an additional amount of not more than 1 percent, plus the insurance premium charged by the Federal Government one-half percent or less), maximum of about 4 percent.

The student would not have to start repaying the principal of his loan until 4 years after he completes his education, and then would be given an additional 6 years to repay it. The institution could charge an additional 1 percent interest beginning at the time payments on the principal become due.

With their losses thus insured by the Federal Government, it is expected that the educational institutions would have no difficulty in borrowing money from banks or other financial institutions with which to make loans to students. They could if they wished use their own funds or student loan funds over which they have control.

Any student would be permitted to borrow from educational institutions up to $600 a year and up to $2,400 in the aggregate. The total principal amount of new loans to students covered by insurance under the act in any fiscal year would be limited to $10,000,000.

CONTINUATION OF CERTAIN STATUTORY PROVISIONS—AMENDMENT

Mr. MURRAY. Mr. President, I submit an amendment intended to be proposed by me to the joint resolution (S. J. Res. 165) to continue in effect certain statutory provisions for the duration of the national emergency proclaimed December 16, 1950, and 6 months thereafter, notwithstanding the termination of the state of war. The joint resolution is on the calendar. I ask unanimous consent that a brief explanation of the amendment be printed in the RECORD.

The VICE PRESIDENT. The amendment will be received and printed, and will lie on the table; and, without objection, the explanation will be printed in the RECORD.

The explanation is as follows:

EXPLANATION OF AMENDMENT

Senate Joint Resolution 165 was reported favorably on June 12, but it was set aside by the action of the Senate in amending a similar House resolution, House Joint Resolution 477. Subsequently, however, the Senate conferees on this measure yielded on all of their amendments. Among these amendments was one which would authorize temporary continuation of the military status and benefits for the commissioned corps of the Public Health Service. This same authorization is included in Senate Joint Resolution 165 as item 9, lines 18–19 on page 3. The sole purpose of the proposed amendment is to extend this authority relating to the Public Health Service in the same manner and for the same period of time as provided for the other emergency powers covered by the conference report on House Joint Resolution 477.

For many years commissioned officers of the Public Health Service have been appointed, paid, promoted, and retired under laws identical or similar to those applicable to officers of the medical departments of the Army and Navy. Since World War II Public Health Service officers have also been extended military status and military benefits on a par with members of the other armed services.

It is essential that these physicians, dentists, research scientists, sanitary engineers, and public health administrators continue to be so treated. They are subject to discipline, they can and are ordered to undersirable posts of duty on a moment's notice; they are key men in the defense against bacteriological warfare; and they could, almost without exception, earn far more in private life than they are now getting. They have been successfully recruited largely because, as commissioned officers of the Public Health Service, they would be treated on the same basis as their opposite numbers in the Army and Navy.

The principal individual benefits which are derived from military status are widow's benefits, Government life insurance, the death gratuity, and the uniform allowance for junior officers. Loss of military status for the commissioned corps of the Public Health Service would mean the loss of all these benefits for its 2,500 officers. In effect, the Public Health Service would then be the only one of the uniformed services without some type of death benefit.

Inasmuch as these authorities are currently in effect, there would be no additional appropriations required to support the comparatively minor expenditures authorized by the provisions of this amendment.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED OR PLACED ON THE CALENDAR

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

H. R. 1126. An act for the relief of Erkki Mainio Sakari Salo;

H. R. 1159. An act for the relief of Mrs. Helga Josefa Wiley;

H. R. 1707. An act for the relief of Frederick George Boughton;

H. R. 1711. An act for the relief of Mrs. Margaret D. Surhan;

H. R. 2075. An act for the relief of the A. C. Israel Commodity Co., Inc.;

H. R. 2171. An act for the relief of Robert E. Robinson and Gerald L. Harris;

H. R. 2181. An act for the relief of the Trust Association of H. Kempner;

H. R. 2217. An act for the relief of Alfonso Gatti;

H. R. 2352. An act for the relief of Mrs. Tova Tanoue;

H. R. 2601. An act for the relief of Mrs. Olympia Cuc;

H. R. 2780. An act for the relief of Clara Gabriel;

H. R. 2898. An act for the relief of Mr. and Mrs. Joseph W. Furstenberg;

H. R. 2972. An act for the relief of Harold Joe Davis;

H. R. 3268. An act for the relief of Mrs. Jane P. Myers;

H. R. 3426. An act for the relief of Sui Kin Chun;

H. R. 3502. An act for the relief of Arthur Staveley;

H. R. 3523. An act for the relief of Mrs. Lau Hong Shee;

H. R. 4296. An act for the relief of the legal guardian of Franklin Jim, a minor;

H. R. 4398. An act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims of the Columbia Basin Orchard, the Seattle Association of Credit Men, and the Perham Fruit Corp.;

H. R. 4561. An act for the relief of Norberto Linaza Yrigoyen and Maria Josefa Maseda Lopez;

H. R. 4760. An act for the relief of Irene Proios (nee Vahianos);

H. R. 4841. An act for the relief of James Oliver Farlow;

H. R. 4909. An act for the relief of Arthur J. Boucher;

H. R. 5180. An act for the relief of Jungo Tsutsumi;

H. R. 5206. An act for the relief of Gregg Ted Lewis;

H. R. 5207. An act for the relief of Julio Mercado Toledo;

H. R. 5435. An act for the relief of Heinz Karl Doege;

H. R. 5519. An act for the relief of Mrs. Agnes Trukett;

H. R. 5618. An act for the relief of Young Wai Kit;

H. R. 5841. An act for the relief of Winston Bros. Co. and the Utah Construction Co.; Roy L. Bair & Co. and James Crick & Sons; J. A. Terteling & Sons, Inc.; and T. E. Connolly, Inc.;

H. R. 6515. An act for the relief of Tracy Ann Corley (Elisabeth Lecorche);

H. R. 6712. An act for the relief of Hisami Yoshida;

H. R. 6788. An act for the relief of Mrs. Muriel J. Shingler, doing business as Shingler's Hatchery;

H. R. 6903. An act for the relief of Rose Martin;

H. R. 6904. An act for the relief of Kiyoshi Nabeshima;

H. R. 6915. An act for the relief of Raymond Scott Hill;

H. R. 6938. An act for the relief of Wong Gook Ying;

H. R. 6942. An act for the relief of Junko Arima and Yuri Arima;

H. R. 6969. An act for the relief of Bozie Lincoln Donalson;

H. R. 6978. An act for the relief of Gerald A. and Lynn W. Roehm;

H. R. 6983. An act for the relief of Gevork Zohrab Bandarian;

H. R. 7054. An act for the relief of Miyako Toda;

H. R. 7094. An act for the relief of Pio Valensin;

H. R. 7565. An act for the relief of Anna Bosco Lomonaco;

H. R. 7665. An act for the relief of Annalyn Earley;

H. R. 7667. An act for the relief of Marie Luise Elfriede Steiniger;

H. R. 7713. An act for the relief of Gisela Helen Snowdy;

H. R. 7833. An act for the relief of Prof. Werner Richter and Prof. Max Horkheimer;

H. R. 7850. An act for the relief of Leopold Laufer and Elfriede Laufer; and

H. R. 8163. An act for the relief of Hildegard Hobmeier; to the Committee on the Judiciary.

H. R. 6274. An act to authorize the issuance of a patent in fee to Charles I. Chattin;

H. J. Res. 8. Joint resolution to authorize and direct the Secretary of the Interior to study the respective tribes, bands, and groups of Indians under his jurisdiction to determine their qualifications to manage their own affairs without supervision and control by the Federal Government; to the Committee on Interior and Insular Affairs.

H. R. 7817. An act to provide for emergency flood-control work made necessary by recent floods, and for other purposes; to the Committee on Public Works.

H. R. 1758. An act to amend section 824 of the Code of Laws for the District of Columbia; and

H. R. 7477. An act for the relief of Carol R. Gray; ordered to be placed on the calendar.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. WILEY:

Address entitled "Economic Problems of the Free World," delivered by George A. Sloan, chairman, United States Council of the International Chamber of Commerce, over the coast-to-coast network of the Columbia Broadcasting System, on Thursday, June 5, 1952.

By Mr. SMITH of New Jersey:

Article entitled "A 25-Year Job Ahead in Europe," published in U. S. News and World Report for July 4, 1952, being an interview with David Lawrence by the staff of the U. S. News and World Report concerning his visit to Europe.

By Mr. CAPEHART:

Winning essay entitled "The Importance of the Investor in our National Economy," submitted by Miss Laura Coburn, of Truth or Consequences, N. Mex., in national high school essay contest conducted by the Investors' League.

By Mr. IVES:

Editorial entitled "Mr. Stephens Retires," published in the New York Times of June 30, 1952.

By Mr. BENTON:

Article entitled "We Can Prosper Without War Orders," written by J. K. Galbraith,

professor of economics at Harvard University, and published in the New York Times Magazine for June 22, 1952.

By Mr. BUTLER of Nebraska:

Report by Mrs. James M. Northrup, radio and television chairman, to Convention of General Federation of Women's Clubs, Omaha, Nebr., May 15, 1952.

DEFENSE PRODUCTION ACT OF 1952 — CORRESPONDENCE WITH MR. DONALD PENDLETON, VICE CHAIRMAN, SALARY STABILIZATION BOARD

Mr. IVES. Mr. President, yesterday I had occasion to have an exchange of correspondence with Mr. Donald Pendleton, Vice Chairman of the Salary Stabilization Board, with reference to certain language offered by me during the conference on the Defense Production Act amendments of 1952 having to do with section 403 (c), which is the section that sets forth the functions of the Salary Stabilization Board.

I ask unanimous consent that, following my remarks, the text of Mr. Pendleton's letter to me and my answer to him be printed in the body of the RECORD. The exchange of correspondence is intended to clarify my purpose in offering the amendment, and I believe it should be made a matter of record so that others who may be interested may have the opportunity to read my interpretation of my amendment.

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

JULY 1, 1952.

HON. IRVING M. IVES,
United States Senate,
Washington, D. C.

MY DEAR MR. IVES: May I request your confirmation of our interpretation of certain language in section 403 (c) of the Defense Production Act as amended by the Defense Production Act amendments of 1952. We understand that this language was offered by you to the joint conference. The language is as italicized in the following quotation:

"(c) Notwithstanding any other provision of this section, the stabilization of the salaries and other compensation of persons (not represented in their relationships *or eligible to be so represented* with their employer by duly certified or recognized labor organizations) employed as outside salesmen or in bona fide executive, administrative, or professional capacities, as such terms are defined in the regulations issued in pursuance of section 13 (a) (1) of the Fair Labor Standards Act of 1938, as amended, or as supervisors, as defined by the Labor Management Relations Act, 1947, as amended, shall be administered by the Salary Stabilization Board and the Office of Salary Stabilization as presently established within the Economic Stabilization Agency, or any successor agency, subject to the supervision and direction of the Economic Stabilization Administrator." (Italics supplied.)

It is our interpretation that the words "or eligible to be so represented" are intended to clarify the continuing jurisdiction of the Wage Stabilization Board over hourly paid and salaried workers who do not fall within the categories specified in the section, regardless of whether or not they are represented by duly certified or recognized labor organizations in their relationships with their employers. Such employees have, of course, always been under the jurisdiction of the Wage Stabilization Board.

If this interpretation is correct we should appreciate a letter from you to that effect.

Very truly yours,

DONALD PENDLETON,
Vice Chairman.

JULY 1, 1952.

MR. DONALD PENDLETON,
Vice Chairman, Salary Stabilization Board, Washington, D. C.

DEAR MR. PENDLETON: This will acknowledge your communication of July 1 in which you request my confirmation of your interpretation of certain language in section 403 (c) of the Defense Production Act, as amended by the Defense Production Act Amendments of 1952.

The underscored language was offered by me to the joint conference and, as you know, was adopted. Your interpretation that the words "or eligible to be so represented" were intended by me to clarify the continuing jurisdiction of the Wage Stabilization Board over hourly-paid and salaried workers who do not fall within the categories specified in the section, regardless of whether or not they are represented by duly certified or recognized labor organizations in their relationships with their employers, is correct.

As you pointed out, such employees have, of course, always been under the jurisdiction of the Board, and it was my intent that they continue to be under the jurisdiction of the newly constituted Wage Stabilization Board.

Sincerely yours,

IRVING M. IVES.

TUNA FISH INVESTIGATION BY TARIFF COMMISSION

Mr. GEORGE. Mr. President, I ask unanimous consent to have printed in the RECORD a notice from the Tariff Commission of a general investigation under the provisions of section 332 of the Tariff Act of 1930, as amended, of the domestic tuna industry, including the effect of imports of fresh or frozen tuna fish on the livelihood of American fishermen. This action has been taken at the request of the Senate Finance Committee.

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

UNITED STATES TARIFF COMMISSION, WASHINGTON—PUBLIC NOTICE—TUNA FISH INVESTIGATION UNDER SECTION 332 OF THE TARIFF ACT OF 1930

By direction of the Committee on Finance of the United States Senate on June 26, 1952, the United States Tariff Commission, on the 30th day of June 1952, instituted a general investigation under the provisions of section 332 of the Tariff Act of 1930, as amended, of the domestic tuna industry, including the effect of imports of fresh or frozen tuna fish on the livelihood of American fishermen.

The purpose of the investigation is to determine the facts relative to the production, trade, and consumption of tuna fish in the United States, taking into account all relevant factors affecting the domestic economy, including the interests of consumers, processors, and producers. Upon completion of the investigation the Commission will submit a report of the results thereof to the Senate Finance Committee. Such report will include a statement of findings as to the effect upon the competitive position of the domestic tuna fishing industry of the present duty-free entry of fresh and frozen tuna.

A public hearing at which all interested parties will be given opportunity to express their views will be held in connection with this investigation. The time and place of such hearing will be announced at a future date.

I hereby certify that the above investigation was instituted by the United States Tariff Commission on the 30th day of June 1952.

DONN N. BENT,
Secretary.

PRINTING OF BRIEFS FOR GOVERNMENT AND OTHERS, AND RECORD FILED IN SUPREME COURT IN STEEL SEIZURE CASE

The VICE PRESIDENT laid before the Senate House Concurrent Resolution 235, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That the briefs for the Government and the companies and the record filed in the Supreme Court of the United States in the steel seizure case (*The Youngstown Sheet and Tube Company et al.*, v. *Charles Sawyer* (Nos. 744, 745)), including such briefs for the United Steelworkers of America, CIO, and the Brotherhood of Locomotive Engineers, et al., as amici curiae, be printed as a House document; and that 3,500 additional copies be printed for the use of the Members of the House of Representatives.

Mr. HAYDEN. Mr. President, I move that the Senate agree to the concurrent resolution.

The motion was agreed to.

PRINTING AND BINDING OF REVISED EDITION OF CANNON'S PROCEDURE IN HOUSE OF REPRESENTATIVES

The VICE PRESIDENT laid before the Senate the joint resolution (H. J. Res. 492) authorizing the printing and binding of a revised edition of Cannon's Procedure in the House of Representatives and providing that the same shall be subject to copyright by the author, which was read twice by its title.

Mr. HAYDEN. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution.

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

FAIR TRADE PRACTICES

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business, H. R. 5767.

The Senate resumed the consideration of the bill (H. R. 5767) 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.

The VICE PRESIDENT. To this bill the Senator from Illinois [Mr. DOUGLAS] has offered an amendment in the nature of a complete substitute. The Senator from Minnesota [Mr. HUMPHREY] has the floor.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask that the order for the quorum call be vacated, and that further proceedings under the call be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. McFARLAND. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield.

Mr. McFARLAND. Perhaps I am an optimist this morning, but I am hopeful that we may conclude consideration of the bill before the day is over. I have talked with the distinguished Senator from Kansas [Mr. SCHOEPPEL] and the distinguished Senator from New Jersey [Mr. HENDRICKSON] and they have agreed to a call of the calendar today as far as they are prepared, if we complete action on the pending bill early enough. That would help us along with our program tomorrow. So I am giving notice that if we should finish with the pending bill in time, the calendar, at least in part, will be called.

AMERICAN MILITARY POLICY IN THE FAR EAST

Mr. STENNIS. Mr. President——

Mr. HUMPHREY. Mr. President, I understand that the Senator from Mississippi wishes to make a few remarks. I ask unanimous consent that he be permitted to speak without losing my right to the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, we should immediately intensify and extend to the division level the training of the Chinese Nationalist troops on Formosa, and give the very highest priority to fully equipping these troops at the earliest possible time for their use on Formosa and in Korea. If communism is to be stopped in Asia, we must develop Asiatic manpower to do the job, and Formosa is the place to begin. I do not intend to renew the argument as to whether or not General MacArthur was right as to these troops. From the evidence it seems clear to me that the troops were not ready for use in April 1951, but they can be made ready for battle action far more rapidly than is now being done. I am confident they would be ready for battle duty and usable in Korea now, and at the same time be able to protect Formosa now, if we had concentrated on this purpose for the last year.

The American people are more than willing to do their part; but it becomes more apparent every day that the American people will not and should not continue indefinitely to furnish the manpower to defeat communism in Asia.

As a definite start, a more extensive and stepped-up training program and eventual use in Korea of the Chinese Nationalist troops now on Formosa should be a No. 1 item in the plan for a continuation of the Korean war. This involves, first, a policy decision by the United Nations. The United States should take the lead with a firm stand for such a policy determination. I am told, but I do not know, that we have not taken this step because of objections in the United Nations; other reasons assigned are that United States policy has been to the contrary. I am not interested in the reasons. I am not interested in blaming anyone. I am interested only in results.

I believe our military department will rapidly forge these soldiers into formidable military strength if given the matériel and heavy equipment. Many divisions with real strength can thus be made ready for action in Korea, and at the same time leave sufficient strength for a proper defense of Formosa.

Recently I noticed an editorial from the Washington Post of June 24 which stated, among other things:

> The most that can be expected of his forces (Chiang's) in any circumstances is that they defend Formosa; and even this, apparently, they are now ill prepared to do.

This statement is not true, because its author has not been sufficiently informed. The truth is that there has never been a firm policy decision made to promptly train and fully equip these men for full-fledged battle action, even on Formosa, much less on Korea. Thus 2 years have been largely lost. I heard General Bradley's statement at a recent closed-session briefing of the Senate Armed Services Committee, and absolutely nothing was said by him which precludes the idea of a stepped-up training and equipping schedule on Formosa and the eventual use of a good portion of these troops on Korea.

The United States Seventh Fleet stands by in defense of Formosa. The United States Air Force can be made available if necessary. The Chinese Nationalist Army even as now constituted presents a strong defense on Formosa in view of the other support. These three facts make Formosa secure from attack. The training and full equipping of the troops on Formosa should have a priority rating equal to any spot in the United Nations, and above that of NATO, because thousands of American men have been dying in Korea, and this is a direct way to substitute actual military forces for some of our men in Korea.

Mr. President, I am informed that the Chinese troops on Formosa have the makings of a splendid army of fighting strength when equipped and trained on a division level. I am informed that their morale is good and that they are willing to fight.

The United States now has more than 3,600,000 men under arms; they encircle the globe. I do not pretend to know the exact number, but we all know that it is above 3,500,000. We are building more and more military installations at many places in the world at a cost of billions of dollars; further billions for maintenance and operations. The cost of much-debated, so-called foreign military aid is far exceeded by the cost and operations of our own military installations in many parts of the world. Our armed services personnel are by far the highest paid of those in any nation in the world. The cost of the salary, clothing, food, medical care and supplies of the average serviceman in the United States is approximately $3,500 per year, while the same cost to our potential and actual enemies is less than $250 per person per year. Including heavy equipment, installations, planes and ships, our military costs per man total $10,000 a year. In addition, we go a long way toward carrying the American standards of living for many of our servicemen abroad, and rightfully have dependency allowances for many of them. Further, each veteran has certain provisions set forth by law that will involve the expenditure of large sums of money for many years to come.

I recite these facts to emphasize that in the years immediately ahead the cost of maintaining such a far-flung network of military power at our own expense is going to be more than our economy can stand. To materially reduce these expenditures, it is going to be necessary to reduce the personnel of our own armed services. Our annual military cost will be staggering as long as our military personnel is large. For these reasons, if for no other, we should concentrate immediately on a plan of rapidly training and completely equipping the Nationalist forces on Formosa.

But there are further reasons. The Communists have built up tremendous military forces in Korea during the recent 12 months of peace talks. The chances for a true peace seem to grow more remote each day. We have furnished approximately 90 percent of the money, approximately 90 percent of the blood, and approximately 90 percent of the casualties so far in this far-away struggle in another continent beyond the Pacific. This is reflected by almost 20,000 graves of United States soldiers made within the two short years since June 24, 1950. In addition, there are 13,000 missing American troops, with only 3,198 of them reported alive by the Communists. In addition to the foregoing, 78,000 Americans carry the scars of actual combat in this war. And in spite of these facts, our enemies now have more troops, more fire power and more destruction arrayed against us in Korea, than at any other time of the war.

The American people always have carried out their part of any agreement, and always will, but we cannot and will not indefinitely carry such an unreasonable share of the burden of the Korean war. We must make plans for the future of the war based on the likelihood that there will be more and further large-scale fighting.

I repeat, this is a matter of high-level policy. The potentialities of extensive military power for use in Korea exist in the Chinese Nationalist troops on Formosa. We have greatly delayed the delivery of matériel and necessary military equipment to the island. We have failed to give the matériel and equipment the priority it deserves. I am told that the delivery of matériel to Formosa is running on approximately the same percentage level as the delivery of matériel for

the military program in Europe. This is not enough. There is not a fighting war going on in Eprope. American men are not dying in Europe. They have been dying by the thousands in Korea. Given the equipment and supplies and high priority, and I believe that our military authorities will soon create a fighting army in Formosa for use in Korea, keeping Formosa safe all the while. I repeat, this is a policy decision to be made by the United Nations under the leadership of the United States.

Specifically, I propose, first, increase the size of the United States military personnel administering training to the Chinese Nationalist troops; second, increase the amount of equipment allotted to these troops so as to include full-scale equipment on a division level; third, make the entire project of training and full battle equipment for these troops a speed-up program of the highest priority; fourth, formulate now whatever policy decisions are necessary for using these Nationalist troops in Korea, when they are properly prepared.

The American people are willing to do their part, but they will not and should not carry indefinitely such a large part of the burden of this war. They will not indefinitely furnish manpower for a war where available manpower from other sources is not made usable.

I wish specially to thank the Senator from Minnesota for his kindness in yielding to me.

Mr. SMITH of New Jersey. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. SMITH of New Jersey. I wish to commend the distinguished Senator from Mississsippi for his statement, with which I am in hearty accord. I ask the Senator whether, from the dollar and cents standpoint, it would not cost us much less to equip the Chinese divisions than it costs to equip our divisions, and would not at the same time provide the additional advantage of giving us Asiatic troops to fight the Communist movement in the Far East?

Mr. STENNIS. The Senator is eminently correct. I do not have a compilation of the figures before me, but I do know that the cost would be far less to train those men up to the fighting division level than it would cost to train and equip our own troops. As the Senator says, we must have Asiatic manpower to help stop the spread of communism in Asia.

Mr. SMITH of New Jersey. I thank the Senator for his splendid statement.

Mr. FLANDERS. Mr. President, I should like to express my great satisfaction that the problem has been so clearly stated on the floor by the Senator from Mississippi. He has posed the problem in the clearest and most comprehensible terms in which it has been stated on the floor in my recollection. I should like to ask the Senator whether he does not believe it to be reasonable, desirable, and even necessary to proceed along political, psychological, and spiritual lines, at the same time we strengthen our military force in Korea.

What I am referring to is the proposals which I have made on the floor from time to time, that the terms of peace should be unilaterally offered and sold to the people of North Korea by every possible means. Does the Senator from Mississippi understand what I have in mind? I am trying to find the word which is related to schizophrenia and expresses the idea that the mind is divided into two halves which never come together. That is the word I am looking for.

Mr. WELKER. Schizophrenia.

The VICE PRESIDENT. It sounds like a paradox to the Chair.

Mr. WELKER. Schizophrenia. It refers to a divided personality.

Mr. FLANDERS. That is the disease. I am looking for the word which explains the mental situation which exists when the disease does not exist. The word I am searching for is "dichotomy."

I shall now return to the subject of my brief remarks, which is that if we think of the problem not as a dichotomy but as a dilemma, and remember that the classic remedy for a dilemma is to grasp both its horns, it seems to me that if we grasp both of the horns of the present dilemma, which are the movement toward peace and a strengthening of our resistance and our capacity to resist, there is hope for peace in the world.

Mr. STENNIS. I certainly appreciate the statement of the Senator from Vermont. In the opinion of the Senator from Mississippi there could not be a stronger moral effect or greater dynamic force working in the Asiatic mind than to have some of the Chinese troops from Formosa actually in combat in Korea. I believe the Chinese and Koreans blend together; they go together and they work together. I believe that something like that is necessary in order to build up a better morale.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may yield to the Senator from Vermont without losing my right to the floor.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

A PROGRAM OF GUARANTEED DISARMAMENT

Mr. FLANDERS. Mr. President, I thank the Senator. I shall not take more than 2 or 3 minutes at the most.

During the last session of Congress a number of Members of the House and the Senate became interested in the program of guaranteed disarmament. Previous to the sessions of the United Nations Assembly in Paris it was finally accepted by our State Department as an American policy. It is evidently a policy involving great difficulty in the formulation of plans and having them accepted. Yet, on the other hand, it has tremendous strength in the fact that there is a deep desire in the hearts of all peoples everywhere that something should be done in the way of guaranteed disarmament.

It had been my intention to speak to this body on the present status of the movement in the United Nations, on its possibilities, its difficulties, and its hopes; but the session is coming to a close, and I shall not be able to do so.

I have been fortunate enough to find in the magazine Atomic Scientists News for May 1952, such a good review of the subject on which I had hoped to speak, that I ask unanimous consent that the article be printed in the body of the RECORD at this point as part of my remarks.

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

PROSPECTS FOR THE UNITED NATIONS DISARMAMENT COMMISSION

(By Robert W. Frase)

The international control of atomic energy and the reduction and control of other armaments are now to be treated as integral parts of one general problem by the new Disarmament Commission of the United Nations, established by the General Assembly in January 1952. Are the prospects for progress any better in the new Commission than they were in the two previous separate U. N. Commissions on Atomic Energy and Conventional Armaments, which reached an impasse about 3 years ago and have been marking time since then?

Realistically considered, even the most optimistic possible answer would be that the new Commission has the advantage of more rational terms of reference, but this advantage may be more than counterbalanced by the present state of international suspicion and distrust. The debates in the last U. N. Assembly strongly suggest that the creation of the Disarmament Commission was more an incident in the propaganda battle than the reflection of a belief that negotiated disarmament was a promising way out of the present East-West conflict and arms race. This conflict has now become such an all-out affair—embracing political, economic and military activities in all quarters of the globe—that it seems unlikely that agreement can be reached to reduce or to sterilize the military aspect of the conflict, and thus in essence to agree to compete only in the political and economic spheres, unless it can be logically demonstrated that this way may be a feasible way out which serves the interests of both parties. Like a law case, or a labor dispute, the parties in conflict will not consider an agreed settlement in place of a court case or a strike unless such settlement offers an acceptable compromise alternative to the uncertainty of total victory.

A HISTORICAL COMPARISON

It may be helpful here to review the essentials of the one example in recent history of an international agreement on arms limitation, which was accepted because it did appear to serve the interests of the signatory powers, the Washington Treaty of 1922. There were a number of reasons why it was possible to conclude this treaty to limit major naval vessels whereas other disarmament efforts have thus far failed. The negotiations took place and agreement was reached soon after the close of the First World War and before new power rivalries became intense. All three major parties—the British, Americans, and Japanese—were then on relatively good terms; their interests were not yet in acute conflict in any part of the globe. The limitation of major naval vessels seemed to offer a way of perpetuating this state of affairs, and at the same time to save each of the parties a large amount of money.

Given the then existing state of military technology and the geographical situation of the three principal parties, the limitation of major naval vessels made each of the three militarily supreme in the area of its major

interest—Britain in the Commonwealth, Japan in the Western Pacific, and the United States in the Western Hemisphere. Even if any two of the parties had combined their naval forces permitted under the Treaty, the position of the third party in its home waters would, with the aid of its fortified bases, have been relatively strong. All these circumstances combined to create the one historical case in which arms limitation seemed to be the obvious and natural solution for the problems of each of the major parties at interest.

THE PRESENT AND PROSPECTIVE BALANCE OF POWER

The current prospects of reaching an arms limitation agreement appear far less promising than at the time of the Washington Treaty. The present balance of power is so complex that there is no relatively simple way—as there was in the case of the Washington Treaty—of substituting an agreement for a lower level of armaments for the present competition in arms. However, analysis of the present and prospective power balance does tend to show that victory for either side is by no means assured, that the present competition in arms has no discernible "natural" stopping point and that a war might well lead to the exhaustion and impoverishment of all the major participants. Thus there would appear to be a rational reason for both sides to explore seriously what might be worked out in the way of an arms limitation agreement, even though this might be a lengthy process with no simple formula now in sight.

There is and has been since the end of World War II a certain balance of power as between Russia and her satellites and the West. It is a new kind of military balance, but it has shown a considerable durability in surviving crises like the Berlin dispute and the Korean war. In Europe, the most important and active area of conflict, this balance has consisted essentially of United States air-atomic power against the superior ground forces of the U. S. S. R. Since about two or three years after the close of World War II, the Red army has been in a position to overrun all of continental Europe and the United States has presumably had the power to destroy most of the major Russian cities and industrial centers by atomic bombing. Thus the Russians could not have moved on Europe except at the probable cost of losing their cities and major industries.

In the last 2 years this power balance has been changing and becoming more complicated, and it promises to become even more so. The West has been aware, especially since the first Soviet atomic test in the autumn of 1949, that its atomic advantage might become relatively less great—not only by the growth of the Soviet atomic stockpile, but by increased Russian defensive strength in interceptor jet aircraft, antiaircraft artillery and radar warning systems. There might thus conceivably come a time when the Russians could inflict about as much atomic damage on some partners in the Western alliance as they would receive in a war; and this might encourage the Politburo to move aggressively against continental Europe in the expectation that the threat of Soviet atomic retaliation would prevent Western use of atomic weapons.

But if Russia could catch up in the atomic field, so could the West in the field of ground forces and supporting tactical air forces in Western Europe. Western Europe, through NATO, could build a ground defensive force capable of preventing the occupation of Europe by the Red Army. Thus the simple postwar balance of United States air-atomic power against the Red Army would be replaced by a dual balance: Western ground forces against Eastern ground forces and Western air-atomic power against Eastern air-atomic power.

The Russians have obviously not appreciated the prospect of this new dual balance of power. Presumably they do not care about balance and would prefer to have a preponderance of power on their side. Perhaps they may fear that if Western Germany were rearmed and allied with the West they could not match the West on the ground. Or they may feel that they can never quite come up to the West in the air-atomic field with a much smaller total industrial capacity and more restricted access to world uranium deposits than the West possesses.

At any rate, the Soviets have been endeavoring to weaken the Western effort to achieve a new dual balance by a fairly complicated series of military and political measures. The obvious main points in their strategy appear to be:

1. To increase their ground forces to offset whatever the West is able to build up in Western Europe and thus to continue their superiority in this field.

2. To slow down the development of Western ground forces in Europe by a series of political measures, including their "peace offensives," their use of local Communist Parties to undermine political morale in key countries of Western Europe, and increasingly attractive offers of unification to Germany designed to keep Western Germany from going into the NATO coalition as an armed partner.

3. To sap the military and economic strength of the Western coalition by various political and military activities in other areas of the world, as for example in Indochina and Malaya. These activities could conceivably be stepped up still further. If their Chinese allies were to agree to go all-out, with the help of Russian armaments, in support of the forces opposing the French in Indochina, and continental Southeast Asia were lost to the West, the loss of the tin and rubber from these areas might have a most serious effect, both economically and militarily.

4. To build up Soviet defensive strength in the air as a shield against possible United States atomic bombing. Apparently considerable success has already been achieved in the quantity production of the MIG jet fighter, which although short in range would in good weather be deadly against the large piston-engine bombers which have thus far made up the bulk of the United States long-range atomic bombing fleet. (On the other hand United States atomic production is being vastly expanded and the MIG is presumably ineffective at night or in bad weather; so that on balance the Soviets may not really have caught up much in this area.)

5. To increase Soviet atomic production. There are some reasons to be hopeful that restricted sources of uranium and a limited industrial system strained by other requirements may have held down Soviet atomic-bomb production to a level well below that of the United States. On the other hand for Soviet purposes a much smaller supply of bombs than the United States possesses might prove adequate (1) as a blackmail threat to destroy the large cities of Western Europe, and (2) as a means of preventing the landing of overseas troops in Europe in a war by bombing of ports and amphibious landing operations.

THE CASE FOR ARMS LIMITATION

This analysis of the present and prospective balance of power is sketchy and could be elaborated in much greater detail, but perhaps enough has been said to indicate that this is no simple and easy equation from which it is possible to predict with confidence that the West will surely succeed in its efforts and the Soviets will fail in theirs. If anything the problem promises to become more complex as Germany and Japan regain control of their own destinies and have an opportunity to maneuver to promote their own interests.

Beyond this, and of major importance, it is difficult to see where a stopping point can be reached in competitive armament. There is a unique feature in atomic armament which will tend to perpetuate an arms race indefinitely: unlike other weapons, atomic bombs do not become obsolete or deteriorate. Improved bomb mechanisms may have to be substituted for older models from time to time, but the basic nuclear explosive will last for decades and thus the stockpiles will continue to grow indefinitely. Various published estimates placed the United States production of atomic bombs 2 years ago at 50 to 100 a year. With the apparent improvements in efficiency in the utilization of U-235 and plutonium, and the expansion of production facilities which have since been announced, that production rate may well be tripled or quadrupled by the middle of this decade. The Russians are presumably making every effort to match this production. When it is considered that something of the order of 50 atomic bombs delivered on target would equal the destruction of German cities caused by bombing with conventional explosives in World War II (housing for 7,500,000 persons destroyed) a rough measure is provided of the magnitude of the potential destruction which is being added to year by year in atomic stockpiles.

THE TASK OF THE NEW COMMISSION

This unique feature of an atomic arms race should in itself provide a great incentive to the new U. N. Disarmament Commission to get on with its work; for there seems to be no conceivable way other than by international agreement by which the continued accumulation of these bomb stockpiles can be halted and reversed. Somewhat paradoxically, however, it seems probable that the new Commission will make more progress if it concentrates its initial efforts on the development of an arms reduction and control scheme for nonatomic weapons. Since neither side has put forth any substantive plan for conventional armaments, it may be possible to get ahead here without haggling over hardened points of dispute such as exist in the atomic energy field. This task in itself will be neither easy or short. Some of the work of the League of Nations can be used as a starting point, but military techniques have so changed in the past two decades that the problem must be considered almost de novo.

If a start is made with nonatomic armaments the three basic questions to be explored are:

1. What armaments are to be reduced and controlled? Should an attempt be made to reduce and control everything, setting up a quota for each country in every category from pistols to heavy bombers? Or should reduction and control be limited to major weapons like tanks, heavy artillery, and bombing aircraft? Toward the end of its long deliberations the League of Nations seemed to be moving in the direction of concentrating on the control of major weapons.

2. What arms quotas are to be permitted to the various signatory countries and on what basis are these quotas to be set? The United States delegation at the last Assembly session in Paris suggested using population and national income as a base for setting national quotas of armaments and armed forces. For example, national armies might be limited to 1 percent of total population and armaments expenditure to, say, 5 percent of national income. This proposal might prove as useful a starting point as any but final agreement on quotas would most likely be far more detailed and specific.

3. Once agreement is reached on these two major substantive questions of what

arms are to be limited and what quotas are to be permitted each participating country, it would then be in order to proceed to the questions of implementation. Here the two major points are the timing for the placing of agreed quotas into effect, and the inspection or supervision required to assure that the arms quotas were being complied with. Thus far the discussion and controversy in the U. N. over the past several years—both on conventional armaments and on atomic energy—has revolved almost exclusively around these implementing questions of timing and supervision. There has been no negotiation—and in fact hardly even a proposal by one side or the other—on what arms and armed forces are to be permitted and how much of each is to be allotted to the various signatory countries.

If after thoroughly exploring the problem of limiting and controlling conventional armaments the new Commission turns again to atomic energy, the atomic control problem will almost certainly appear in quite a different light than it did when the old Atomic Energy Commission ceased active work in 1948. If the Russians have agreed to an inspection system which appears adequate to enforce limitations on other armaments, much the same system would probably serve the purpose of policing an atomic control system as well. It would also then be necessary for the Disarmament Commission to take up all the unfinished business of the old AEC. For example, what quotas of atomic production are to be permitted in each country or geographic area? The U. N. Majority Plan is silent on this point—it provides only that there shall be some kind of "strategic balance" in the geographical distribution of atomic production facilities, and hints that until production of electric power by means of atomic energy has proved itself technically and economically, atomic production shall be kept at the level required for research, which is a tiny fraction of the present level. What is to be done with the present atomic stockpiles and the atomic production facilities like the United States plants at Hanford and Oak Ridge and their Russian and British equivalents? The existing large facilities for producing U-235 and plutonium for bombs would probably be worthless or nearly so for the economic generation of electric power by means of nuclear fuel. The Majority Plan has nothing to say on these points either. Finally, is it possible, now that atomic production has proceeded on a substantial scale for some years, to devise a system which can account accurately for all past production of atomic explosive and thus provide reasonable assurance that no significant amount of fissionable material has been secreted away for future aggressive use? This again is a problem of which the Majority Plan takes no special cognizance, and it is a question which grows more serious as the years go by and production increases and stockpiles accumulate. In brief, the U. N. Majority Plan—which is less a plan than a partly completed outline—would require some months of work to complete, to bring up to date, and to fit into a larger program of limiting other armaments and armed forces as well.

SUMMARY

The circumstances surrounding the creation of the new Disarmament Commission were not the most auspicious, but it is some gain that it exists. The problem of creating an artificial balance of power by agreement at reduced level of armaments has perhaps never been more complex and difficult than at this time. Yet it would seem to be in the interest of both sides in the present world conflict to devote serious attention and their best talent to this enterprise.

The present and prospective high-armament balance of power is building up an enormous destructive potential, which could be set off by an accident, a miscalculation, the pressure of internal politics, a minor ally, or a partly irrational man in power like Hitler. Progress is most likely to be made in the Commission by starting with an attempt to develop a modern plan for conventional armaments. The half-finished atomic-control problem could then be taken up in a new perspective in which many of the old points of dispute might prove to be irrelevant.

The new Commission has been handed a long and difficult task if it really works at it, and the effort may come to nothing. On the other hand, this is a very cheap insurance policy for the west and for humanity; it requires the investment of the time of a few first-rate men. The alternative on the most optimistic assumption is some years or decades of a garrison economy for many countries—on the most pessimistic, an inferno which has no historical counterpart.

Mr. HUMPHREY. Mr. President, with the understanding that I do not lose the floor, I yield to the Senator from Arkansas.

REPORT ON KOREA AND THE FAR EAST

Mr. McCLELLAN. Mr. President, one day last week I had the pleasure and privilege of attending a luncheon at the Capitol which was tendered in behalf of a young GI who had just returned from Korea, where he had served for 7 months. The young soldier gave to those of us who were present, including a number of Senators, his version of conditions in Korea, particularly with respect to the morale of our troops and many other conditions related to the war in Korea.

I was so favorably impressed with the young man himself and also with his remarks, his comprehension of the true conditions over there, and his description of them, that at the time I wished that all Members of the Senate might have had the pleasure of hearing his report. Since that was impossible, I asked the young man to give me permission to place in the RECORD a summary of his remarks, so that all Senators and all others interested might have an opportunity to read what he had to say.

Mr. President, I withhold the identity of the young man, although I should like to give it. But he is still in the military service, and for reasons which I deem proper and best, I withhold his identity. But I wish every Senator might have heard his remarks.

I ask unanimous consent that the summary of his remarks be printed in the body of the RECORD, at this point, as a part of my remarks.

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

REPORT ON KOREA AND THE FAR EAST

I. INTRODUCTORY REMARKS

You might be interested in what I found to be the general views of the GI's I was in touch with in Korea, and in some of my own convictions as a result of my service in the Far East. I realize there are aspects of these matters on which you have far more information than I, but nevertheless these GI opinions may prove helpful.

II. GENERAL OPINIONS

A. It was right for us to get into Korea

1. It temporarily saved southeast Asia.

2. We are gaining valuable military experience through it.

3. We are learning how to fight as a United Nations Army. It is a great and historic army fighting in Korea, and I am proud to have been a part of it.

B. Present morale is not too hot

1. There is frustration over the stalemate and the indecision of the peace talks. GI's often turn off the radio in disgust when any mention is made of the peace talks. GI's do not understand why we cannot blockade the Chinese coast effectively, bomb Manchuria, and use at least some troops from Formosa. It seems to them we need to decide whether we are fighting a war or not. If we are, it appears ridiculous to the ordinary soldier that we cannot hit the enemy's source of supply. The danger of spreading the war by such action seems to him to be less than the danger of defeat if we do not take such action.

2. Strikes at home make the GI feel, rightly or wrongly, that people are so preoccupied with their own self-interests, that they seem to have forgotten that we are fighting a war. The shortages due to the shipping strike in New York last autumn could be felt in Korea within 2 weeks.

C. South Korean Army not enough

The training is going ahead well for the ROK Army, and they have fought successfully with our troops. However, it is fairly certain that even a large, well-trained and well-equipped ROK Army could not hold the Chinese Communists alone.

D. The Communists have a superior ideological strategy

They have a united, forceful plan which is ideological as well as military and economic.

This is perhaps best illustrated in the difference between the North and South Korean fighters. The North Korean is usually a fanatical fighter. Some of this is due to the fact that he is forced to fight. However, there is certainly a core of Communists who fight because of their ideology. This was also shown by the incident in Koje.

It is this ideological aspect of the war that America does not seem to understand, nor has she fully developed the weapons to fight this kind of war. The containment of communism alone is far too inadequate a goal for the free nations. Nor is anticommunism alone adequate. We need an ideological strategy to inspire the peoples of Asia to fight for the basic principles of freedom with more passion than the Communists fight for their principles.

III. PERSONAL OBSERVATIONS

A. Morale and moral standards

We could do far more to create high morale in the Army if we fought for a high moral standard. The most obvious example is whether a soldier is expected to live clean.

When this point is brought up, we in the Army say that we try to educate the men through pictures and talks, and show them the consequences of moral laxity. But in the end, we say we must protect the troops by giving them prophylactics. The net result is that the soldier gets the idea that it is expected that he will go out with a woman, and the Army will protect him. Purity is not to be expected. We accept defeat before we even start to fight.

From my observation, most soldiers in Japan have relations with women, and the situation is similar in Korea. These facts are equally true in relation to black-market operations. If we would fight for a high moral standard and live it from the top down, I am sure the troops would respond with a new self-discipline in their lives. This would most certainly lift morale to a new and permanent high and give us an Army in which the American people could have complete confidence and which could tackle any job that came our way.

We need to see the vital relation between morals and morale. This cannot be left to the chaplains or to lectures. It must be the conviction of the whole chain of command.

B. A fighting faith

We need to give the troops a fighting faith We have in the democratic heritage, if we live it, an inspiring goal for men everywhere. Inspired democracy has a moral backbone and it needs the same fight for high moral standards.

I talked frankly with the GI's about these ideas and the need for the strength of God to live them out. I often quoted the statement of William Penn: "Men must be governed by God or they will be ruled by tyrants." I found a very positive response to the challenge of living it out together. I told them that I was an ordinary guy with all the temptations they had and that I made lots of mistakes, but that through moral rearmament I had found a way to live this out, and I found them deeply interested.

C. A winning idea

If we fought in this way for moral standards and a fighting faith, we would have the groundwork for a winning idea and a better ideological strategy. If our Army were ambassadors of this kind, they would inspire far more the South Koreans and be able to win over more Communists.

There is no reason why the American Army should not be ambassadors of inspired democracy in the world.

I know that many of these problems go back to our life at home but in an army there is a real opportunity to take specific steps to change the situation and to give men something really worth living for.

CREATION OF JOINT COMMITTEE ON THE BUDGET—EDITORIAL FROM WASHINGTON POST

Mr. McCLELLAN. Mr. President, will the Senator from Minnesota yield further to me?

Mr. HUMPHREY. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed at this point in the body of the RECORD, as a part of my remarks, an editorial entitled "Road to Economy" which appears in today's Washington Post. The editorial pertains to Senate bill 913 and a companion bill in the House of Representatives, which it is expected the House will consider today. These bills would create a joint committee on the budget.

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

ROAD TO ECONOMY

The House of Representatives will have a chance today to enact a long overdue reform which should bring about real economy in the monstrous costs of Government. This is the Colmer bill, H. R. 7888, creating a joint Senate-House Committee on the Budget. Such a committee would have a staff of experts who could dig into the mountain of Government money requests more effectively than busy Congressmen and Senators can hope to do.

A companion to the Colmer bill, the McClellan bill, has already passed the Senate. In some ways the House version is an improvement; it would, for example, get rid of politics in the appointments of the staff director and deputy director. In other respects the House version may be less practicable than that of the Senate. The important thing now is not for the House to quibble over details, but to pass the bill and let minor differences be ironed out in conference. If Congress enacts this piece of forward-looking legislation before it adjourns, it will be providing a practical means for the economy it has so often preached.

PROPOSED LIMITATION OF TAXICABS IN THE DISTRICT OF COLUMBIA—STATEMENT BY ASSOCIATED TAXICAB OPERATORS, INC.

Mr. NEELY. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement regarding a proposed limitation of taxicabs in the District of Columbia. The statement was prepared by the Associated Taxicab Operators, Inc., and was presented to me this morning, as chairman of the Committee on the District of Columbia, for inclusion in the RECORD.

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

STATEMENT OF ASSOCIATED TAXICAB OPERATORS, INC., REGARDING LIMITATION OF TAXICABS IN DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES, JULY 2, 1952

The Associated Taxicab Operators, Inc., a professional taxicab operators organization, is vitally concerned about the plight of the individual taxicab driver in the District of Columbia, who—because of certain existing conditions—is not able to earn an income adequate to maintain a minimum standard of living.

Although cognizant that this Congress will shortly adjourn, we nevertheless take this opportunity to bring to your attention some of the facts which are causing the taxicab industry in Washington, D. C., great concern.

There are over 10,000 licensed taxicabs in the District of Columbia. This great number—greater than the number in any city in the United States regardless of size—has created a competitive situation in the city that has become desperate. The number has exceeded the saturation point, both from the standpoint of economic interest of the driver and the traffic situation in the city. It is imperative that some legislation be enacted to give the Public Utilities Commission the power to limit and regulate the number of taxicabs operating in the District of Columbia.

In a recent talk to the taxicab drivers at a meeting sponsored by this organization, the Director of Vehicles and Traffic for the District of Columbia, Mr. George E. Keneipp, urged all drivers of taxicabs to operate on the fringe areas of the city when seeking passengers. In order to alleviate the congestion in the downtown areas, which Mr. Keneipp stated had become hazardous because of the number of vehicles on the streets, drivers were requested to cruise in sections of the city where they would be more likely to find passengers.

A recent survey by our local traffic director indicated that about 56 percent of the taxicabs passing a certain point were empty. This means that less than half the taxicabs operating on the streets at the time of the survey were "paying their way."

It is the belief of our organization that one of the major causes of the disproportionate number of taxicabs operating on the streets of Washington is the direct result of the absence of proper legislation empowering the Public Utilities Commission to adequately control and regulate the taxicab industry.

Over 80 percent of the members of the taxicab industry have expressed the desire for some form of limitation and regulation of their industry. This is contrary to the wishes of most industries, but this industry has learned that sometimes it is desirable to have "milestones" to guide it, and to assure that every member has an opportunity to earn an adequate income.

We are asking that when this Congress reconvenes, it make a study of the situation in the taxicab industry in the District of Columbia and determine what measures—legislative or otherwise—should be taken to remedy a situation that has become intolerable to the majority of the taxicab industry members.

FAIR-TRADE PRACTICES

The Senate resumed the consideration of the bill (H. R. 5767) 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.

Mr. DIRKSEN. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield.

Mr. DIRKSEN. I may have to be absent from the Senate at the time when the vote is taken on the fair-trade bill. I feel that I should announce my position on that bill. If I were present and voting, I certainly should support the bill.

I thank the Senator from Minnesota for yielding this time to me.

Mr. HUMPHREY. Mr. President, I wish to continue with the debate which was developing last evening in reference to the pending bill. For a moment I shall summarize some of the arguments I attempted to make last night, and I shall try to place the bill in its proper focus.

First of all, House bill 5767 seeks to do only one thing, namely, to restore, by means of Federal enabling statute, the meaning which I think all the evidence leads one to believe the Congress intended the Miller-Tydings Act to have when it was passed in 1937.

The McGuire bill establishes no new Federal fair-trade policy. It adds nothing whatsoever to the fair-trade acts of the 45 States. It takes nothing away from any of those State acts. It overcomes two court decisions, so that it may be truly regarded as an enabling Federal statute. If we can ever get these points understood generally, I think there will be no argument about this bill.

The pending bill changes no Federal policy. It changes no State law. It adds nothing whatsoever new to the fair-trade policy. It has only one purpose, namely, to clarify a law which the Supreme Court found, by a split decision, not to cover certain practices.

Therefore, Mr. President, the purpose of the pending bill is only to plug the loopholes in the Federal Miller-Tydings Act, which is a measure to enable the States to carry out fair-trade practices.

There is a great hue and cry as to what the bill will do to consumers; but I ask any Member of this body, either present at this time or yet to come to the

floor, to point out to me what was so wrong with the fair-trade program from 1937 to 1951. From 1937 to 1951, it was clearly understood by the Department of Justice, it was clearly understood by the Federal Trade Commission, it was clearly understood by 45 States, it was clearly understood by every agent of this Government, that the fair-trade policy included all fair-trade laws of every State and between the States. Now, all at once, I hear a blistering attack upon the program of fair-trade legislation. I hear that it has been bad for the consumer. I hear that it is a violation of the antitrust laws. Yet, Mr. President, I submit that for 17 years these laws have been in effect. I submit there has been no popular demand that these laws be repealed. In fact, I submit that at this time the State legislatures are passing more laws, rather than fewer; and I submit that during this period of 17 years the policy of Congress has been, in many areas, to make some rules establishing fair competition in the economy.

Mr. WELKER. Mr. President, while the Senator from Minnesota is on that subject, will he inform me how many State legislatures throughout the Nation have passed such fair-trade laws or adopted such fair-trade regulations?

Mr. HUMPHREY. Forty-five of the States.

Mr. WELKER. Forty-five of them?

Mr. HUMPHREY. That is correct.

Mr. WELKER. I thank the Senator from Minnesota.

Mr. HUMPHREY. The first law was passed in 1931 in California. It was clarified in 1933 as the result of a court decision. By the time the Miller-Tydings Act went on the statute books, 42 States already had passed some form of fair-trade-practice law.

Mr. WELKER. Mr. President, will the Senator from Minnesota yield further?

Mr. HUMPHREY. I yield.

Mr. WELKER. Will the Senator from Minnesota be kind enough to point out the three States which have not passed a fair-trade law?

Mr. HUMPHREY. The three States are Vermont, Texas, and Missouri, in addition to the District of Columbia, a Federal jurisdiction.

Mr. McFARLAND. Mr. President, will the Senator from Minnesota yield to me?

Mr. HUMPHREY. I yield.

Mr. McFARLAND. I do not think there has been in the Senate any better friend of the consumer than the distinguished junior Senator from Minnesota. His record will so show. He has tried to keep prices down, by means of price controls. He has supported effective price controls. He has done the things we ordinarily believe to be good for the consumers.

Mr. HUMPHREY. I have tried to do so.

Mr. McFARLAND. Does the Senator from Minnesota think that in the long run this bill will hurt or will help the consumers?

Mr. HUMPHREY. I wish to say with all the sincerity at my command that if I thought this bill in the long run would hurt consumers, I would be opposed to the bill and would fight it.

I honestly believe that this bill, even in the short run as well as in the long run, is good for the consumers in every respect—good in terms of the prices consumers will pay for the commodities they buy, and good for the economy of America in which the consumers will live.

All the Senate is being asked to do by means of this measure is to clarify the law, which seemed to be perfectly clear and was operating well for a period of 15 years. I can place in the RECORD, as I did last night, a statement of the position of the Attorney General of the United States, a statement of the position of the Federal Trade Commission, a statement of the position of lower courts, and a statement of the position of innumerable Government officials, all of whom take the position that the Miller-Tydings Act included action between the States, in the States, and the nonsigners of the so-called contracts between manufacturers and retailers. To make it even more simple, it worked and it worked well. As I look over this body of Senators who represent the various States, I dare say that when they go back to their respective States they will never have a delegation call upon them to suggest that the fair-trade law of any State should be repealed; in fact, I have no doubt that person after person will say to them that the fair-trade laws should be kept on the books.

Mr. President, I have heard about consumers. In the department stores, in the retail establishments, more than 10,000,000 gainfully employed persons are working. These are the people who are the breadwinners for their families. Mr. President, a cut-rate, blind-bird, jungle-law economics operator does not pay his clerks. That is the kind of business that keeps them under poverty wages. It is the kind of operation that calls them to work at 9 o'clock in the morning, sends them home at 10 o'clock because there is no business, and calls them back at 2.

When there is fair trade, Mr. President, there are reasonable rules of competition in the market. There is opportunity for reasonable rules of employment and for reasonable wages and reasonably good living conditions. The simple truth of the matter is that the fair-trade law, by regularizing certain competitive practices, by restraining predatory interests, by making it possible to have some semblance of economic decency in the market place, has been the best friend that the workingman ever had, because the workers—and there are 10,000,000 of them in retail establishments—have for the first time in a long while had a chance for a secure job at reasonably good wages, and have had a chance to know they are not going to be knocked out by some predatory interest that would destroy the entire economic market area, if it could have its way.

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

Mr. HUMPHREY. I yield to the Senator from Idaho.

Mr. WELKER. I have listened to the very learned debate of my friend from Minnesota, and I should like him to tell me, as a Senator from Idaho, what effect this bill will have upon certain giant concerns, say in New York, California, or Illinois, with tremendous buying power, who engage in the merchandizing field and who have gradually come to my State. I am thinking of the small, independent market and the small, independent drug store, which have been a part of the community since the beginning of our State. What effect will this legislation have upon those concerns coming in to compete with our small merchants? I am mindful of the fact that my distinguished friend has covered this subject before, but since this is the start of a new day in the debate, I should like to hear the observations of the Senator in understandable language, so I may send the message to my people at home.

Mr. HUMPHREY. I may say to the Senator from Idaho, in view of the recent Supreme Court decision in the Schwegmann case, and the circuit court of appeals decision in the Wentling case, that if this bill does not pass, small independent merchants of the Senator's State will be at the mercy of any large chain operation that has great financial resources, great opportunities to buy in large markets, and to distribute through many outlets. The small, independent operator will be at the mercy of loss-leader sales, of competition, and competitive practices that can drive him to the wall at any time the big operator wants to do it.

However, if this bill is passed and becomes law, fair-trade standards will give the independent operator in the Senator's State a chance to survive. It will at least give him equality of opportunity in the competitive practices of the market place. It will mean that certain named items will carry a minimum resale price, and whether it is sold in the largest department store in Idaho, or in the smallest retail outlet in Idaho, it cannot be sold below that minimum price, which is a very low price. Such a law will give them a chance to live. It does not guarantee, I may say to the Senator, that the independent operator will survive, but it means that he will not be killed off by unfair, unprincipled practices.

Mr. WELKER. Mr. President, will the Senator yield for another question?

Mr. HUMPHREY. I yield.

Mr. WELKER. Does the Senator agree with me that the action of the Idaho State Legislature, and the legislatures of other States, in adopting fair-trade laws and a minimum-profit law—6 percent in Idaho, as I understand—was solely and fundamentally for the purpose of protecting the small independent merchants who have to exist by virtue of doing business in competition with the giant concern?

Mr. HUMPHREY. There is no doubt about that.

Mr. WELKER. I thank the Senator.

Mr. HUMPHREY. There is no doubt about it, and that is what has happened in 45 States. The legislatures of those States are relatively close to the people,

and it is entirely true that the State legislatures have made a safe political and policy decision in saying, "We believe it is important for Idaho, Minnesota, Michigan, and Arizona that independent enterprise be maintained as a part of the American economic and political structure." I believe so, too. I say that the consumer will be letting himself into a fool's paradise if he allows an economic policy crowd out hundred of independent merchants, only to see the market gobbled up by one or two large outfits. We will then see who sets the prices. There will be no competition?

Mr. WELKER. Mr. President, will the Senator yield for one further question.

Mr. HUMPHREY. I yield.

Mr. WELKER. The Senator will agree with me, and, I think, all the other sponsors of this bill, that we are interested in protecting the consumer as well as everyone else.

Mr. HUMPHREY. That is correct.

Mr. WELKER. But is it not a fact that when the giant store uses the device of a loss leader, as we have observed them do time after time, it will make up the loss on the next item the consumer buys?

Mr. HUMPHREY. Mr. President, the Senator has put his finger on the fallacy of the argument advanced by the opposition last night. Perhaps for the purpose of showing the difference between fair-trade prices and non-fair-trade prices, the difference between fair-trade prices and cut-rate or loss-leader prices was recited. An effort was made to get the United States Senate to believe that these cut-rate prices were uniform throughout the United States, and that every small store in the United States was giving away Alka-Seltzer or mixmasters, when, in fact, every time a store gives something like that away, it recovers the loss on some other article. It can be proved statistically that when there are loss-leader items in a business establishment, the gross profit on other items is stepped up.

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

Mr. HUMPHREY. I yield.

Mr. WELKER. The Senator from Minnesota does not know does he, of many small merchandising concerns that engage in the practice of giving away anything to the consumer?

Mr. HUMPHREY. I want to say to the Senator that any merchant who engages in the practice of giving away things and can still continue in business, still pays overhead, still pay his employees, and still maintain his family, is a merchant that does not exist.

Mr. WELKER. I thank the Senator.

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

Mr. HUMPHREY. I yield to the Senator from Michigan.

Mr. MOODY. I have been very much interested in this colloquy. The Senator from Minnesota has just answered the very question I was going to ask, as to whether, in the long run, it would be damaging to the interests of the consumer if a situation were allowed to develop in which the small businesses were driven out of the market by loss leaders and price cutting.

Mr. HUMPHREY. It would be most damaging to the consumers' interests.

Mr. MOODY. The Senator has already answered the question. I appreciate his having yielded.

Mr. HUMPHREY. I thank the Senator from Michigan.

Furthermore, Mr. President, some people try to argue about this fair-trade bill as if we were talking about articles which are not in competition, as if we were talking about capital goods or producers' goods, as if we were talking, for example, about five or six major steel plants that produce 95 percent of all the steel. Mr. President, we are talking about the producers of consumer goods—hundreds of producers, thousands of producers.

We are talking about a competitive relationship in the retail field, where, first, there are hundreds and hundreds of outlets; second, thousands and thousands of merchants seeking the business; and third, hundreds aind hundreds of producers of every single commodity, and only a small portion of those hundreds are in the fair-trade field. As a matter of fact, less than 6 percent of the total dollar volume of the retail business is in fair-trade items, and less than 2 percent of the total number of consumer items is in the fair-trade field.

Until a man stands behind the counter, until he has to meet this kind of cutthroat competition and, at the same time, take care of his family, pay his bills, and maintain his business establishment, he can never appreciate what it means to be under the rule of the jungle in the market place with the cutthroat artist driving out the independent merchant.

Mr. President, as a matter of record, let me say that I recall the president of one of the largest concerns in this country telling someone in the retail business, "We can come into your town, put a store on the corner, and lose money for 20 years, if we want that corner and want to drive you out of business. We can lose money for 20 years, and we will be there and you will be out." Why was that, Mr. President? Because that concern had 400 stores in the United States where they had already performed that kind of an operation.

Mr. WELKER. Mr. President, will the Senator from Minnesota yield further?

Mr. HUMPHREY. I yield.

Mr. WELKER. I should like to ask the Senator one further question, which may lead him far afield from his present discussion. The Senator from Minnesota is mindful of the fact that there are many distinguished members of the legal profession in this body. I wonder if the Senator realizes that many of those leaders of the bar—I happen to be a member of the bar—some of them, perhaps, opponents of this measure, have seen fit in their respective jurisdictions to adopt and fully practice the minimum-fee schedule of the States in which they practice law.

I am wondering if the Senator could give to the Senate his version of the philosophy of those Senators who feel they should adopt a minimum-fee schedule in their law practice and resist such a thing in the field of merchandise?

Mr. HUMPHREY. I am happy the Senator asked that question. It is perfectly true that the bar associations, in order to legitimatize practice, have a minimum-fee schedule. I am not condemning it; it is simply a recognition of the fact that there are members of the legal profession who are willing to wreck the whole code of ethics of the profession.

Mr. WELKER. The Senator realizes that the minimum-fee schedule is adopted to protect the client, does he not?

Mr. HUMPHREY. That is correct; and to give a semblance of order, decency, and ethics to the profession. The bill which we are discussing would apply the same principle in the field of wholesaling, retailing, and manufacturing.

Mr. President, there is virtually only one argument that can be made against the bill; namely, that it will increase consumers' prices by stifling competition. I submit that the burden of proof of that argument rests on the opponents of the bill, because since fair trade has been in practice, instead of competition being diminished, it has been augmented. There are more establishments doing business today, more processors of goods and services doing business today, than there were prior to the time of fair trade. Competition has not been stifled.

I have not heard any Senator on the floor condemning the Ford Motor Co. for its agency-franchise system. I have not heard anyone condemn the General Motors Co. for its agency-franchise system. If this practice has been legitimate why should fair trade, which is merely another form of vertical price maintenance, suddenly wreck the country, especially since it has been on the books for 15 years without doing so?

Mr. President, I was reading yesterday about the fair-trade program in relation to some of the studies which have been completed. The charge has been made that the fair-trade program would cost the American consumers anywhere from a billion to two billion dollars. This has been branded as a $2,000,000,000 lie. The surveys consist of shopping around for customer-bait items, or loss leaders offered by certain stores at certain times in certain places. They have been made by shopping around for information to fit a preconceived conclusion, and are not based upon normal marketing practice. When a lady goes downtown to shop in a drug store, and she is led into that store by a loss-leader item, she usually buys more than just one item. The purpose of the loss-leader is to get her to buy something else. She is not going around like Hawkshaw, with a spyglass, looking to see whether there is a loss-leader in a certain store, and then driving 10 miles to pick up a loss leader in another store.

I say to those who, in order to prove their case, present alleged facts about how much the bill will cost the consumer, that every housewife in America does not have as much time as has an investigator from the Federal Trade Commission, to run around from one State to another to see if she can buy a roll of toilet paper in Utah for less than she has to pay for it in New Jersey. The American housewife is a busy lady. She usually has two or three children at home, and when she goes to market, she gets all her goods in the one market.

Once the merchant gets the customer into the store, he has better than a 50–50 chance to sell merchandise at high mark-ups, which cover the cost of the loss leader. There will never be any proof whatsoever that a loss-leader item is not compensated for by a high-gross-profit item in the same establishment. The simple truth of the matter is that where there is a loss leader, there is a compensatory price on other items. There are compensatory items in the same place in order to take up the gap. There has never been anyone in the world who has been able to make money by giving away services and goods.

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

Mr. HUMPHREY. I yield to the Senator from Idaho.

Mr. WELKER. I take it from the remarks of the distinguished Senator from Minnesota that he disagrees with the philosophy of some opponents of the bill that a large New York store now doing business in the Senator's State and in my State is actually engaged, in a great portion of its business, on a very high-grade basis from the standpoint of the consumer. Is that correct?

Mr. HUMPHREY. I surely do disagree with that philosophy.

Mr. WELKER. The Senator realizes, does he not, that it is necessary to make at least a 20-percent profit in order to break even, and that the New York merchant doing business in Idaho is not engaged in the merchandise business for love?

Mr. HUMPHREY. Even though the New York merchant might love Idaho and all its people, he is not going to love them enough to give up his surplus profits in the name of the consumers' interest.

All that is being attempted by this bill is to provide a reasonable, decent code of ethics in the market place. I have spent a good deal of time examining into many so-called flash studies, which assume that in the absence of fair trade all the retailers in the country would sell national brand merchandise at consumer-bait prices.

If, for example, the Federal Trade Commission finds one store that is selling a $1.50 hot-water bottle for 19 cents in a non-fair-trade area like Washington, D. C., do Senators know what the Federal Trade Commission assumes? It assumes that every drug store in all the non-fair-trade areas in the United States, is selling hot-water bottles at 19 cents. Then they go to a fair-trade area and see that hot-water bottles are selling for 89 cents, and they say, "There is a 70-cent difference."

Anybody who wants a hot-water bottle will say, "I will buy the 19-cent bottle." But while the merchant has you in his store, he will say, "I know that for a sore back a hot-water bottle is going to help you, but may I suggest Dr. Smith's remedy?" That remedy, which cost 20 cents, will sell for $2. Because the dealer is a good salesman, he will sell that remedy, or he is not on the job.

That is what is meant by companion sales. No one ever made a dime giving his services away. No one ever made money in business by selling items at prices below cost. Every item sold below cost has to be compensated for by selling additional items above cost, and far above cost.

Fair trade has increased the output of American producers. It has not stifled production; it has augmented production. It has not placed a burden upon the consumer by giving less variety to choose from. He has a greater variety to chose from. Some day we are all going to have to make up our minds. I hope the day is at hand.

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

Mr. HUMPHREY. I yield.

Mr. LANGER. I wish to ask the distinguished Senator from Minnesota if it is not true that this type of law is especially needed for the reason that there has not been any real enforcement of the antitrust statutes.

Mr. HUMPHREY. If the Department of Justice, which has been taking a dim view of fair trade, and the Federal Trade Commission, which has been opposing fair trade, would really devote their energies—their full, total energies—to the enforcement of the Sherman Antitrust Act, the Clayton Antitrust Act, and the Federal Trade Commission Act, they would not need to worry at all about fair trade.

Mr. LANGER. So far as the Senator knows, is it not true that ever since Congress passed the first antitrust statute, away back in 1890, not a single defendant has ever been sent to the penitentiary or to jail for violation of the antitrust statutes, under any administration, Republican or Democratic?

Mr. HUMPHREY. I believe the Senator is correct. I am not positive of that, but I believe he is right.

Mr. LANGER. There was one exception—the case of Eugene Debs, whom the Government put in jail some 50 or 60 years ago. Is that correct?

Mr. HUMPHREY. I think he was sent to prison because he had some ideas.

Mr. LANGER. Would not the Senator say, further, that if the antitrust laws had been vigorously enforced, it might be that the proposed statute would not be needed?

Mr. HUMPHREY. I think that had they been enforced in the very beginning, that would be true. Let me say that we are all involved in the whole free-enterprise system sometimes. People become a little avaricious and predatory. Once in a while our moral values become mixed up in the economic practices of the marketplace. The trouble with all the classical, orthodox economists is that they forget who runs the economy. The people run it.

We have great spiritual leaders telling us to cease doing the things that violate moral standards, and to put spiritual values above material values. But there are a great many material values left in the world. Unfortunately, the American economic picture and the American economy are not fully in balance. It is not a world in which everybody receives fair play, so it becomes necessary for the States and the Federal Government to try to inject fair play into the marketplace by certain rules of law. We are merely trying to recognize reality.

Mr. LANGER. The distinguished Senator comes from the northwestern section of the United States.

Mr. HUMPHREY. That is correct.

Mr. LANGER. The distinguished Senator knows what happened in the dairy industry, where, almost over night, one outfit got control of practically every dairy selling ice cream.

Mr. HUMPHREY. The Senator is correct.

Mr. LANGER. That occurred in North Dakota, South Dakota, and Minnesota.

Mr. HUMPHREY. May I interrupt the Senator for a moment?

Mr. LANGER. Certainly.

Mr. HUMPHREY. Does the Senator know that one company went around appealing to the consumers to buy, saying, "We will give you 2 quarts of ice cream for a quarter"? But when they put the small ice cream dealers out of business, they stopped selling ice cream at 2 quarts for a quarter. They sold it at large profit.

Mr. LANGER. I may say further to the distinguished Senator from Minnesota that the big outfits are not satisfied with just controlling markets in the United States, but they extend their operations farther and farther and into country after country and thus get a monopoly not only in the United States, but also in the entire world. I ask the Senator if that is not true.

Mr. HUMPHREY. We have evidence to prove that there are cartels of that kind.

Mr. LANGER. There are concerns such as Lever Bros., which does business in 64 nations.

Mr. HUMPHREY. That is correct.

Mr. LANGER. They control the market for fats and oils in 64 countries.

Mr. HUMPHREY. The Senator is correct. We have evidence indicating that since the Schwegmann case was decided, in New York City a large dress manufacturing company, which has been in the dress manufacturing business for years, has also opened retail outlets. Dress manufacturing had been their whole life history, but when the fair-trade law was outlawed in the Schwegmann case, what do Senators suppose that company began to sell? They began to sell mixmasters and other electrical devices. They started to sell in a dress shop every item a woman might

want around her home. At what price did they begin to sell? They sold the items at practically below cost, as loss-leader items.

The legitimate appliance dealer, who had been working all his life to build up a business in the sale of electric fans, washing machines, electric ironers, and mixmasters, found himself in competition with a dress company down the street which was marking up the price of dresses. Once they got the ladies in among the dresses, everything was fine and dandy. They made so much from dress sales they could afford to give them three mixmasters for nothing. The ladies were induced to come inside by offering them electric fans, toasters, washing machines, ironers, and other home appliances at prices either below cost, or just a few cents above cost, which meant that any legitimate merchant in competition would be driven out of business.

Let me answer the argument which was made here last night. The question was asked, "Why is it that the price wars have stopped in New York City?" In the first place, they have not all stopped. In the second place, the Macy-Gimbel war stopped when Mr. MCGUIRE of Connecticut introduced his bill in the House of Representatives. Macy and Gimbel are going to lie low for a little while. They are going to wait and see whether we allow the fair trade laws to be emasculated. If we do, they will go at it again.

Furthermore, in a depression period, if we ever have one—pray God we do not—or in any period of regression, without fair trade practices, the people who would practice loss-leader sales, the people who would wreck the normal practices of the market place, will be doing just that. Hundreds of young men who have made investments in small establishments will find their business liquidated. That is not good public policy.

When a young man starts in business, if he borrows money from the Government or from a bank, we demand that he pay 4 percent interest. We have fair trade for the bankers. The Government of the United States, through the Federal Reserve System, says that the interest rate will be so much, whether in good times, bad times, winter, summer, spring, or fall.

There are many thousands of retail establishments all over the United States. Are we going to pull the props out from under them? Are we going to say to a young man, "You are just getting a start. You have been out of the Army for only 3 or 4 years. Your interest rate is high. Your help is unionized, farm products have price supports, and you have all kinds of fixed charges. But Mr. Small-Business Man, do you know what we are going to do to you? We are going to let the catalog house come in. We are going to let some big outfit from somewhere else come in, with its huge capital and reserves and buying power. We are going to let it pull the rug out from under you." Not with my vote, Mr. President.

I stated that I wish to conclude with a few words on the subject of social policy. I am not at all impressed with the fact some people feel that the only way to protect the consumer is to see that he gets a cheaper price. I say to the consumer protectors, "If you want cheaper prices, the Senator from North Dakota and I know that one way to get them is to ruin the American farmer. Do not give him a chance to live. Make a peasant out of him. Let him work 20 hours a day and produce cheap food for people who want cheap prices."

Sometimes cheap prices mean cheap ideas, a cheap country, and a cheap people. What America needs is reasonable prices, with a reasonably balanced economy and a reasonably good opportunity to survive.

There are people, even on the farm, who do not want to pay good wages for workers because if they can get cheap labor and receive reasonably high farm prices, they can make huge profits. There are always people who are anxious to see that their little side is well protected. That is normal. I am not being critical. That is natural. One of the first laws of nature is self-preservation. I see nothing wrong with a man taking care of his own temple—his body, his mind, and his soul.

Let me say to my good liberal friends that they cannot ask the Government of the United States to buy only goods which have been manufactured by workers who received the prevailing wages; they cannot ask the Government of the United States to buy only goods made by union labor; they cannot ask the Government of the United States to maintain price supports for farmers and give workers the right of collective bargaining, which means that they set the price for their labor with their employers, and then say to the small retail merchant, "We do not care about you. You can go out and be gobbled up."

I hear people ask, "Don't you believe in competition?" I do, but let me add a qualifying not. I believe in fair competition. There would be no competition in the ring between any Member of the Senate and Joe Louis. That would be murder. There would be no competition between a small town high school football team and Notre Dame. Supposedly there would be 11 men on each side, but there would be no competition. That would be athletic madness. I am simply saying that we want fair rules of conduct. That is what fair trade does. It does not eliminate competition, but it says that competition shall not be between a 200-pound man with big muscles and broad shoulders, and a 6-year-old child. That is not competition.

Fair trade says, "It makes no difference whether you are big or little. It makes no difference whether you are from New York, Texas, Minnesota, or California. It makes no difference whether you have reserves of a billion dollars, or reserves of $10. If you are going to sell Kolynos toothpaste you are not going to sell it for less than a certain price. We are going to give everyone a chance to survive."

The Congress determined that the farmer needed farm cooperatives to protect himself. We cannot compare the treatment of cooperatives with the normal economic treatment which we give to the rest of business. We were for farm cooperatives because we needed farm cooperatives. We are for the family-sized farm, because America needs the family-sized farm. No one can prove, on the basis of economics, that the family-sized farm is more economical to operate than the 50,000-acre corporation farm. But we do not want corporate farming. We want family-sized farming, because family-sized farming produces good citizens, and good citizens are the only hope of freedom and democracy. So we pay a price for it. I am willing to pay that price.

We would like to have in America independent banking, so we have laws on the books to protect independent banking. We would like to have in America a fair wage for every man and woman in the market place, so we have a Fair Labor Standards Act, which provides a minimum wage of 75 cents an hour. Many people are trying to get around that law. They say, "Don't include this group of workers, or that group." The more we weaken the Fair Labor Standards Act, the more meaningless it becomes.

My argument is that a policy decision must be made. It has been made. A policy decision was made in America in 1930. It was made in many States from 1931 on. In 45 States a policy decision was made. The decision is simply that the future well-being of the American business economy and the American political economy depends on hundreds of small landowners and entrepreneurs. I do not want to see my America become an America which is ruled by a monopoly not only in the producers' lines but in the retailers' lines. Anyone who really believes in free enterprise today, anyone who really wants to protect the free-enterprise system, will do it by giving free enterprises a chance to live. I was born in the free-enterprise system. I lived for a great part of my life in it, and I hope to live out my life under that system. I know that the free-enterprise system depends on something else besides words. It depends on giving people a chance to live.

Mr. President, that is my argument. I submit that for 15 years America has made its position perfectly clear on fair trade. Forty-five States have made their position perfectly clear, and thousands of merchants and hundreds of thousands of consumers have done likewise. What more do we want, Mr. President?

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

Mr. HUMPHREY. I yield.

Mr. LANGER. Mr. President, as a Senator from North Dakota I am very proud to compliment the Senator from Minnesota for so truly representing the spirit of the Northwest in his usually fine analysis of a problem.

Mr. HUMPHREY. I thank the Senator from North Dakota for his compliment, and I thank him for his support and participation in the debate.

Mr. MORSE. Mr. President, before I proceed with my argument in opposition to the pending bill I wish to pay my sincere compliments to the Senator from Minnesota [Mr. HUMPHREY] for the very able argument he has presented, both last night and this morning, in support of his position on the bill.

When the bill came before the Senate yesterday afternoon, and there was an immediate demand for a vote, without even one proponent of the bill extending to the Senate what I thought it clearly was entitled to, namely, an explanation of the bill, and an argument in chief in support of the main provisions of the bill, I was greatly saddened. I thought the Senate was doing itself great damage in following such a course of action. It was my opinion then, and still is, that if the Senator from Illinois [Mr. DOUGLAS] had not immediately proceeded with his discussion in opposition to the bill, even prior to any explanation of the bill by its proponents, the bill would have passed the Senate. I do not think it is good for the Senate to follow that kind of procedure.

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

Mr. MORSE. I yield.

Mr. BENTON. Was the Senator on the floor at the time when I rose as a proponent of the bill and said I had a speech which I should like to make on the subject, and offered to make a speech in explanation of the bill, and the Presiding Officer thereupon suggested that the speech be printed as a statement in the RECORD? It was not a lack of willingness to explain the bill. Because of the temper of the Chamber, with cries of "Vote!" "Vote!" "Vote!" the Presiding Officer suggested that my speech go into the RECORD. It was after my offer to explain the bill and after the suggestion of the Chair that the Senator from Illinois proceeded with his remarks.

Mr. MORSE. I wish to say very frankly to the Senator from Connecticut that I was on the floor, and if the Senator from Connecticut tells me that such procedure as he describes took place, I know it took place. But I wish to say if it took place it took place at a time of such confusion that even though I sat on the floor of the Senate I was not even aware of the fact that it was taking place, because at the time one could not hear. I was not aware of the fact that the Senator from Connecticut arose to discuss the bill. I saw the Senator from Connecticut arise but I could not hear a word he said, and I thought he had simply inserted something in the CONGRESSIONAL RECORD. I saw a page boy take some papers from the Senator and carry them to the desk. It was very confusing.

Mr. BENTON. I was confused myself in the midst of cries of "Vote!" "Vote!" "Vote!" and I was led to believe that the bill was about to be passed. I am not one to make a speech on behalf of a bill if the bill is about to be passed and if my speech is unnecessary.

Mr. MORSE. I can well understand such parliamentary strategy on the part of my good friend from Connecticut. But I return to my major premise, that even under those circumstances it is not good for the Senate to pass legislation, even when from a parliamentary standpoint it is possible to speed a bill through the Senate without any explanation of it at all.

Mr. BENTON. Mr. President, I share the Senator's approbation of the Senator from Illinois, and I wish to join with him in complimenting the Senator from Illinois for taking the floor, in view of his strong feelings on the subject, and in so vigorously presenting them to the Senate last night.

Mr. MORSE. I thank the Senator for his remarks. Nevertheless, irrespective of what the Senator from Connecticut has said I am still of the opinion that the procedure which was followed yesterday afternoon prior to the speech of the Senator from Illinois was a procedure which, in my opinion, was not good for the Senate. I do not think such a procedure strengthened the prestige of this body as a deliberative body. I am glad that we now have a record, so ably presented by the Senator from Minnesota and other Senators who have spoken in favor of the bill. I believe a judgment can now be made, not only by the Members of the Senate but by the public as well as they read the RECORD, as to whether those who support the bill had the better of the argument or whether those opposed to the bill were on the right side.

Mr. BENTON. Mr. President, may I ask one more question?

Mr. MORSE. I yield.

Mr. BENTON. I may say that the RECORD of yesterday will not show the colloquy between me and the Chair, as I have just stated it, because in line with what happened later in the evening, I withdrew my speech from the RECORD, feeling, in the light of the presentation of the Senator from Illinois, that I would wait to make my own presentation today. So I am glad to have this chance to make the RECORD clear, because my remarks do not appear in the RECORD of yesterday.

Mr. MORSE. I am very glad the Senator from Connecticut has made it clear. I think the Senator will have to agree with me that comments made by other Senators during the debate last night, indicate that I was not alone in my understanding that there had been no offer of an explanation of the bill on the part of any proponent of the bill or any argument in support of the bill. Certainly that was the situation last night.

Mr. HUMPHREY. Mr. President, will the Senator from Oregon yield to me?

The PRESIDING OFFICER (Mr. HOEY in the chair). Does the Senator from Oregon yield to the Senator from Minnesota?

Mr. MORSE. I yield.

Mr. HUMPHREY. I wish the Senator from Oregon to know that, as shown on page 8738 of the CONGRESSIONAL RECORD for yesterday, I did mention the very point the Senator from Oregon has discussed, namely, the contribution the Senator from Illinois made in discussing this measure. I have strong feelings about the comments which were made last night about the Senator from Illinois, in regard to an alleged filibuster.

I wish to say now, regardless of my feelings about this bill, that both the Senator from Illinois and the Senator from Louisiana, as of last night, and today the Senator from Oregon, are doing a service for both the proponents and the opponents of this measure. We need a legislative history, no matter what happens.

I regret that for a brief moment yesterday I was out of the Chamber, making a long-distance call, and could not return to the Chamber before I heard the bell ring. Had I been in the Chamber at that time, I certainly would have risen and said a few words, even though I was not in charge of the bill.

Of course, Mr. President, I happen to be merely one of the proponents of the bill, but seemingly the leadership on this side of the presentation has fallen to me, by default.

I want the Senator from Oregon to know that I, for one, feel that we should not have a quick vote, but should have thorough discussion on a measure so vital as this one.

Mr. MORSE. I thank the Senator.

Mr. President, I wish to make additional comments about the speech made yesterday by the Senator from Illinois.

Mr. WELKER. Mr. President, will the Senator from Oregon yield to me?

The PRESIDING OFFICER (Mr. THYE in the chair). Does the Senator from Oregon yield to the Senator from Idaho?

Mr. MORSE. I yield.

Mr. WELKER. I wish to join the Senator from Oregon in his remarks. I join him in his position that there should be full and complete debate and a full and complete understanding on the part of every Senator before a vote is taken.

Yesterday, as perhaps the Senator from Oregon realized, I was very much in the minority in the case of several votes on the treaties which were quite voluminous. I doubt if many Members of the United States Senate have read those treaties.

I join with the Senator from Oregon, my friend and neighboring colleague, in saying that I shall never cast a vote on the affirmative side of any measure that I do not believe I thoroughly understand. I would rather vote "no" than vote for something I do not thoroughly understand.

Mr. MORSE. Mr. President, I believe it is the duty of each one of us to follow that course of action when in doubt. I believe we best represent our constituents by voting "no." When we have had an opportunity really to study a measure so that thereafter we can honestly say to our constituents that we knew enough about the measure to vote for it, that is one thing; but in the absence of such an understanding, our vote should be in the negative. I completely agree with that view of representation of our constituents.

Mr. President, I also wish to say, on the particular subject matter that has just been brought up, that in my judg-

ment, it was most unfortunate that there was not prolonged debate on the treaties which were ratified yesterday, because I believe they affect vitally the future of our country, and with them we shall have to live for a long time. So I believe a much more extensive legislative history should have been made on them than was made.

Let me say that I did have time, the night before to study the treaties and satisfy myself that I would be justified in voting for the treaties. But if I had not had time to do so, I feel sure that I would have been justified in following the course of action the Senator from Idaho has recommended.

Mr. WELKER. I thank the Senator from Oregon.

Mr. MORSE. Mr. President, I wish to say that if I were willing to yield to the persuasive influence of the Senator from Minnesota, I would vote with him on the pending bill, for in my judgment, he is not only one of the most persuasive Members of the Senate, but he is one of the most persuasive men in America. When I listen to him, I always have to keep checking the major and the minor premises in his arguments, for if I do not, there is no doubt about what my conclusion would always be: It would be the conclusion of the Senator from Minnesota.

So, again I congratulate the Senator from Minnesota on one of the most persuasive speeches I have ever heard; but I wish to say that he did not persuade me; he was not quite persuasive enough, so far as his premises were concerned, to convince me.

However, his speech was a brilliant forensic endeavor. Let me also make clear that when I say it was a great forensic endeavor, I mean it was also a sincere endeavor, for in my judgment, no one could speak with greater sincerity and conviction than the Senator from Minnesota has spoken in making his presentation on this bill.

Mr. President, the Senator from Minnesota may be correct; I am not so sure but what I may be wrong, for I make many mistakes. One cannot sit in the Senate and be confronted with the multitude of issues which constantly arise, and be forced to work under the necessary limitation on the time available to us for study without making mistakes in judgment now and then. The test is whether the mistake is merely a mistake in judgment. So long as it is only a mistake in judgment, and so long as we demonstrate that we do not make the same mistake twice, but that we learn from our experience, then I think our constituencies should not find fault if we make a few mistakes.

This may be one of my mistakes, but I do not think so, for the reasons which I shall set forth in this speech.

Mr. President, I appreciate what the Senator from Minnesota said a few minutes ago in regard to the charge of filibuster which was made last night on the floor of the Senate. Personally, I shall ignore the charge, because I am satisfied that it was not made by any Senator who really intended to wrong a colleague.

Of course there has not been a filibuster on this bill, and there is not going to be one. The Senator from Minnesota and I are joint authors of a resolution which previously has been submitted to the Senate, to outlaw filibusters.

Although there is a dispute as to the interpretation of the facts, Mr. President, nevertheless I repeat that I have never participated in a filibuster, and I shall not do so today.

There are those who still say that a speech of more than 10 hours in length which I made back in 1947 on the President's veto message on the Taft-Hartley bill was a filibuster. Nevertheless they cannot find in that speech a paragraph which did not relate to the subject matter then before the Senate. That speech was given with full notice to the Senate that all I sought was a delay on the vote for the period of time the Senate would necessarily have to permit to pass if a cloture petition were filed, namely, 2 days. That is all I asked for. I asked for a delay on that vote, as the RECORD will show, from Friday afternoon until Monday at 2 p. m. In fact, before the beginning of that so-called prolonged debate, which has been called by many a filibuster on my part, I said that at that time I was willing to enter into a unanimous-consent agreement to have the vote taken on the following Monday afternoon, at 2 o'clock, because I wanted to have the week end, and a good many of my colleagues in the Senate wanted to have the week end, to study further the veto message on the Taft-Hartley bill. As the RECORD will show, I also said that I wanted the people of the United States to have the week end in which to consider the import of the President's veto.

The veto had just been read when immediately there was a demand that the Senate vote on the veto message on that very day. I said that procedurally that would be unwise, and that I did not think it would be fair to the Senate or fair to the country. I asked that we have the week end in which to consider the veto message.

The RECORD will show that I was told that I would either agree to an immediate vote on the veto message, on that very Friday afternoon, or I could begin talking.

Mr. President, I cannot be intimidated. So I said to the then majority leader of the United States Senate that if that was the way he wanted it, that was the way he would have it, and that we would talk only for the period of time the vote would have been delayed if a cloture petition had been filed. The cloture procedure in the Senate exists for the purpose of protecting minority interests, and I shall always endeavor to protect minority interests in the Senate by affording them, if I can, adequate time to discuss the merits of any issue pending before the Senate. Whenever there is an attempt in this body to deny to the minority opportunity to express their views on any issue, be it a civil-rights issue, a tax issue, a military issue, a treaty issue, or any other issue the junior Senator from Oregon will fight in order that the minority may have adequate time in which to discuss the merits of the issue. In 1947, at the time of the so-called Morse filibuster on the Taft-Hartley veto message, I stated to the majority, time and time again, on the floor and in the cloakrooms, "You are making a great mistake in trying to ram this down our throats without giving us adequate time to discuss it during reasonable hours of Senate sessions. We will vote Monday at 2 o'clock, if you agree; if you do not, you will vote not before Monday at 2, because we are not going to be intimidated and told that we have to vote before that time, and 2 o'clock on Monday represents a reasonable postponement."

That, Mr. President, is the record of that case. What happened? Let the RECORD speak for itself. We started talking. The junior Senator from Oregon talked a little more than 10 hours, and he never departed from the subject matter during the 10 hours. Mr. President, I am advised by officials of the Senate that it is the only so-called filibuster speech in the history of the Senate that could be reprinted in toto, as it was reprinted, containing not a paragraph not relating to the subject which was before the Senate. Our group that talked through that Friday, Friday night, and most of Saturday finally won our procedural battle, because late on Saturday the Senate agreed to accept our offer to vote on Monday at 2 p. m.

Mr. President, I have made that little explanation again this morning because of the comment which was made on the floor of the Senate last night about a filibuster having been started in connection with the pending bill. I want the RECORD to show that I am opposed to filibusters, and that so far as my conscience is concerned, I have never participated in a filibuster, although I have made some rather lengthy speeches in the Senate, which some of my colleagues thought might be of the same family as the filibuster.

Mr. WILEY. Perhaps a second cousin.

Mr. MORSE. No, I think a first cousin. [Laughter.] But, Mr. President, those speeches have been directed to the subject. They have dealt with the merits of the issue.

I come now to the next point I desire to make regarding the matter of procedure in the debate today. I want a vote on this measure; and I hope a vote can be taken this afternoon. I told the majority leader last night that I had no intention of preventing a vote. But I intend to make my case against the bill, and so I say that, in inserting much of what I would otherwise read into the RECORD—I probably shall insert as much as two-thirds of it without reading it—I am doing it because I think it necessary to have a legislative record—a view which is shared by the Senator from Illinois [Mr. DOUGLAS]—so that the President may have before him a complete record as to the conflicting views in the Senate of the United States when he comes to consider the question of whether the bill should be vetoed.

I have no doubt, Mr. President, that the bill will pass—I think, by a large majority of the Senate. I do not know whether the President will veto the bill, but I do not know of any time since President Truman has been in the White House when he has knowingly walked out on the Antitrust Division of the United States Department of Justice in the enforcement of the antitrust and antimonopoly laws. I cannot and do not speak for the President of the United States, but I can guess as to what I think he will do, being probably biased somewhat in that guess by what I think he ought to do. I guess he will veto it, because I think he ought to veto it. In view of the possibility of a veto, I think those of us who oppose the bill owe a duty to the Chief Executive to make a record upon the basis of which he might obtain some help in his analysis of the bill and the preparation of his veto message.

Mr. President, I have one other point to make on the matter of procedure, because when I objected to a unanimous-consent agreement last night I expected that some of my colleagues, and people outside the Senate as well, would misinterpret my motivation. I opposed a unanimous-consent agreement to vote on this measure, and I shall continue to oppose it. But I shall keep faith with the majority leader, as I told him last night, by permitting this bill to come to a vote, so far as I am concerned, I hope, by midafternoon today.

Why have I not consented to an agreement to vote on the bill? There are two reasons. I am not going to consent to a unanimous-consent request that involves an attempt to speed through the Senate of the United States a measure when we do not even have on our desks the printed proceedings and hearings of the committee regarding it. In my opinion that is not good procedure, and to consent to such a request is to aid and to abet what, for the want of a better term, I would call steam-roller tactics in the Senate of the United States in the passage of legislation. I do not think that is good for the Senate.

Mr. President, we do not even have before us a report of the committee that really advises us as to the merits and demerits of this bill. The committee takes no position on the merits or demerits of the bill. It has met the formality of filing a committee report, though to me, at least, it is not at all a helpful report. It raises a few questions, but it does not provide the answers. So, Mr. President, I do not intend to consent to unanimous-consent requests to vote on measures which are presented to the Senate by a committee in such an inadequate fashion; and I told the majority leader so. The majority leader is a good friend of mine. He has been very kind about this matter. I do not have to tell the Presiding Officer, because he did not sit very far from the Senators who were engaged in the colloquy last night on the floor of the Senate around my desk, that great persuasion was brought to bear on the Senator from Oregon to yield on this point. In the same spirit of kindness as that in which the persuasion was used on me, I politely said, "I shall not agree to it now, tomorrow, or at any other time." That is my position.

Second, Mr. President, I refused last night to consent to the request for unanimous consent regarding this bill, not only because I think it has been presented to the Senate in an inadequate way so far as the committee report and so far as making available the committee hearings are concerned, but because I consider that we have gone entirely too far in the matter of unanimous-consent agreements. In my judgment, the growing tendency in the Senate of the United States almost to insist upon the transaction of business on the basis only of unanimous-consent agreements is doing great injury to the procedure of the Senate.

In support of my belief that we are doing great damage to the procedure and the standing of the Senate by the great increase in the number of unanimous-consent agreements, I wish to make the following observations:

It has long been the proud boast of Members of the Senate that it is the greatest deliberative assembly on earth. This boast was probably true in the days of those mighty men of old—Webster, Clay, and Calhoun. It rang true likewise in the more recent days of Borah, Norris, and "Old Bob" La Follette.

Sometimes, to be sure, debate in the Senate rises to a high level of excellence when we deal with great questions of sectional passion or of national survival. Witness the so-called great debates of the last session on troops for Europe and far-eastern policy.

Moreover, Senate debate often serves the valuable purpose of screening and sifting measures passed by the House when the Senate is performing its important function as a chamber of revision.

Although the Senate is often referred to as "the most august deliberative body in the world," it seldom really deliberates. Why is this so? "All of us know," remarked Senator Lucas during the debate on the ECA bill in the last Congress, "that in the afternoon very often there are not a dozen Senators on the floor of the Senate listening to the discussion; for when they know how they will vote on the amendments, they will not sit in the Senate Chamber all afternoon and listen to the discussion, but will be working in committees where they should be."

Part of the answer to my question, I suggest, lies in the fact that policies are seldom determined by speech making in the Senate because they have already been formulated in the committee rooms. Decisions arrived at in committee, where the Senate really deliberates, usually control legislative action on the floor. So that debate in the Senate is, after the fact, so to speak, designed more to air opinions than to decide courses of action.

But that is not always true, and it should not always be true. On many occasions, and I use the term "many" advisedly, my votes on the floor of the Senate have been changed as the result of debate. I think that is true of every Member of the Senate. I believe we should revise the procedural rules of the Senate which deal with the hours for the sessions of the Senate, in such a way that we will perhaps meet fewer hours a week, but when we meet we shall meet to debate and to discuss, and we shall not have our energies and attention dissipated by committee meetings going on at the same time.

At the same time I realize that many of the speeches we make here, when they are dilatory in purpose, are usually intended more for the ears of the country than in the hope of converting our colleagues whose minds, I fear, are already made up on most of the major issues of legislation.

Part of the explanation for the decline of the Senate as a truly deliberative body also lies, I believe, in the random and irrelevant character of our discussions here. Hardly an afternoon passes in this Chamber but what the debate ranges far and wide on many extraneous matters entirely irrelevant to the pending business before the Senate.

Such, for example, as the speech which I am now making. It is being made, however, Mr. President, because it relates to a point which has been raised in the course of the debate on the pending bill in an attempt to persuade and convince the junior Senator from Oregon that he should enter into a unanimous-consent agreement on the pending measure, and I make these comments to explain why I shall not do it in this instance.

The majority leader repeatedly pleads with us to keep the debate "on the beam" of the unfinished business until it has been finished. Yet Senators do not hesitate to go off on long irrelevant tangents with carefree nonchalance. In an amusing speech in this Chamber last year the Senator from New Jersey [Mr. HENDRICKSON] urged us to adopt a rule of germaneness such as the House of Representatives has had since 1789. But his resolution still lies in that graveyard of parliamentary reform: the Committee on Rules and Administration. How can the Senate deliberate on statehood for Alaska, for example, when its attention is diverted to Greece and Turkey, the oil reserve situation, General Eisenhower's position in regard to Spain, and other matters, which the RECORD will show were the subject matters of speeches made on the floor of the Senate during the debate on the Alaska statehood problem?

Mr. President, it is a fact not to be denied, I think, that the Senate of the United States has in recent years been losing its hold on the confidence and respect of the American people. "Has Congress broken down?" ask the editors of Fortune in the February issue of that magazine which is entirely devoted to a notable series of articles on the Government of the United States of America. Their answer is "Yes, it has broken down." The National Committee for Strengthening Congress reviews our procedural performance during the past session and finds that we lack unity of

command, coordination in policymaking, and the machinery for formulating fiscal policy. Political scientists warn that Congress is "at the crossroads" and "on trial." The Senator from Tennessee [Mr. KEFAUVER] writes that a twentieth-century Congress is needed and outlines a program of reform. The complaint is universal that the public business is not being dispatched as it should be. The Senate is criticized for its unlimited debate, its tolerance of dilatory and obstructive tactics, and its frequent absenteeism. Critics say that our procedures are antiquated, that minority rule prevails in this body, that we operate by alternating fits of coma and convulsion.

There are many reasons that might be given for this unhappy condition. But there is one in particular to which I desire to invite the attention of the Senate today, and that is the practice of making unanimous-consent agreements. I feel that the increasing number of such agreements in the Senate during recent years has been an unfortunate trend in Senate procedure, first, because they have been made with respect to matters which, in my opinion, have not yet been adequately discussed and aired on the floor, and, second, because they give rise to absenteeism in the Chamber and hence further impair the opportunity for a full exchange of views on the merits of important measures. I would like now to trace the history of the development of this practice in the Senate by way of background for my criticism of the present procedure.

Mr. President, it is not only the procedure of the Senate that I would criticize. In the next session of Congress I desire to discuss on an appropriate occasion some other procedural reforms for conducting the business of the Senate, which I think should be effected, such, for instance, as the installation of an electric voting machine. When we think of the waste of time, the hours spent in quorum calls and in roll calls, we cannot, Mr. President, in this modern era justify that inefficiency. I think an electric voting board would have some other beneficial effects, too, because in order to vote Senators must be here and must be ready to vote. Not much time is allowed for instructed votes under that procedure. But such reforms as that, Mr. President, can await a discussion come the next session of Congress. At this time, however, the question of unanimous-consent agreements has been raised in such a manner as to justify my making a record of my objections to them as a common practice, not that I will not agree to unanimous-consent agreements when I think the surrounding facts and circumstances of a given debate justify a unanimous-consent agreement. But as a general practice, I think they are bad; and as a general practice, I intend to continue to be "tough" when it comes to requests for unanimous-consent agreements.

As to the nature and history of the practice, let me say that, in contrast with the strict and complicated procedure of the House of Representatives, the Senate's ways of doing business are simple indeed. Under our ancient code, which has not been revised since 1884, business is considered either upon the call of the calendar of bills and resolutions or under the schedule of unfinished business. The calendar is supposed to be called under rule VIII on Mondays, but in practice it is only called following an adjournment or by unanimous consent and the Senate usually recesses from day to day. As a result, calls of the calendar have dropped off since the late war from 19 in 1947 to 15 in 1948 to 16 in 1949 to 10 in 1950 to 13 in 1951—see CONGRESSIONAL RECORD, volume 96, part 7, remarks of Senator HENDRICKSON, pages 9720–9722, on infrequent calling of the calendar. With the postwar decline of calendar calls, nearly all of the major business coming before the Senate is now being done under unanimous-consent agreements fixing the time for voting on the unfinished or pending business. For the regulation of its procedure the House of Representatives has erected a stronger framework. Its chief features are the previous question and the hour rule for regulating time; the five calendars and the two committees of the whole for classifying business; and the Committee on Rules for selection.

A unanimous-consent agreement to vote, as we all know, is a procedure for the taking of a final vote on a specified date upon the passage of a bill or joint resolution, or an amendment thereof. Prior to 1914, when the rule—rule XII, paragraph 3—governing this procedure was first adopted, by a vote of 51 to 8, these were gentlemen's agreements which were governed by custom and were not enforceable by the Chair, although they were never violated. Since 1914 unanimous-consent agreements have operated as orders of the Senate and have been enforced by the Chair. They are a device by which Senators tie their own hands, so to speak, by unanimously agreeing to limit debate on a matter to a specified time. A single objection blocks any such agreement.

Research reveals that the custom of fixing a time for ending debate and taking the vote dates back at least to the Twenty-ninth Congress, 1845–47, when an unsuccessful attempt was made to induce the minority to fix a day for taking a vote on the Oregon bill, which had been debated 2 months—Clara H. Kerr, the Origin and Development of the United States Senate, 1895, page 64.

Wrote Kerr in 1895:

> Usually, when there is no factious opposition, and the majority have been willing to grant to the minority a reasonable time for debate, there has been no difficulty in securing such unanimous consent. It has come to be the custom to thus fix the time for taking the vote on all the revenue bills, and the practice doubtless contributes much to the rapidity with which the Senate can transact business.

In the years following the War Between the States, repeated efforts were made—several of them by southern Senators—to allow the Senate, after a bill had been debated for a reasonable time, to fix a time for closing debate and taking a vote, but none of these attempts to limit debate by rule received favorable committee action. Furber records 70 entries in the Senate Journal between July 27, 1850, and February 26, 1891, when proposals for limiting Senate debate by various devices were made, such as the previous question, the 5-minute rule, fixing a day certain, et cetera—George P. Furber, Precedents Relating to the Privileges of the Senate of the United States — 1893 — Senate Miscellaneous Document No. 68, Fifty-second Congress, second session, pages 217–230. Several of these efforts proposed to fix a time for closing debate by a simple or special majority vote; none of them would have required unanimous consent. These efforts having failed, the only recourse was to obtain a unanimous-consent agreement to limit debate and fix a time for voting on individual measures.

Such agreements were evidently not difficult to secure, according to Haynes, if the issue was not bitterly divisive and if the majority allowed a reasonable time for debate—George H. Haynes, The Senate of the United States: Its History and Practice—1938—page 396. Writing in 1898, L. G. McConachie, the historian of congressional committees in the nineteenth century, reports that the statement that "half our business is done by unanimous consent" is about as true now as in the days of Lyman Trumbull who represented Illinois in the Senate from 1855 to 1873. According to Senator Platt, who served in the Senate from 1897 to 1909, there were but two ways of getting a vote in those days; by unanimous consent to fix a time for action and by "sitting it out"—L. G. McConachie, Congressional Committees—1898—pages 302–303.

Senator Roger Q. Mills, who represented Texas in the Senate from 1892 to 1899, and who was a strong advocate of majority rule and the previous question in the Senate, wrote an eloquent article for the Washington Post on the Senate in Pressing Need of Reform which appeared in that newspaper on April 11, 1896. It is significant of the tortoise-like progress of the Senate's procedure that his article describes the situation that faces us in this body today as accurately as when it was published 56 years ago. On the subject I am now considering, Senator Mills had this to say—Washington Post, April 11, 1896, page 21—

> The Senate is over a hundred years old, but the first of all lessons of importance [majority rule] has not yet been thoroughly learned. It reaches its vote on all questions like the historic Diet of Poland, by the unanimous agreement of the whole, and not by the act of the majority. The refusal to exercise this natural right of the majority is the principal cause of the troubles which have aroused the displeasure of the country. If a small minority determines that a bill shall not be passed, there is no rule by which it can be put to vote.

How long, O Lord, how long must the Senate wait for majority rule!

Although the published records of the Senate do not disclose the frequency with which resort was had to unanimous-consent agreements over the years, the

notes of the Parliamentarian, Mr. Watkins, show 30 such agreements were made during the 30-year period between 1884 and 1914, when the rule regulating the practice was adopted, in connection with which points of order were made.

(See exhibit A.)

That is such a significant statement of fact with regard to the subject I am discussing, namely, that we have been going too far afield in the matter and have been entering into too many unanimous-consent agreements in recent sessions of the Congress, that I wish to repeat the last sentence.

Although the published records of the Senate do not disclose the frequency with which resort was had to unanimous-consent agreements over the years, the notes of the Parliamentarian, Mr. Watkins, show 30 such agreements were made during the 30-year period between 1884 and 1914, when the rule regulating the practice was adopted, in connection with which points of order were made.

That was on the average of one a year—quite a difference from what our present practice is. It has almost reached the point where we have a unanimous-consent agreement at least once a week. Sometimes unanimous-consent agreements come so fast that for periods of time we have one a day.

There must have been many more such agreements during this period which did not give rise to points of order. That is, gentlemen's understandings—nonenforceable agreements.

The Parliamentarian also has record of some 30 unanimous-consent agreements made after the adoption of the 1914 rule in connection with which points of order were raised. They are scattered over the years from 1915 to 1931, inclusive.

(See exhibit B.)

There has been abundant evidence, since the adoption of the cloture rule in 1917, according to Haynes, that—

> Senators much prefer to end debate and get to a final vote by way of a unanimous-consent agreement with its appeal to senatorial courtesy, rather than under the compulsion of a cloture, which may prove a precedent of evil omen (Haynes, op. cit., p. 396).

The old practice was to debate a matter for a reasonable time and then agree to limit the time for debate on amendments and to fix a time for voting on amendments and final passage. Time was not divided or controlled under the former practice. But under the modern, postwar practice, unanimous-consent agreements are made to close debate on almost every major bill; it is now standard practice to divide and control the time; and 50 percent of the agreements require motions and amendments to be germane to the business under consideration. The development of the requirement of germaneness in the last 2 or 3 years is regarded as a safeguard against the attachment of civil rights riders.

POSTWAR INCREASE OF PRACTICE

A survey of the Senate Journal shows that extensive use has been made of unanimous-consent agreements during the past 5 years. There have been more than 100 times since 1946 when we have agreed to limit debate by this procedure. The device has been employed to bring debate to a close on scores of bills dealing with major national and international issues, on proposed amendments to the Constitution, as well as on simple, concurrent, and joint resolutions.

(See exhibit C.)

Unanimous-consent agreements in the Senate, 1947–52

Year	Number	Time divided and controlled	Germaneness required
1947	19	14	1
1948	9	9	4
1949	9	9	3
1950	35	32	19
1951	28	27	20
1952 [1]	2	2	2
Total	102	93	49

[1] January only.

On the question whether or not sufficient time for adequate debate has been allowed before these agreements have been ordered and become effective, I asked the Legislative Reference Service to compute in the case of each of these postwar agreements, first, the interval of time from the day when a bill or resolution became the unfinished business of the Senate to the day when a unanimous-consent agreement was ordered with respect to it; and, second, the time interval between the date when the agreement was ordered and the date when it became effective. The results of this computation show that the first time interval has averaged 6.1 calendar weekdays, excluding Sundays, and that the second interval has averaged 2.9 days. In other words, 9 days on the average have been available since 1946 for the debate of subjects which have been brought under the control of unanimous-consent agreements. To be sure, not all this available time has actually been used to debate the pending business of the Senate because the Senate has not been in session every weekday and because much of the available time has been consumed by the discussion of topics quite irrelevant to the pending business. Yet, 9 days on the average have been available to those who cared to use it for the discussion of matters upon which debate has been limited by this procedure, assuming, of course, that there were a sufficient number of votes to keep the Senate in session each day.

Whether or not 9 days is enough time for adequate debate of a matter is a question of individual judgment, but in my opinion, in respect to most issues, it certainly is.

DEFENSE OF THE PRACTICE

Opinions will vary as to the amount of time which should be consumed in the Senate in considering a bill. Some students of Senate procedure have defended the use of unanimous-consent agreements as a useful device for expediting the transaction of business in the body. For example, Roland Young, who had been a member of the Senate staff, wrote in 1943—This Is Congress, 1943, pages 142–143:

> To one unacquainted with senatorial folklore this method of closing debate may seem cumbersome, but, oddly enough, it is quite effective. An individual Senator, or bloc of Senators, or a minority party does not ordinarily wish to be responsible for completely stopping a legislative program by refusing to give the required consent to close debate. For when someone objects to the program, the objector can easily be identified and held publicly accountable. While the Senate passes some legislation only after debate is exhausted, it passes other legislation in a very brief time by the unanimous consent of the Members. Unanimous consent allows the Senate to spend large amounts of time on what may interest it at the moment; it allows it to pass much legislation in a very small amount of time; and it allows individual Senators to secure favors—such as agreeing to recommendations for appointments—from their colleagues.

Prof. Lindsay Rogers, of Columbia University, long a close observer of Senate procedure and a defender of unlimited debate in that body, wrote in 1926—The American Senate, 1926, pages 185–186:

> Unanimous-consent agreements are frequent also to fix an hour at which the Senate will vote on a pending proposal of great importance. There must be some definite expectations as to when action will be taken; Senators wish to be present to be recorded on the roll calls. There must also be safeguards against surprise; those having a particular bill in charge must not call for a vote when those who desire to speak are not present. These requirements can sometimes be met by informal announcement of the leaders' intentions and by notices that particular Senators desire to make speeches before a vote is taken. To get some business through, however, more formal action is frequently necessary. As the Senate rules now stand—with a closure provision that is unworkable except in emergencies—there must be some safeguard against endless delays by reason of individual idiosyncracies. Hence it is a familiar practice for unanimous-consent agreements to be entered into that the Senate will vote on a certain day, or that after a certain day speeches will be limited. These usually suffice to secure action. This in reality is a species of closure.

CRITICISM OF PRACTICE

On the other hand, it may be argued that excessive use has been made of this device during recent years; that what is needed is not greater speed of Senate action, but more thorough consideration of legislation; that too frequent use of the device impairs the deliberative function of the Senate and so destroys the very reason for its existence; that the widest possible debate upon public questions is all the more desirable since extended debate is no longer possible in the House of Representatives; that there should be some place where the merits of a measure may be thoroughly threshed out in debate and where, through such debate, the public may receive education regarding the desirability of proposed action; and that the Senate is the only practicable place where such debate can take place.

I ask unanimous consent to have printed in the RECORD at this point in my remarks without reading an exhibit entitled "Exhibit A," and referred to in the footnotes of the manuscript. It is headed "Unanimous-consent agree-

ments prior to adoption of amendment to rule XII on January 16, 1914, and in connection with which points of order were made."

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

EXHIBIT A

Unanimous-consent agreements prior to adoption of amendment to Rule XII on Jan. 16, 1914, and in connection with which points of order were made

Date	Number of bill	RECORD page
Apr. 7, 1884	S. 398	2682, 2698
Feb. 3, 1885	H. R. 5481	1218
Feb. 17, 1885	H. R. 2550	1797
May 4, 1886	H. R. 5887	4132
Mar. 3, 1887	S. 1883	2618
Sept. 6, 1888	H. R. 11336	8343
June 17, 1890	H. R. 5381	6167
June 26, 1890	H. R. 982	6530
Aug. 26, 1890	H. R. 9416	9143
July 1, 1892	S. 51	5707
Mar. 3, 1897		2730
May 4, 1906	H. R. 12987	6369
Jan. 10, 1907	S. 5133	877
Do	S. 5135	880, 881
July 5, 1909	S. J. Res. 40	4105–4107
Feb. 28, 1911	S. J. Res. 134	3638
Aug. 1, 1911	H. R. 2983	3435
May 2, 1912	S. 5382	5739
July 2, 1912	H. R. 20182	8559
July 10, 1912	S. Res. 315	8811
Aug. 9, 1912	H. R. 21869	10583
Aug. 21, 1912	S. 5137, S. 957	11433
Jan. 9, 1913	S. 4043	1256
Jan. 31, 1913	S. J. Res. 78	2344
Feb. 5, 1913	S. 8033	2593–2595
Feb. 10, 1913	S. 4043	2920
Feb. 14, 1913	S. 8103	3154
Mar. 1, 1913	H. R. 23673	4426
Mar. 2, 1913	H. R. 23673	4561–4563
Dec. 6, 1913	H. R. 7207	352

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point as a part of my remarks, without reading, an exhibit entitled "Exhibit B," and headed "Unanimous-consent agreements limiting debate (made since 1914)."

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

EXHIBIT B

Unanimous-consent agreements limiting debate[1] (made since 1914)

Date	Number of bill	Record page
Jan. 23, 1914	S. 48	2163
Do	do	2177
Aug. 5, 1914	H. R. 15613	13304
Oct. 17, 1914	H. R. 18891	16794
Jan. 11, 1915	H. R. 19422	1357
Feb. 29, 1916	S. 3331	3282
Mar. 13, 1916	S. 1417	3992, 3993
Apr. 8, 1916	H. R. 12276	5720
Apr. 18, 1916	do	6353
Dec. 16, 1916	S. 1082	422
Feb. 24, 1917	H. R. 20573	4149
Mar. 1, 1917	H. R. 20632	4633
Jan. 15, 1918	S. J. Res. 101	881
Dec. 19, 1919	S. 3284	912
Dec. 15, 1920	S. 3944	1958, 1959
July 5, 1921	S. 1039	3348–3351
July 20, 1921	H. R. 7294	4115
Aug. 23, 1921	H. R. 8117	5514, 5515
Aug. 3, 1922	H. R. 7456	10897
Aug. 18, 1922	do	11584
Nov. 24, 1922	H. J. Res. 270	131
May 10, 1924	H. R. 6715	8267
Feb. 20, 1925	S. 33	4237
Feb. 21, 1925	S. 3011	4320
May 27, 1926	S. 2607	10169
Feb. 2, 1927	H. R. 11768	2770
Feb. 4, 1927	do	2945, 2946
Mar. 3, 1927		5482
Jan. 21, 1931	H. R. 15275	2296, 2297

[1] The above unanimous-consent agreements were made after the adoption of the amendment to the rule (12) on Jan. 16, 1914, and in which cases points of order were made in connection therewith.

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a document entitled "Exhibit C," documented in the manuscript, and headed "Unanimous-consent agreements in the Senate, 1947–52."

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

EXHIBIT C

UNANIMOUS-CONSENT AGREEMENTS IN THE SENATE, 1947–52

1947

Investigation of national defense program, Senate Resolution 46.

Establishing ceiling on 1948 expenditures, Senate Concurrent Resolution 7.

Portal-to-portal bill, H. R. 2157.

Motion to recommit nomination for AEC.

Nominations for Atomic Energy Commission.

Assistance to Greece and Turkey, S. 938.

Amending the National Labor Relations Act, S. 1126.

Federal Labor Relations Act of 1947, S. 1126 (3).

Relief assistance to war devastated countries, House Joint Resolution 153.

National Science Foundation Act of 1947, S. 526.

Reduce individual income-tax payments, H. R. 1.

Provide support for wool, S. 814.

Investigation of postmasters' appointments, Senate Resolution 81.

Amending the ICC, S. 110.

Labor-Management Relations Act of 1947, H. R. 3020.

Nomination for United States district judge.

Interstate water rights on the Colorado River, Senate Joint Resolution 145.

1948

Great Lakes-St. Lawrence Basin agreement, Senate Joint Resolution 111.

Oleomargarine tax bill, H. R. 2245.

Southern States regional education compact, House Joint Resolution 334.

Motion to recommit nomination of War Assets Administrator.

Atomic Energy Act of 1946, S. 1004.

Amending the ICC, S. 110.

Selective Service Act of 1948, S. 2655.

Extend President's authority in Tariff Act of 1930, H. R. 6556.

Regulation of consumer installment credit, Senate Joint Resolution 157.

1949

National Labor Relations Act of 1949, S. 249.

North Atlantic Treaty.

Basing point bill, S. 1008.

Interior Department appropriation bill for 1950, H. R. 3838.

National Military Establishment appropriation bill for 1950, H. R. 4146.

Nomination, Chairman of the Munitions Board.

Foreign Military Assistance Pact of 1949, H. R. 5895.

Career Compensation Act of 1949, H. R. 5007.

Nomination, Assistant Secretary of State.

1950

Oleomargarine bill, H. R. 2023.

Equal-rights amendment, Senate Joint Resolution 25.

Election of President and Vice President amendment, Senate Joint Resolution 2.

Committee on Small Business, Senate Resolution 58.

Construction of dam on Colorado River at Bridge Canyon, S. 75.

Cotton and peanut acreage allotments, House Joint Resolution 398.

Displaced Persons Act, H. R. 4567.

Housing Act, S. 2246.

Amendment to Natural Gas Act, S. 1498.

Displaced Persons Act, H. R. 4567.

Amendment to Economic Cooperation Act, S. 3304 (2).

Amendment to Economic Cooperation Act, H. R. 7797.

Pricing systems and freight absorption practices, S. 1008.

Establishment of foreign trade zones, H. R. 5332.

Continuation of rent control, S. 3181.

Extension of social security, H. R. 6000.

Commodity Credit Corporation, H. R. 6567.

Continuation of rent control in the District of Columbia, S. 3776.

Amendment of Hatch Act, H. R. 1243.

Amendment of Mutual Defense Assistance Act, S. 3809.

Reorganization Plan No. 24 of 1950, Senate Resolution 290.

Reorganization Plan No. 22 of 1950, Senate Resolution 299.

Appropriations for the support of the Government, H. R. 7786 (2).

Priorities and allocations, S. 3936.

Federal Aid Highway Act of 1950, H. R. 7941.

Internal security, S. 4037 (2).

American-flag shipping on Great Lakes, H. R. 8847.

Temporary extension of rent control, Senate Joint Resolution 207.

Amendment to Railway Labor Act, S. 3295.

Emergency relief assistance to Yugoslavia, S. 4234.

Prevention of acquisition of assets of certain corporations by other corporations, H. R. 2734.

Order for recesses and consideration of certain conference reports.

1951

Renegotiation of contracts, H. R. 1724.

Assignment of ground troops for service in Europe, Senate Resolution 8.

Universal military training, S. 1 (3).

Assistance to States in public-health services, S. 445.

Armed Forces to Europe, Senate Resolution 99.

Housing for national defense, S. 349.

Dispersal of public buildings, S. 218.

Farm-labor bill, S. 984.

Food aid to India, S. 872.

Dam on Colorado River at Bridge Canyon, Ariz., S. 75.

Labor and Federal Security appropriation bill, 1952, H. R. 3709.

Independent offices appropriation bill, 1952, H. R. 3880.

Amendments to Defense Production Act of 1950 and Housing and Rent Act of 1947, S. 1717.

Basing-point bill, S. 719.

Interior Department appropriation bill, 1952, H. R. 3790.

Exclusion from gross income of income from discharge of indebtedness, H. R. 2416.

Agricultural appropriation bill, 1952, H. R. 3973.

Contempt resolutions, Senate Resolutions 119 and 120.

State, Justice, Commerce, Judiciary appropriation bill, H. R. 4740.

The Mutual Security Act of 1951, H. R. 5113.

Defense Appropriation Act of 1952, H. R. 5054.

Separation of subsidy from air-mail pay, S. 436 (2).

Revenue Act of 1951—corporate tax increases, H. R. 4473.

Revenue Act of 1951—limitation on certain amendments, H. R. 4473.

Emergency Professional Health Training Act of 1951, S. 337.

1952

District of Columbia home-rule bill, S. 1976.

Repeal of fats and oil provisions of Defense Production Act of 1950, S. 2104.

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a memorandum which was prepared for me by the Legislative Reference Service of the Library of Congress. The memorandum is entitled "Motions To Limit or Close Debate by Unanimous Consent."

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

MOTIONS TO LIMIT OR CLOSE DEBATE BY UNANIMOUS CONSENT

(Citations are to the Journal of the Senate)

SEVENTY-FIFTH CONGRESS, FIRST SESSION, JANUARY 5, 1937

Page 79, February 2, 1937: On motion by Mr. Robinson and by unanimous consent, ordered, that at the conclusion of the debate on the committee amendment, the Senate proceed to vote thereon.

Page 125, February 24, 1937: On motion by Mr. Harrison and by unanimous consent, ordered, that on tomorrow, beginning at 3 p. m., no Senator shall speak more than once nor longer than 30 minutes on the joint resolution.

Page 139, March 2, 1937: On motion by Mr. Pittman and by unanimous consent, ordered, that after the hour of 1 p. m. on tomorrow no Senator shall speak more than once nor longer than 30 minutes on the pending joint resolution, nor 15 minutes on any amendment thereto.

Page 452, July 31, 1937: On motion by Mr. BARKLEY and by unanimous consent, ordered, that when the Senate meets tomorrow no Senator shall speak more than once nor longer than 15 minutes on the bill or any amendment and that at not later than 3 p. m. the Senate shall vote.

Page 476, August 4, 1937: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once nor longer than 10 minutes on the bill or more than once nor longer than 15 minutes upon any amendment.

SEVENTY-FIFTH CONGRESS, SECOND SESSION, NOVEMBER 15, 1937

Page 46, December 16, 1937: Mr. BARKLEY submitted a request for a limitation of debate and the final disposition of the bill, to which Mr. McNary objected.

Page 48, December 17, 1937: Mr. BARKLEY submitted a request for unanimous consent that during remainder of consideration of the bill no Senator speak more than once nor longer than 5 minutes on the bill or any amendment. Mr. Bankhead raised a question as to the presence of a quorum. A quorum being present, Mr. BARKLEY's request was agreed to.

SEVENTY-FIFTH CONGRESS, THIRD SESSION, JANUARY 3, 1938

Page 162, February 14, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 3:30 p. m. on Monday next, the Senate proceed to vote on the conference report.

Page 168, February 15, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that on tomorrow, prior to 1 p. m., the time for debate be equally divided between proponents and opponents of the motion to close debate on the pending bill.

Page 218, March 14, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 2 p. m. on tomorrow, the Senate proceed to vote without further debate on the amendment proposed by Mr. Walsh and any amendment that may be proposed thereto.

Page 240, March 28, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 1 p. m. tomorrow the Senate vote on the pending amendment and that debate be equally divided between the proponents and opponents.

Page 243, March 24, 1938: On motion of Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the pending bill no amendment embodying antilynching be in order; that vote on any pending amendment be not later than 3 p. m. Monday and that not later than 5 p. m., if motion to recommit is rejected, Senate vote on the bill, time for debate to be equally divided.

Page 259, March 29, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 12:30 tomorrow the Senate proceed to vote without further debate on the pending bill and any amendments that may be proposed thereto.

Page 276, April 5, 1938: On motion by Mr. Holt and by unanimous consent, ordered, that consideration of the reported amendment be postponed until tomorrow and voted upon at not later than 1 p. m.

Page 282, April 6, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 5 p. m. today the Senate proceed to vote on all amendments to the bill * * * and on its final passage.

Page 289, April 8, 1938: On motion by Mr. Harrison and by unanimous consent, ordered, that when the Senate concludes its business it take a recess until tomorrow at 11 a. m. and that no Senator shall speak longer than 20 minutes on the pending bill or on any amendment and that at not later than 1 p. m. the Senate shall proceed to vote thereon.

Page 336, April 29, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that beginning at 12 o'clock on Monday next no Senator shall speak more than once or longer than 20 minutes on the bill nor more than once or longer than 10 minutes on any amendment thereto.

Page 429, May 28, 1938: On motion by Mr. BARKLEY and by unanimous consent, ordered, that after today no Senator shall speak more than once nor longer than 30 minutes on the joint resolution nor more than 15 minutes in the aggregate on any amendment thereto.

SEVENTY-SIXTH CONGRESS, FIRST SESSION JANUARY 3, 1939

Page 74, January 27, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that Mr. MCKELLAR may propose amendment and that not later than 3 o'clock p. m. on tomorrow the Senate proceed to vote upon the amendment, his time to be equally divided between proponents and opponents of the amendment.

Page 222, April 10, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 2:30 p. m. Monday the Senate vote on the pending amendment, the time to be equally divided between proponents and opponents.

Page 312, May 17, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the Senate vote at 3:30 p. m. on the bill and all amendments.

Page 360, June 7, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 3 p. m. tomorrow the Senate vote on the bill and amendments.

Page 401, June 24, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 12:30 Monday the Senate vote on the pending amendment.

Page 418, June 28, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the joint resolution no Senator shall speak more than once nor longer than 20 minutes on the joint resolution nor more than 15 minutes on any amendment.

Page 431, June 30, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the conference report, no Senator shall speak more than once nor longer than 30 minutes on the report and that at not later than 5 p. m. on July 5, the Senate shall proceed to vote on the report.

Page 474, July 13, 1939: On motion by Mr. Harrison and by unanimous consent, ordered, that not later than 1:05 tomorrow the Senate shall proceed to vote on the pending amendment.

Page 482, July 17, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 3 p. m. Monday the Senate vote on the bill and amendments.

Page 521, July 21, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once nor longer than 15 minutes on the bill (10 minutes on any amendment).

Page 555, July 29, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once nor longer than 15 minutes on the bill (nor on amendments).

SEVENTY-SIXTH CONGRESS, SECOND SESSION, SEPTEMBER 21, 1939

Page 15, October 9, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 2 p. m. tomorrow the Senate vote on motion to recommit the joint resolution, time to be divided equally.

Page 26, October 24, 1939: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending joint resolution no Senator shall speak more than 45 minutes on the joint resolution nor more than 45 minutes in the aggregate on any amendment.

SEVENTY-SIXTH CONGRESS, THIRD SESSION, JANUARY 3, 1940

Page 118, February 13, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during consideration of the pending bill no Senator shall speak more than once nor longer than 10 minutes.

Page 159, March 9, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the Senate vote on the pending amendment at not later than 2 p. m. Monday.

Pages 161–162, March 11, 1940: Mr. BARKLEY requested unanimous consent that Senate vote without further debate on the bill by 5 p. m. next day—Mr. Bailey objected.

Page 178, March 18, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 3 p. m. Monday the Senate proceed to vote on the bill.

Page 204, March 29, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at 4 p. m. tomorrow the Senate vote on pending amendment.

Page 209, April 1, 1940: On motion by Mr. Harrison and by unanimous consent, ordered, that after 12 tomorrow no Senator shall speak longer than 20 minutes on the pending bill or any amendment.

Page 213, April 2, 1940: On motion by Mr. Harrison and by unanimous consent, ordered, that on the convening of the Senate tomorrow no Senator shall speak more than once nor longer than 15 minutes on the pending amendment.

Page 216, April 3, 1940: On motion by Mr. Harrison and by unanimous consent, ordered, that the previous day's limitation of 15 minutes debate be applied to any amendment to the pending amendment.

Page 219, April 3, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that beginning at 12:30 tomorrow no Senator shall speak more than 15 minutes during pending of amendment.

Page 222, April 4, 1940: On motion by Mr. Harrison and by unanimous consent, ordered, that beginning at 1 p. m. tomorrow no Senator shall speak longer than 15 minutes on any amendment to the joint resolution.

Page 251, April 15, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 1:30 tomorrow the Senate vote on the bill.

Page 330, May 14, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 4 p. m. tomorrow Senate vote on the pending concurrent resolution.

Page 427, June 13, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the joint resolution no Senator shall speak more than once or longer than 30 minutes on the joint resolution.

Page 433, June 4, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the resolution no Senator shall speak more than once nor longer than 15 minutes on the joint resolution.

Page 436, June 15, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once or longer than 15 minutes on the bill or any amendment.

Page 541, August 6, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during consideration of the pending joint resolution no Senator shall speak more than once nor longer than 20 minutes.

Page 569, August 24, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during pendency of the amendment no Senator shall speak more than once nor longer than 15 minutes on the bill.

Page 577, August 27, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that no Senator shall speak more than 15 minutes during pendency of any amendment nor more than once nor longer than 30 minutes on the bill.

Page 648, September 11, 1940: On motion by Mr. BARKLEY and by unanimous consent, ordered, that no Senator shall speak more than once nor longer than 10 minutes on the bill or amendment.

Page 699, September 18, 1940: On motion by Mr. Harrison and by unanimous consent, ordered, that not later than 4 p. m. tomorrow the Senate shall proceed to vote on the pending amendment.

SEVENTY-SEVENTH CONGRESS, FIRST SESSION, JANUARY 3, 1941

Page 187., May 7, 1941: On motion by Mr. HAYDEN and by unanimous consent, ordered, that no Senator shall speak more than once nor longer than 15 minutes on the pending amendment.

Page 194, May 13, 1941: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the Senate vote on the pending resolution by 5 p. m. tomorrow, debate to be equally divided between proponents and opponents.

Page 226, May 26, 1941: On motion by Mr. Byrnes and by unanimous consent, ordered, that not later than 2 p. m. Tuesday, June 3, the Senate vote on the bill.

Page 281, June 27, 1941: On motion by Mr. Byrnes and by unanimous consent, ordered, that upon the development of a quorum after the convening of the Senate tomorrow a vote be taken on the pending amendment, and at not later than 1 p. m. on any other amendment and upon the bill itself.

Page 844, August 1, 1941: On motion of Mr. BARKLEY and by unanimous consent, ordered, that beginning August 4 no Senator shall speak more than once or longer than 30 minutes on the joint resolution or on any amendment.

Page 347, August 4, 1941: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the Senate vote not later than 1 p. m. tomorrow on the pending amendment, the time to be equally divided between proponents and opponents.

Page 422, October 21, 1941: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 2 p. m. tomorrow the Senate vote on the bill.

Page 444, November 7, 1941: On motion by Mr. BARKLEY and by unanimous consent, ordered, that beginning at 5 p. m., no Sentor shall speak more than once nor longer than 10 minutes on the joint resolution or any amendment thereto.

Page 499, December 16, 1941: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the Senate vote on the pending bills and any amendments not later than 1 p. m. tomorrow.

SEVENTY-SEVENTH CONGRESS, SECOND SESSION, JANUARY 5, 1942

Page 138, March 25, 1942: On motion by Mr. McNary and by unanimous consent, ordered that after the hour of 3:30 p. m. on March 26, no Senator shall speak more than once nor longer than 30 minutes on the resolution or any amendments or motions.

Page 143, March 26, 1942: On motion by Mr. McNary and by unanimous consent, ordered, that during the further consideration of the pending resolution no Senator shall speak in the aggregate more than 30 minutes on the resolution and all amendments and motions relating thereto.

Page 192, May 5, 1942: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 3 p. m. tomorrow the Senate proceed, without further debate to vote on the committee amendment. The time for debate from convening of Senate until the vote to be equally divided between Mr. MCKELLAR and Mr. BARKLEY.

Page 222, May 20, 1942: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the motion to reconsider be agreed to and that a yea-and-nay vote be taken, without further debate, on the questions of agreeing to the committee amendments.

Page 456, October 24, 1942: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the amendment proposed by Mr. Norris, and all amendments thereto, debate shall be limited to the amendment and no Senator shall speak more than once nor longer than 15 minutes.

Page 457, October 24, 1942: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once nor longer than 15 minutes on any amendment, or amendment thereto, or on the bill, or any motion pertaining thereto.

Page 477, November 20, 1942: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the pending bill, until 1 p. m. Monday next, the time for debate be equally divided between opponents and proponents of the bill.

SEVENTY-EIGHTH CONGRESS, FIRST SESSION, JANUARY 6, 1943

Page 101, March 10, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 2 p. m. tomorrow the Senate vote on the pending amendment.

Page 112, March 17, 1943: On motion by Mr. Clark, of Missouri, and by unanimous consent, ordered, that the Senate vote not later than 2:30 p. m. tomorrow on all amendments to the pending bill.

Page 128, March 26, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, as in executive session, that at not later than 5:30 p. m. on Tuesday next the Senate proceed to vote upon the nomination of Rear Adm. Emory S. Land to be a member of United States Maritime Commission, time for debate to be divided between proponents and opponents.

Page 245, May 28, 1943: On motion by Mr. GEORGE and by unanimous consent, ordered, that on Tuesday next the Senate vote not later than 2:30 p. m. on pending amendment, the time to be divided equally between proponents and opponents.

Page 247, June 1, 1943: On motion by Mr. GEORGE and by unanimous consent, ordered, that upon the convening of the Senate tomorrow no Senator shall speak more than once nor longer than 30 minutes on the joint resolution nor more than once nor longer than 15 minutes on any amendment.

Page 284, June 10, 1943: On motion by Mr. RUSSELL and by unanimous consent, ordered, that during further consideration of the bill no Senator shall speak more than once nor longer than 15 minutes on any amendment or on the bill.

Page 286, June 11, 1943: On motion by Mr. RUSSELL and by unanimous consent, ordered, that the order of the Senate limiting debate apply to any motion pertaining to the bill.

Page 323, June 25, 1943: On motion by Mr. Clark of Missouri and by unanimous consent, ordered, that at not later than 1 p. m. tomorrow a vote be taken on the amendment proposed by him, the time to be equally divided.

Page 362, July 3, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 1 p. m. on Monday next, the Senate vote on the pending motion.

Page 371, July 5, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the pending joint resolution no Senator shall speak more than once nor longer than 15 minutes on the joint resolution or any amendment thereto.

Page 378, July 7, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 12:45 tomorrow the Senate vote on all amendments to the bill and on its final passage.

Page 473, November 5, 1943: On motion by Mr. CONNALLY and by unanimous consent, ordered, that during further consideration of the pending resolution no Senator shall speak more than once nor longer than 15 minutes on the resolution or any amendment.

Page 513, December 3, 1943: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the pending bill no Senator shall speak more than once nor longer than 15 minutes on the bill or any amendment.

Page 534, December 13, 1943: Mr. Tydings requested unanimous consent that at not later than 4 p. m., Monday next, the Senate vote on the joint resolution and all amendments.

On motion by Mr. BARKLEY and by unanimous consent, ordered, that the provision of rule XII requiring a quorum call be waived. Mr. Tydings' request was then agreed to.

SEVENTY-EIGHTH CONGRESS, SECOND SESSION, JANUARY 10, 1944

Page 50, February 2, 1944: On motion by Mr. BARKLEY and by unanimous consent, ordered, that not later than 12 o'clock noon tomorrow the Senate proceed to vote on the pending amendment.

Page 52, February 3, 1944: On motion by Mr. BARKLEY and by unanimous consent, ordered, that beginning at 2 p. m. tomorrow, and during further consideration of the pending bill, no Senator shall speak more than once nor longer than 20 minutes on the bill or any amendment.

Page 110, February 11, 1944: On motion by Mr. BARKLEY and by unanimous consent, ordered, that Mr. La Follette be recognized for debate on the convening of the Senate tomorrow and that upon the conclusion of his address, and during further consideration of the bill, no Senator shall speak more than once nor longer than 20 minutes on the bill or any amendment.

Page 391, August 10, 1944: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during further consideration of the pending bill, no Senator shall speak more than once nor longer than 30 minutes on the bill or any amendment.

Page 460, November 24, 1944: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending amendment, no Senator shall speak more than once nor longer than 15 minutes on the amendment or on any amendment thereto.

Page 483, December 5, 1944: On motion by Mr. HILL and by unanimous consent, ordered, that at not later than 1 p. m. on tomorrow the Senate vote on the pending amendment and all amendments thereto.

Page 496, December 12, 1944: On motion by Mr. HILL and by unanimous consent, ordered, that at not later than 3 p. m. tomorrow, the Senate proceed to vote on pending amendment, debate to be equally divided.

Page 507, December 13, 1944: On motion by Mr. HILL and by unanimous consent, ordered, that at not later than 2 p. m. tomorrow the Senate vote on pending amendment, time to be equally divided.

SEVENTY-NINTH CONGRESS, JANUARY 3, 1945

Page 98, March 6, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending amendment no Senator shall speak more than once nor longer than 20 minutes.

Page 147, April 3, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at 12:30 tomorrow the Senate proceed to vote by yeas and nays on the question of agreeing to the report.

Page 155, April 9, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending bill no Senator shall speak more than once nor longer than 15 minutes on the bill on any amendment thereto.

Page 240, June 6, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 1:15 p. m. on Wednesday next the Senate proceed to vote on all amendments to the pending bill. The time for debate to be equally divided between proponents and opponents.

Page 246, June 8, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending joint resolution no Senator shall speak more than once nor longer than 20 minutes on the joint resolution or any motion or any amendment thereto.

Page 257, June 15, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that beginning with the session of the Senate on Monday next and during the pendency of the committee amendment no Senator shall speak more than once nor longer than 15 minutes on the bill or the amendment.

Page 259, June 18, 1945: On motion by Mr. GEORGE and by unanimous consent, ordered, that at not later than 2 p. m. tomorrow, the Senate proceed to vote on the pending amendment, the time for debate to be equally divided.

Page 261, June 19, 1945: On motion by Mr. GEORGE and by unanimous consent, ordered, that during the further consideration of the pending bill no Senator shall speak more than once nor longer than 20 minutes on the bill nor more than once nor longer than 20 minutes on any amendment thereto.

Page 292, June 29, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the vote on the motion to close debate be taken immediately following appearance by the President of the United States before the Senate on July 2.

Page 331, July 18, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that immediately after a quorum call upon the convening of the Senate tomorrow, the Senate proceed to vote without further debate upon the pending amendment.

Page 337, July 20, 1945: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 2 p. m. tomorrow the Senate proceed to vote upon the joint resolution and any amendment proposed thereto.

SEVENTY-NINTH CONGRESS, SECOND SESSION, JANUARY 14, 1946

Page 58, February 7, 1946: On motion by Mr. BARKLEY, and by unanimous consent, ordered, that the vote on the motion to close debate be taken at 4 p. m. on Saturday next.

Page 186, April 30, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the consideration of the committee of conference * * * be postponed until 2 p. m. and that a vote be taken on the question of agreeing to the report at not later than 4 p. m. today.

Page 205, May 7, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 2 p. m. tomorrow the Senate proceed to vote on the pending amendment and that beginning at 12 tomorrow the time for debate be equally divided.

On motion by Mr. BARKLEY and by unanimous consent, the unanimous-consent agreement was modified to provide that the time for debate be 1 hour and 45 minutes and that the vote be taken at not later than 2:45.

Page 211, May 9, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 3 p. m. tomorrow the Senate shall proceed to vote without further debate on the joint resolution and all amendments thereto.

Page 251, May 24, 1946: On motion by Mr. BARKLEY, and by unanimous consent, ordered, that during the further consideration of the pending legislation no Senator shall speak more than once nor longer than 30 minutes on the bill or any amendment thereto.

Page 251, May 24, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that the vote on the motion to close debate on the pending measure be postponed until 5 p. m. tomorrow.

Page 251, May 24, 1946: On motion by Mr. BARKLEY, and by unanimous consent, ordered, that the Senate proceed to vote on the pending amendment without further debate at not later than 1 p. m. tomorrow, the time for debate to be equally divided.

Page 264, May 29, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered that the Senate proceed to vote not later than 5 p. m. today on any proposed amendment striking out section 7 of the bill (settlement of industrial disputes), the time for debate to be equally divided.

Page 264, May 29, 1946: On motion of Mr. BARKLEY and by unanimous consent, ordered that following the disposition of the matter involved in section 7 and during the further consideration of the bill, no Senator shall speak more than once nor longer than 30 minutes on the bill or any amendment thereto.

Page 298, June 10, 1946: On motion by Mr. LAFOLLETTE and by unanimous consent, ordered, that further debate on the bill and all amendments and motions relating thereto be ended at not later than 5 o'clock p. m. today, and that at not later than 3:30 an amendment to be proposed by Mr. BYRD be in order, the time remaining for debate to be controlled and divided.

Page 304, June 12, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending bill no Senator shall speak more than once nor longer than 30 minutes on the bill or any amendment thereto.

Page 375, June 27, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the conference report, no Senator shall speak more than once nor longer than 1 hour.

Page 424, July 11, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending amendment no Senator shall speak more than once nor longer than 30 minutes on the joint resolution or the amendment.

Page 443, July 15, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at not later than 2:45 p. m. today the Senate proceed to vote on the question of agreeing to the concurrent resolution.

Page 458, July 19, 1946: On motion by Mr. BARKLEY and by unanimous consent, ordered, that at 1 p. m. tomorrow the Senate proceed to vote on the pending joint resolution, with the understanding that the Senate shall not proceed to consider other legislation in the interim.

Page 458, July 19, 1946: On motion by Mr. Radcliffe and by unanimous consent, ordered, that the time for debate tomorrow on the pending joint resolution be equally divided between the proponents and opponents.

Page 467, July 20, 1947: On motion by Mr. BARKLEY and by unanimous consent, ordered, that when the Senate concludes its deliberation today it stand in recess until 11 a. m., Monday, and that not later than 3 p. m. that day the Senate proceed to vote on the joint resolution and all amendments thereto, that the time for debate be equally divided.

Page 498, July 26, 1947: On motion by Mr. BARKLEY and by unanimous consent, ordered, that during the further consideration of the pending bill no Senator shall speak more than once nor longer than 15 minutes on the said bill or any amendment thereto.

Mr. MORSE. Mr. President, I have made these remarks on the unanimous consent problem because of the fact that I objected last night to a unanimous consent request in connection with the pending bill. I wanted, for reference purposes, a full statement of my position on the whole procedural matter involving unanimous consent agreements, and my explanation as to why it is that under such circumstances as existed in the Senate yesterday in connection with the pending bill it is not to be expected that the junior Senator from Oregon will ever give his consent to a unanimous consent agreement.

But I will give unanimous consent on the merits, in each individual instance, when I am satisfied that the Senate has been supplied by the committee reporting the bill with the printed proceedings of the hearings on the bill and a committee report which goes to the merits of the bill and there has been adequate time allowed the minority for debate. I feel that each Senator should have before him at least an official Senate record on the merits or demerits of proposed legislation, which, if he wants to keep faith with his representative obligations to his constituents, he can use to reach a fair and independent judgment as to how he should vote on an issue. But when pains are not taken to supply each Member of the Senate with that kind of material, which is true in regard to the

bill now pending before the Senate, I will never give unanimous consent, because I cannot reach any other conclusion than that to give unanimous consent under such circumstances would mean that I would be participating in what I would consider to be steam-roller strategy on the floor of the Senate to rush a bill through the Senate without adequate consideration.

I will not do that. I made that very clear last night in the little exchange of points of view which I had with the majority leader and other members of the majority party. I wanted the RECORD to show today that the reason was not that the junior Senator from Oregon wanted to delay a vote on the bill. He did not propose to sit here and be a party to what he considered would have amounted to rushing a bill through the Senate without even having before the Senate an official document from the committee dealing with the merits or demerits of the bill. We do not have even the printed hearing proceedings on the bill.

This bill is of tremendous importance to the American people—to all the American people, businessmen as well as consumers. I wish now for a few minutes to turn my attention to the bill itself.

Mr. BENTON. Mr. President, before the Senator does so will he yield for a question or two?

Mr. MORSE. I yield.

Mr. BENTON. Does the Senator recall my proposal to the Senate that a commission be established, appointed by the Speaker of the House and the President of the Senate, with certain outside members, to make a report with regard to a full and complete revision of the Senate rules?

Mr. MORSE. I may be mistaken in my recollection, but I think the RECORD will show that even on the floor of the Senate I assured the Senator from Connecticut of my wholehearted endorsement of his suggestion. I know that in private conversations in the past, in talking about this subject in general, I have made it clear to the Senator from Connecticut that I completely agree with the approach he is making to this need for an improvement and modernization of the procedures of the United States Senate.

Mr. BENTON. Sixteen Senators joined me in submitting the resolution, and it is my recollection that the distinguished Senator from Oregon was one of them.

Mr. MORSE. I believe so, but I am not sure.

Mr. BENTON. Mr. President, does the Senator from Oregon have any idea as to how, between us, we might exercise some influence on the Committee on Rules and Administration and its distinguished chairman so that we could get a report from the committee and have action taken on the resolution before we leave the city on Saturday?

Mr. MORSE. I am not very good at influence. However, I shall be very glad to discuss the subject with the Senator off the floor.

Mr. BENTON. Mr. President, would the Senator agree that one of the subjects which needs examination is the question of the application of television to the sessions of the Senate; and does he recall that I have suggested—and I hasten to say that I would oppose televising all sessions of the Senate—that certain sessions, even running into the evening, covering certain key debates, as in the Australian Parliament, be put on television, in order that the American people might be exposed to such debate and thereby get a better understanding of the great issues which are discussed in this body?

Mr. MORSE. I am aware of the fact that such is the view of the Senator from Connecticut. I have on many occasions publicly stated that I would support televising some of the major debates of the Senate. If the Senator from Connecticut will permit me to discuss the bill, I shall be very happy to discuss off the floor the problem of reforming the procedures of the Senate.

Mr. President, the McGuire bill is not merely enabling legislation intended to allow the various States to control their own intrastate commerce. States already have and always have had that right. When Congress interferes in purely intrastate matters as it did in the NRA, the United States Supreme Court in the Schechter case unanimously held the NRA unconstitutional, not only because it was an illegal delegation of authority, but also because Congress was legislating on purely intrastate matters. The McGuire bill seriously weakens the Sherman Antitrust Act and all our other procompetition laws. It is proprice fixing. In the broad concurrent zone where the States and Congress may both legislate, the United States Congress should not, even if it can, abdicate its control of interstate commerce. As I have said, all of our antitrust laws are procompetition. The McGuire bill is proprice fixing. It is irreconcilably at war with all our traditional affirmative policy and legislation to preserve competition and free enterprise. The harm to the public of fixed, rigged prices will be very great. Of the total national income of over $250,000,000,000, about $150,000,000,000 represents retail trade. No less than 10 percent, or about $15,000,000,000, is retail trade in branded merchandise which would be directly affected by this bill. The best estimates as shown at the House and Senate hearings indicate that resale-price maintenance would increase prices no less than an average of 12 percent on all branded goods. This would force the consuming public to pay between $1,800,000,000 and $2,000,000,000 a year in higher prices on branded goods if this bill should be enacted.

The press of the country is almost unanimously opposed to this price-fixing bill. The United Press, the Scripps-Howard Press, the Kansas City Star, the New York Herald Tribune, the New York Times, the St. Louis Post-Dispatch, the St. Louis Globe-Democrat, the Denver Post, the Richmond (Va.) News-Leader, the Washington (D. C.) Post, and the Washington (D. C.) Daily News, Fortune magazine, and many other periodicals, are all strongly opposed to fair-trade rigged prices as very harmful to the public generally, especially during this period of high inflation. It is conceivable that the entire press of the country is in this instance opposed to the public interest in favoring free and competitive pricing? When retailers face their suppliers, wholesalers, and manufacturers, they want to buy under conditions of competition which is natural and proper. What makes price competition good among manufacturers and wholesalers and harmful among retailers?

My good friend, the Senator from Minnesota [Mr. HUMPHREY], and my good friend, the Senator from Michigan [Mr. MOODY] yesterday recalled the depression of 1930 as a reason for favoring this bill. No one expects that kind of a recession or depression within the next 6 months, or even within the next 2 or 3 years. Why then, must we rush this bill through the Senate before the Members of the Senate have even had an opportunity to examine the Senate hearings on the bill? Is it necessary to yield to the pressure and desire for haste which is responsible for this hasty lack of consideration of a bill which may seriously impair the living standards of many of the 155,000,000 consumers? Is there any need for this great rush to push this bill through in the closing days of this session even before the printed hearings have been made available to the Members of the Senate? It is interesting to recall that the Miller-Tydings Act of 1937 was rushed through as a rider to a District of Columbia appropriation bill. President Roosevelt denounced the Miller-Tydings Act at the time although he felt he had to sign the appropriation bill.

In hearings before the Celler committee more than 40 university professors signed or submitted statements in the hearings before the House Judiciary Committee last February 1952. All of these university men in economics, marketing and law, opposed all of the bills in favor of resale price maintenance. The record of the House hearings will show that these included men from the Yale Law School, Harvard, Massachusetts Institute of Technology, the University of Chicago, Northwestern, Washington University, and all the way to California, where Dean E. T. Grether of the business school at Berkeley, Calif., also filed a statement opposing all forms of fair trade price fixing.

University faculties seem as unanimous as the press is in asking that our antitrust laws not be weakened by destroying competition on the retail level on branded merchandise. Much has been said of cutthroat competition or the "law of the jungle" price cutting. The Celler bill outlawing below-invoice selling and the amendment offered by the Senator from Illinois [Mr. DOUGLAS] outlawing below-invoice plus 6-percent retail sales is an adequate answer to the loss-lead argument. Under the guise of abolishing the "loss lead," this bill gives us unregulated, uncontrolled, private price fixing, which has been and will be

abused to the detriment of the public. The worst provision in this bill is the so-called nonsigner clause. That is the provision by which a price-maintenance contract between a manufacturer and any one retailer becomes automatically binding on all retailers in the same State who sell the product, regardless of the fact that many are self-service and, therefore, have a lower operating cost which they desire to pass on to the retail level.

As Fortune said in the March 1952 issue:

> To coerce a retailer into a contract he has never seen, let alone sign, is bad law. Giving special protection to a special group is not exactly new in United States history, but that does not alter the fact that it is bad economics.

The article goes on to say that 22 fair-trade lawyers guided the hand of Congressman McGUIRE when this bill was drawn. This is the bill we are asked to rush through without adequate debate and without even an opportunity to examine the Senate hearings, which have not yet been published and which we do not have. Our opinion cannot be any better than our information, and we have no right to substitute mere opinion or a yielding to pressure groups when the facts can and should be had. Possibly retailers, the Fortune article suggests, should be more volume conscious and less high-protected-margin conscious. In a release dated June 2, 1952, from the office of the Senator from Colorado [Mr. JOHNSON], six simple but very important questions were asked. Before debate on this bill ends, we should have clear and complete answers to Senator JOHNSON'S important questions, which I here quote in full:

> There are a few elementary questions which should be discussed in this hearing by the proponents and the opponents. They are:
>
> 1. Does price-fixing at the resale level in States having fair-trade laws promote or destroy competition?
>
> 2. Will the interest and the very existence of small retailers in fair-trade States be secured and protected from the unfair competition of the large chain stores by the passage of this legislation?
>
> 3. If the Senate passes H. R. 5767, the McGuire bill, what is the position of the consumer? Is he denied the opportunity of purchasing a "bargain" on any brand name or trade-mark product which otherwise he might enjoy?
>
> 4. Would this bill reverse the action of Congress in creating OPS by enabling the States to set a minimum instead of a Federal ceiling price on brand names or trade-mark products for resale?
>
> 5. What are the advantages or disadvantages of the loss leaders and how would it affect the sale of trade-mark or brand-name articles?
>
> 6. How much money will this legislation cost the unorganized consumer and how much additional money will it put into the treasury of manufacturers, wholesalers or retailers?
>
> There are many other questions involved which this committee hopes may be cleared up by this hearing.

It may be, Mr. President, that the committee cleared them up, but if it did the evidence was not made available to the Senate. I had hoped that we would have before us the printed hearings of the committee so that we could judge for ourselves whether the committee had cleared up the questions.

These questions should not be ignored. The Senate and the public are entitled to have them answered fully and frankly. Here are a few other simple questions that were asked in the Senate hearings and also in the Celler hearings to which we should have complete answers before we vote on this bill:

First. If a cash-and-carry super store has lower costs, should not the public be permitted to benefit—in lower prices—from all such lower-cost methods of doing business?

Second. In the situation above why should all be required to sell a so-called fair-traded item at the same retail price?

Third. If competition among producers of an item is good for the public, why should competition among retail sellers of that item be denied?

Fourth. Has any pressure group ever campaigned for price-fixing privileges except to make prices higher than they are under free competition?

Fifth. What real and specific evidence is there that truly meritorious articles have ever been driven from the market by price competition?

Sixth. If a merchant wants to locate a store outside the city limits, operate at lower costs, price accordingly, and therefore sell at lower prices because of his lower costs, what good reason is there to deny him that right and forbid the public that benefit, and would not legislation directed toward this end be held invalid by the Supreme Court as an unconstitutional deprivation of property without due process of law?

As I said, by my speech along with that of the Senator from Illinois, I intend primarily to make a record on which the President, I hope, may base a veto message.

I wish now to say a few words in terms of rebuttal, and then I shall send to the desk two amendments to the bill. Before I finish my remarks, I shall present my arguments in support of the amendments, so that I will not take the floor again after I have concluded my speech, but have the amendments called up and voted on. As I have made clear to my colleagues, I do not intend to delay a vote on the bill today.

Point 1: The Humphrey argument that just as the Government sets price supports for agriculture and passes wage and hour acts for labor, so also should it protect the small-business man.

Mr. President, because I do not accept as sound the argument of my friend, the Senator from Minnesota, I think these observations in rebuttal should be made, at least for the record.

There are several answers to this point:

(a) In the case of farm price supports and minimum wages, it is the Government which determines what is a reasonable and fair support price or minimum wage. The Government does not, as would be true under resale price maintenance, turn the matter over to the farmers, to let them determine their own support prices, and to the workers, to let them determine their own minimum wages. By having the Government set these minima in agriculture and labor the public interest is protected, and the Government is acting in the interest of the public. Congress, in setting farm price supports, considers the interests not only of the farmers themselves, but also of processors, distributors, and—above all—of consumers. In setting minimum wages, it considers not only the interests of the workers, but also the interests of the employer and, again, of the consumer. But under resale price maintenance the establishment of minima is exclusively done by the parties at interest—those who would gain by high prices. There is no mechanism whereby any consideration can be given to the consumers, or to small-business men, of whom there are many, who dislike resale price maintenance.

(b) The mechanics are different in still another respect. If the resale-price maintenance principle was to be applied to agriculture—to use an extreme and a really absurd example, but to illustrate the point, Mr. President—one farmer in each wheat-growing State could enter into a contract with, let us say, General Mills; and the price in that contract would govern the price paid by General Mills to all other farmers for their wheat. General Mills might enter into such a contract with a big, mechanized wheat farm, a factory in the field, and might establish in the contract a low price for wheat—a price which would break the back of the average small farmer. Yet under the resale price maintenance principle, all farmers, large and small, would have to sell to General Mills at that established contract price. In this connection, it must be remembered that the bill before us gives the manufacturer the right to set not merely a minimum price, but a stipulated price, as well.

Mr. President, the word "stipulated" is not so little in its implications, and I shall soon direct one of my amendments to that word.

Hence, in the example I have given, General Mills could set not merely a minimum price, but a stipulated price—and it would be exactly that price which each farmer would be paid by General Mills for his wheat—if we could correctly assume the absurd situation in which that kind of procedure would be applied to agriculture. However, I cite it to illustrate my difference with the Senator from Minnesota in regard to the principle he defended last night.

POINT 2. SENATOR HUMPHREY'S ATTACK ON FTC STATISTICS (P. 8933)

Next, Mr. President, my friend, the Senator from Minnesota, was very critical of some of the Federal Trade Commission's statistics. He may be correct, but I wish to make these observations about his comments. I do not know where the statistics he criticized are to be found.

Would the Senator from Minnesota kindly indicate where the figures of the FTC are to be found? He has criticized the FTC figures as being fallacious. But he gave no citation. I have not had a

chance to check the RECORD to see whether the Senator from Minnesota cited documentation for his criticism.

I have gone over the FTC report on resale price maintenance, and I found no misuse of proper statistical techniques, such as the Senator from Minnesota has described, and which he criticized last night.

All that the FTC did was to compare prices before resale price maintenance and immediately after resale price maintenance. I wish to say that the source of my information is the Federal Trade Commission itself, because I checked with the Commission this morning. After listening to the Commission's explanation, Mr. President, I can see no impropriety in a comparison of prices before resale price maintenance and prices immediately after resale price maintenance.

There is no impropriety in such a comparison. They did not compare the before resale-price maintenance prices with the printed or posted ones, as opposed to the resale-price maintenance prices. They compared the prices before resale-price maintenance with the resale-price maintenance prices themselves. That is what the Commission should have done. Such a comparison should not be based upon some printed bulletin, as an indication of the intent. The comparison should be based upon the actual practice.

Mr. DOUGLAS. Mr. President, will the Senator from Oregon yield for a question?

The PRESIDING OFFICER (Mr. CASE in the chair). Does the Senator from Oregon yield to the Senator from Illinois?

Mr. MORSE. I yield.

Mr. DOUGLAS. I was the one who originally introduced the comparative material which is to be found on page 8719 of the RECORD for yesterday. I turned back to sources, and quoted the material from Knoxville, Tenn.; Michigan; and New York City.

For the sake of the record, I think it should be stated that the Knoxville study was made by Charles W. Lewis, director of the bureau of business research, University of Tennessee, and was published in his monograph entitled "Price Maintenance in Knoxville, Tenn., Under the Tennessee Fair Trade Act of 1937." The prices which were used for this study were the average advertised prices during those periods in cut-rate chain drug stores. The series was composed of 122 items.

The Michigan series was compiled by Edgar H. Gault, professor of marketing, School of Business Administration, University of Michigan, and was published in his brochure entitled "Fair Trade With Special Reference to Cut-Rate Stores in Michigan." The prices used for the study were taken from newspaper advertisements during the fall of 1937 and the fall of 1938. The series was composed of 160 well-known branded items which the author described as typical during those periods.

The New York series was compiled by Duncan Holthausen, of the staff of Dun & Bradstreet.

So these statistics were arrived at by means of independent students and studies, and were gathered together and presented during the House Judiciary Committee hearings held in connection with that committee's study of monopoly power during February of this year.

Mr. MORSE. Mr. President, I thank the Senator from Illinois very much for clarifying the record on that point and for making that contribution.

POINT 3. HISTORY OF PRESSURE, (A) TO GET RESALE PRICE MAINTENANCE LAWS ORIGINALLY PASSED AND (B) TO GET THE PRESENT BILL ENACTED

I believe that at this point in my remarks I should provide some material on the history of what, for a better term, I shall call pressure to get resale price maintenance laws passed originally and to get this particular bill passed.

With respect to the original resale price maintenance laws, I have taken certain material from the Federal Trade Commission's report on Resale Price Maintenance. I believe it is of interest, and I ask unanimous consent to have it inserted at this point in the RECORD, as a part of my remarks.

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

"Early in the Commission's investigation a letter was written to the secretary of state of each of the 44 States that had enacted resale price maintenance laws, requesting a transcript of testimony at hearings on the 'fair trade' bills. In case it was impossible to furnish a transcript of testimony, they were requested to furnish the names of persons and organizations appearing to testify either for or against the legislation. Each of these officials stated in answer to the first request that, so far as they knew, no record was kept of testimony before any legislative committee. Only four of these officials were able to give any definite information as to whether or not hearings were held. The information as to these four States was as follows:

"In Nebraska the bill was introduced by seven members of the legislature. At the hearings two men favored and two opposed its passage. No information was given as to the interest represented by any one of the four.

"In Massachusetts the proponents at the hearings were representatives of the druggists, liquor dealers, tobacco distributors, and grocers. No opponents were mentioned.

"In Alabama hearings were relatively short. The bill was sponsored primarily by the Retail Druggists Association. Very little opposition developed.

"In Illinois there were no hearings on the bill."

In this connection, there is also a very interesting finding by the Commission concerning the subject of typographical errors, which sheds some light on the rapidity with which these State bills were passed by these State legislatures.

On page 68 of the Commission's report it is stated as follows:

"The California law of 1931, as amended by addition of the nonsigner clause in 1933, became the model followed by a number of other States. Later the National Association of Retail Druggists developed a model law, patterned closely after the California act, but embodying certain corrections and changes in phraseology. This model was enacted by numerous States, with little or no change in the wording of its essential provisions. In the framing of the acts of a few of the States, both the California and the National Association of Retail Druggists models appear to have been considered, with the result that laws differing in phraseology from both, yet containing essentially provisions of both, were enacted.

"How closely the California law was followed by other States is indicated by the fact that a stenographic error in the California law was copied in the laws adopted by 11 States, notwithstanding the fact that, as finally pointed out by a New Jersey court, the error in transcription made the wording of an important section of the law unintelligible."

Mr. MORSE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, some material regarding the history of what I consider to be the pressure movement to get this particular bill passed.

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

Immediately following the decision of the Supreme Court in the Schwegmann case, the National Association of Retail Druggists took active steps to draft remedial legislation. Originally planned as an amendment to the Miller-Tydings section of the Sherman Act, this legislation was drawn to amend the Federal Trade Commission Act solely for the purpose of bypassing the supposedly unfriendly House Judiciary Committee and placing it in the hands of the Interstate and Foreign Commerce Committee. To assure that the legislation would not fall into the hands of the former body, members of the association were directed to barrage Congress with letters requesting that Members vote against any move to re-refer the proposed statute (H. R. 5767) to the Committee on the Judiciary.

Once it was evident that H. R. 5767 would remain with the Interstate and Foreign Commerce Committee, another avalanche of letters from members of the National Association of Retail Druggists beseiged members of the committee to hold prompt hearings and to issue a favorable report on the bill. This was done despite the fact that the Committee on the Judiciary had long since announced that fair, thorough, and comprehensive hearings on bills pending before it would be held with dispatch.

After H. R. 5767 was favorably acted upon by the Interstate and Foreign Commerce Committee, attention was focused directly upon the Rules Committee, and again members of the association were told to flood the members of the Rules Committee with requests to issue a rule, and friends of members of the Rules Committee were urged to contact these members personally for the same purpose.

Even now, Members of Congress have been alerted for the campaign which must be waged to push the legislation through the House of Representatives and have been told to stand by for the clarion call to overwhelm the Congress with mail urging passage of H. R. 5767.

The accompanying chronological survey of events recorded in the trade press, bulletins and announcements of responsible officials, discloses with utmost candor the facts set forth above and reveals how, in this instance, legislative procedures are being determined not by the Rules of the House but by a vocal group of highly organized retailers who believe that the orderly procedures of Congress can be subverted by outside pressures.

LEGISLATIVE DRAFTING

May 21, 1951:

Decision of Supreme Court in *Schwegmann Bros.* v. *Calvert Corp.* (341 U. S. 384 (1951)).

May 25, 1951, John Dargavel:

"There is only one organization with the experience and the leadership that are needed to direct effective unified activities to amend the Miller-Tydings Act. The NARD led the fight that resulted in the Miller-Tydings Act. * * * Right now attorneys of exceptional capabilities are busy on the determination of the phraseology of the amendment. * * * The NARD is also at work on the details of the plan of action for the organized activities to bring about the enactment of the nonsigner amendment" (NARD Journal, June 4, 1951, pp. 814, 823).

June 18, 1951, NARD Journal:

"Draft legislation for introduction in Congress, amending the Miller-Tydings Act so that it will cover the nonsigner clause in interstate commerce, has been developed by Herman Waller, legal counsel to the NARD and a veteran fighter for fair trade" (p. 962).

INTRODUCTION AND REFERRAL

October 29, 1951, Drug Trade News:

"Fair-trade supporters representing many industries have stamped their official O. K. on a Congressional bill (H. R. 5767) introduced by Representative JOHN A. MCGUIRE (Democrat, Connecticut) that would validate the nonsigner clauses of State fair-trade laws through an amendment to the Federal Trade Commission Act rather than the Miller-Tydings Act as had been originally planned.

"The last-minute change in policy on the bill is viewed as an attempt to insure early action on fair-trade legislation. By amending the FTC Act instead of the Miller-Tydings Act, the bill is diverted from the hostile House Judiciary Committee to the friendlier House Interstate Commerce Committee, headed by Representative ROBERT CROSSER (Democrat, Ohio), who promises early action on it when Congress reconvenes" (p. 1).

November 1951: American Druggist:

"By use of legislative strategy, the bill was kept away from the House Judiciary Committee which is regarded as being hostile to fair trade. Representative CELLER, Democrat of New York, who is chairman of the Judiciary Committee, is one of the leading opponents of fair trade on Capitol Hill, and it was anticipated that he would do everything in his power to bottle up new fair-trade legislation.

"To keep it away from the Judiciary Committee, the bill was written as an amendment to the Federal Trade Commission Act rather than the Sherman Antitrust law. The House Interstate Commerce Committee has jurisdiction over legislation dealing with the Federal Trade Commission while the Judiciary Committee handles amendments to the Antitrust act" (p. 73).

PREVENTION OF TRANSFER

January 14, 1952, Drug Topics:

"At press time, a spokesman for the Interstate Commerce Committee, told Drug Topics that Mr. CELLER and Chairman ROBERT CROSSER of Interstate Commerce plan to meet early this term to decide which committee will handle the McGuire bill.

"He said various members of the committee feel the bill is an 'encroachment' on the jurisdiction of the Judiciary Committee since it would directly amend the FTC Act, rather than the Sherman Act, as a means of setting aside the recent Supreme Court Schwegmann decision which outlawed the nonsigner clauses of State fair-trade laws in interstate commerce" (p. 24).

February 4, 1952, John Dargavel:

"I have just received a report from Washington that hearings on H. R. 5767 (the NARD fair-trade bill) have been scheduled to open on February 4. It is good news indeed. It tells us that we won the fight to prevent the transfer of the bill from the House Committee on Interstate and Foreign Commerce to the Judiciary Committee of the House and also that the House Committee on Interstate and Foreign Commerce responded to the wishes of the druggists in particular and the retailers in general everywhere in the United States.

"You members gave us magnificient cooperation. Your responses to the appeal I sent out for action on January 9 amounted to an avalanche of letters and telegrams" (NARD Journal, p. 183).

February 4, 1952, Drug Trade News:

"Mr. CELLER has abandoned efforts to have jurisdiction over the McGuire bill transferred to his committee. He has let it be known that he is 'not interested in the McGuire bill,' which will remain with the Interstate and Foreign Commerce Committee" (p. 1).

"This decision of Mr. CELLER's can be characterized as a victory for the National Association of Retail Druggists, since druggists from all over the Nation have been deluging Members of the House with telegrams and letters demanding their support for keeping the McGuire bill in the Interstate and Foreign Commerce Committe" (p. 33).

HEARINGS

January 7, 1952, NARD Journal:

"The next action on the bill will be to have it scheduled for a hearing before the House Committee on Interstate and Foreign Commerce, of which the members are ROBERT CROSSER, of Ohio; LINDLEY BECKWORTH, of Texas; J. PERCY PRIEST, of Tennessee; OREN HARRIS, of Arkansas; DWIGHT L. ROGERS, of Florida; ARTHUR G. KLEIN, of New York; THOMAS B. STANLEY, of Virginia; WILLIAM T. GRANAHAN, of Pennsylvania; JOHN A. MCGUIRE, of Connecticut; F. ERTEL CARLYLE, of North Carolina; JOHN BELL WILLIAMS, of Mississippi; PETER F. MACK, JR., of Illinois; HOMER THORNBERRY, of Texas; LOUIS B. HELLER, of New York; KENNETH A. ROBERTS, of Alabama; MORGAN M. MOULDER, of Missouri; HARLEY O. STAGGERS, of West Virginia; CHARLES A. WOLVERTON, of New Jersey; CARL HINSHAW, of California; LEONARD W. HALL, of New York; JOSEPH P. O'HARA, of Minnesota; ROBERT HALE, of Maine; JAMES I. DOLLIVER, of Iowa; JOHN W. HESELTON, of Massachusetts; HUGH D. SCOTT, JR., of Pennsylvania; JOHN B. BENNETT, of Michigan; RICHARD W. HOFFMAN, of Illinois; J. EDGAR CHENOWETH, of Colorado; JOHN V. BEAMER, of Indiana; and HARMAR D. DENNY, JR., of Pennsylvania.

"It is urgent that the druggists in the respective districts of the above-listed members of the House Committee on Interstate and Foreign Commerce request a hearing on H. R. 5767 early in 1952" (p. 19).

February 18, 1952, Drug Trade News:

"The decision of the Interstate and Foreign Commerce Committee to hold hearings came suddenly after earlier indications that it would not hold hearings until a later date. Originally, the committee scheduled a 1-day hearing for February 4 to hear Maurice Mermey, director of the Bureau of Education on Fair Trade, but NARD built pressure, plus the insistence of Mr. MCGUIRE on immediate action, resulted in the decision to continue the hearings under the Priest subcommittee.

"In persuading the committee to hold immediate hearings, fair-trade proponents felt that they had 'put one over' on Representative EMANUEL CELLER, chairman of the House Judiciary Committee, who previously (January 18, 1951) had announced public hearings on several fair-trade bills before his committee, beginning February 13" (p. 16).

FAVORABLE REPORT

February 4, 1951, John Dargavel:

"More letters on H. R. 5767 urgent.

* * * * *

"Our next move centers on the members of the House Committee on Interstate and Foreign Commerce. Accordingly, I call on you druggists to write to them that it is vital to the system of small business to issue a favorable report on H. R. 5767. The legislative procedures are such that a favorable report is essential to prevent serious obstacles to enactment of H. R. 5767.

"The members of the House Committee on Interstate and Foreign Commerce are * * *.

"You druggists located in the respective districts of the above-listed Representatives can be of particular assistance right now. You are their constituents and they will give special attention to letters they receive from you. Hence, today, write to them that you expect a favorable report on H. R. 5767. The stake is great and failure to write to them might help to sound the death knell for fair trade" (p. 183).

February 25, 1952, Drug Topics:

"One of the significant developments in the fair-trade struggle is the apparent power of the NARD in Congress. Congressmen from all over the country have been swamped with telegrams and letters demanding action on the McGuire bill" (p. 63).

March 3, 1952, Drug Trade News:

"Much of the opposition which developed in the Interstate Commerce Committee to hasty action on H. R. 5767 was brushed aside by Representative MCGUIRE in his efforts to get a fast, favorable report on his bill.

"It was reported that Representative ROBERT CROSSER, committee chairman, and Representative J. PERCY PRIEST, chairman of the seven-member subcommittee on fair trade, urged a go-slow policy to see what Representative CELLER and his monopoly subcommittee would do.

"However, Mr. MCGUIRE, assisted in large part by a flood of letters and telegrams from retail druggists to their Congressmen, was able to whip his bill through the subcommittee and force the full committee to schedule the executive meeting on February 27.

"As reported by the subcommittee H. R. 5767 would amend section 5a of the Federal Trade Commission Act" (p. 23).

RULES COMMITTEE

February 28, 1952, special NARD bulletin:

"We urge all of you in the States and districts which the members of the House Rules Committee represent to do everything possible to create a flood of telegrams and letters to these Congressmen. The Rules Committee can break or make H. R. 5767. If a rule is not granted, the bill never will come up on the floor of the House. So you can see that this is one of the most important efforts we have to make. We urge your complete and wholehearted cooperation in getting telegrams and letters in to the members of the House Rules Committee.

"Those of you who happen to know a member of the Rules Committee personally should call him long distance to urge him to do all he can to have a rule for H. R. 5767 granted at an early date. We must work fast because the Rules Committee will be asked for a rule within the next few days."

March 3, 1952, NARD Journal:

"I now call for more help from you druggists.

"(1) Time is a serious factor in the fight to bring about the enactment of H. R. 5767. The bill must be granted special consideration—a rule—from the Rules Committee or it will be buried toward the bottom of the calendar in the House—and there it will repose untouched through the months left of the life of the Eighty-second Congress. Many of you druggists are constituents of the members of the Rules Committee—they are listed on page 338 of this issue of the NARD Journal. It is vital to the cause of fair trade that you wire or write them at once to support special consideration—a rule—for H. R. 5767. You may know well or be among the intimate friends of a Congressman on the Rules Committee. Then please telephone him right away. The fate of the bill hangs in a balance. Failure to procure the necessary responses from you druggists in the States of Georgia, Illinois, Indiana, Mississippi, New York, Ohio, Ore-

gon, Texas, Virginia, and Washington, will spell death for H. R. 5767. I am confident you will come through with a flood of telegrams and letters to the members of the Rules Committee" (p. 335).

FINAL PASSAGE

February 18, 1952, NARD Journal:

"Then in that event the next move will center on your and every Representative in Congress. You will be called on at the proper time to help flood the House with letters and telegrams in support of H. R. 5767. I know you will respond as you did in January to block the scheme to have the bill transferred to the Judiciary Committee of the House" (p. 251).

February 25, 1952, Drug Topics:

"STILLWATER, OKLA.—A 'push-button' plan of action to spur passage of the McGuire fair-trade bill has been organized in Oklahoma, Elbert R. (Pete) Weaver, secretary of the Oklahoma Pharmaceutical Association told Drug Topics.

"According to this plan, 150 druggists from over the State have been appointed to serve as members of a contact committee. Through this committee, druggists in every town in the State can be alerted within a few hours when the time comes to give Congressmen an extra nudge in order to get the fair-trade bill through.

"The plan was put into effect recently when Oklahoma druggists sent 178 telegrams over the State, opposing a motion to refer the McGuire bill to the House Judiciary Committee.

"The wires went to 178 keymen in the pharmaceutical association and secretaries of other trade associations, who followed up with a similar barrage of telegrams to their membership. * * *

"This year, we are going to pass a new fair-trade law. When the order comes for more messages to Congressmen, we are going to contact our contact men, and we know they will act quickly" (p. 40).

March 3, 1952, NARD Journal:

"Once H. R. 5767 is granted special consideration (a rule) the bill will in a short time be sent to the floor of the House. Accordingly, it is also important to contact every Congressman. It must be done with speed. They should be urged to take stand in support of H. R. 5767" (p. 335).

POINT 4. COERCION TO IMPOSE RESALE PRICE MAINTENANCE

Mr. MORSE. Mr. President, the history of resale price maintenance is, in my judgment, a history of pressure by retailers and sometimes by manufacturers to impose resale price maintenance on those who wish to sell for less. Sometimes the pressure is applied by manufacturers against retailers who do not wish to sell at resale price maintenance prices, and sometimes it is applied by retailers against manufacturers who do not wish to observe resale price maintenance in the case of their products.

The manner in which manufacturers who do not wish to engage in resale price maintenance in the case of their products have been coerced is illustrated by the case of Pepsodent. The method by which the manufacturer of that product was persuaded to return to the fold of resale price maintenance was eloquently described by the executive secretary of the Northern California Retail Druggists Association, at the Thirty-seventh Annual Convention of the National Association of Retail Druggists, in September 1935.

Mr. President, at this point I ask unanimous consent to have that statement printed at this point in the RECORD, as a part of my remarks.

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

"Mr. Chairman, fellow druggists, the Pepsodent Co. was operating in the State of California under the California Fair Trade Act. In all the time that they were operating under the Fair Trade Act they made no attempt to enforce their contract and like a bolt of lightning from the blue sky, they informed us that the California fair-trade contract was canceled, and the general sales manager, Mr. Kermott, came out to California, called upon me in the California office to make excuses and he had with him one of the California salesmen. I expressed my heartfelt sympathy to the two young men who were in my office because I told them they would have the toughest time any salesmen had had in any territory. We passed a resolution at our meeting and we published that resolution in our journal, and we sent that resolution to every member in California in which we urged and advised them to discontinue the sale of any product that had canceled their fair-trade contract. Brothers, it was a slap in the face of our Fair Trade Act. It makes no difference what firm it was. It was unwarranted. It was the first cancellation. And to my great delight and the great delight of our executive committee all the druggists in California refused to sell Pepsodent toothpaste or Pepsodent products. They put them in the basement. Some were enthusiastic enough to throw them into the ashcan. I wouldn't bring this out except that I want you to really understand how the sales of Pepsodent products in all of California dropped off." [1]

The lesson taught by the druggists to the Pepsodent Co. were readily employed to convince other producers that adoption of resale price maintenance agreements with retailers would be to their decided advantage. Said one manufacturer with regard to the compelling reasons prompting him to adopt said resale price maintenance on his products:

"The retail outlets, particularly the independent retail druggists, through their State associations and many of them individually, pressed us to establish minimum retail prices for our products from the time the respective States enacted so-called fair-trade laws. Pressure similarly was put on us by drug wholesalers and their associations." [2]

Reported another maker of articles sold through retail drug outlets:

"The retail price maintenance contracts we have made were made and any wholesale 'price maintenance contracts, agreements, or arrangements,' if any, which we may make in the future will be to enable us to get wholesalers' and retailers' cooperation and to cause wholesalers and retailers to discontinue discriminating against us in favor of our competitors who have either voluntarily or at the insistence of wholesalers and retailers, already entered into resale price maintenance contracts, agreements, or arrangements." [3]

John Dargavel, executive secretary of the NARD, writing to the sales company of a manufacturer of toilet preparations on February 10, 1936, in an effort to influence its selling policies, referred in a veiled manner "to the Pepsodent Co. and some others in regard to what concerted action by the druggists of this country did to their volume" and threatened that "if we start a campaign through our journal, carrying it through the officers of each State and local association in this country, you are going to find that it will cause you more trouble and take away more business from you than you had ever realized." [4]

Dr. Corwin Edwards, then economic consultant to the Department of Justice, summed up many of the boycotting activities which had at that time occurred under resale price maintenance legislation in a special memorandum written to the Assistant Attorney General in charge of the Antitrust Division on February 10, 1941.[5] Stated Edwards:

"Meanwhile, every effort was made to throttle public discussion and to intimidate business opposition. In California an aspirin manufacturer was forced by boycott to issue resale-price contracts against his will. The druggists' intention to coerce was indicated in the following language: 'This aspirin is a sort of Napoleon in the patent-medicine army, but then even the great Frenchman met his Waterloo when the rest of Europe got together, decided that they had enough of him, and cooperated against him.' In the same State the manufacturers of Pepsodent toothpaste, who had experimented with resale price contracts under the California law, decided to withdraw these contracts, apparently under advice of counsel who believed that the contracts violated the antitrust laws. Thereupon the druggists organized a campaign to put Pepsodent under the counter and to switch customers to other brands. This campaign was so effective that the offending company made public apology at a subsequent convention of the National Association of Retail Druggists and, as a token of its contrition, subscribed $25,000 to a fund to lobby for resale price maintenance in other States. On one occasion an expression of opposition to resale price maintenance by the New York Times and the New York World-Telegram led to an effort by organized druggists to demoralize the dealers who distributed these papers, by selling them at less than 3 cents. On another occasion Harper's magazine carried an article against resale price maintenance and thereupon received a letter from a druggists' association in a midwestern city, demanding information as to whether Harper's endorsed the views expressed in the article and indicating that if these views were not repudiated they intended to sell Harper's at a substantial discount, presumably in an effort to create trouble among its distributors. Within the last 2 months the newspaper PM in New York has carried a series of articles against resale price maintenance, and the same tactics of intimidation have been attempted by the sale of PM at less than its customary price. The editors, having more sense of humor than some of the other victims of this policy, ran a photograph of a cut-rate advertisement in a store and gave it the caption 'The best bargain in the city'." [6]

The case of the Luce magazines is even more flagrant. Claiming that Time and Fortune had proven, through their editorial policies, to be enemies of fair trade, the NARD Journal, in a recent message from its executive secretary, proclaimed in banner headlines: "Luce magazines your enemies!"

[1] Cited in Federal Trade Commission Report on Resale Price Maintenance (1945), p. 143.

[2] Id., p. 167.

[3] Ibid.

[4] Id. p. 166.

[5] TNEC, Final Report and Recommendations, 77th Cong., 1st sess. (1941), exhibit No. 2793, p. 233.

[6] Cf. Business Week, March 3, 1952: "Fair-trade war * * * has been declared by druggists on St. Louis Post-Dispatch. Paper's anti-fair-trade cartoon started it. Fair-trading druggists in St. Louis are cutting prices—on the Post-Dispatch, a leading anti-trade newspaper * * *. Suddenly, placards appeared in drugstore windows all over St. Louis, announcing that the Post could be had for 4 cents daily and 13 cents on Sunday (it normally sells for 5 cents daily, 15 cents on Sunday)."

Thereupon denouncing these publications for various activities, the NARD sounded the following clarion call for manufacturers and retailers to boycott:

"How long do you druggists intend to continue to serve as peddlers of periodicals you know to be subversive to your individual and collective welfare and also to the consumers? How long will it be before manufacturers in the drug field cease to go along with magazines out to bring destruction to fair trade?"

Boycotting activities have by no means been confined to the National Association of Retail Druggists. The following invitation to boycott recently appeared in a leaflet published by a prominent wholesaler of drug products and distributed to retailers under the heading: "What should believers in fair-trade laws do now?

"Retailers should refuse to patronize wholesalers or other suppliers who are not in sympathy with the fair-trade laws. (An example would be a wholesaler who refused to sign a manufacturer's wholesale fair-trade contract and then offers you a cut price or greater discount than allowed under the fair-trade contract.) If you patronized such a wholesaler you would be an enemy of fair trade."

Manufacturers have not been the only victims of collective action on the part of retailers in seeking to obtain fair trade by coercion. Drug Topics, a trade publication in the drug field, pointed out in an editorial in its July 30, 1951, issue how boycotting of recalcitrant retailers would be "helpful action" in preserving fair-trade prices. Said this journal:

"If all wholesalers, acting in their individual capacities, would refuse to sell outlets which did not maintain fair-trade prices, the outlook would become much more promising. * * *

"Once a price violator is denied goods, or is cut off for his refusal to comply with the invoice notice, he is likely to reshape h's selling operations so as to comply with fair-trade principles" (p. 38).

How secretaries of State and local associations of druggists could assist in maintaining prices by "persuading" retailers to refrain from cutting prices on fair-traded articles was described in the NARD Journal of July 2, 1951:

"The secretaries of state and also the local associations of druggists can do much to help prevent extension of price wars," it advised.

"Many owners of drug stores have been persuaded to refrain from copycat slashes of fair-trade minimums a la Macy's Department Store in New York City. One of them was induced to be sensible after he had made a kick-off through the newspapers of the community" (p. 1032).

As Mr. Morison, Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, explained to the committee when his attention was called to this action, "It indicates the beginning of a violation of the Sherman Act."

Efforts to restrain the pricing policies of competing retail outlets received the personal endorsement of John Dargavel, executive secretary of the NARD, in his message printed in the NARD Journal of April 18, 1949. Describing a fringe of druggists who were cutting prices as "wreckers of fair trade," Dargavel informed readers that "Violations stimulate agitation against the system of stabilized prices and out of it may come a Nation-wide movement of consumers to bring about the end of fair trade." Worried lest this disaster occur, he proclaimed openly that "The chiselers and cheaters among the druggists must be made to see the light" (p. 589).

Mr. MORSE. Mr. President, what about the effect of fair trade on prices?

Mr. DOUGLAS. Mr. President, is it not important to get the wording and our semantics correct? Instead of saying "fair trade" should we not say "resale price maintenance laws"?

Mr. MORSE. The Senator from Illinois is completely right. I have been using this misnomer, "fair trade," because it has come to have this special meaning on the floor of the Senate. The definition of the subject matter which we have under debate is exactly as the Senator from Illinois states it.

POINT 5. THE EFFECT OF RESALE PRICE MAINTENANCE LAWS ON PRICES

Numerous studies have shown that prices in States which have resale price maintenance laws are substantially higher than prices on the same items in adjoining States that do not have such laws. To the same effect studies have shown that following the imposition of resale price maintenance laws prices have risen. The evidence of this question is summarized by the Celler committee report.

I ask unanimous consent to have the summary printed in the RECORD at this point in my remarks.

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

Resale price maintenance has often guaranteed equally high returns for wholesalers and retailers. On insulin, for example, "The price set by Eli Lilly & Co. * * * guarantees the retailer a 50 percent gross profit on cost and 25 percent profit on cost to the wholesaler," Samuel Rosenthal, owner of retail drug outlets in the District of Columbia, told the House committee. A hasty glance at the advertisements appearing in any random issue of a trade publication such as the American Druggist reveals retail profits on fair-trade items such as the following: "Dolcin, 44.3 percent profit; Argyrol, up to 57½ percent profit; Kessling fever thermometers, 45 percent profit; Wyanoids, up to 50 percent profit; Ampho-Jel, up to 53.4 percent profit; Dichloricide moth crystals, up to 42 percent profit; Breck, 40 percent profit; McKesson & Robbins: 'You get an average of 50 percent profit.'"

How high fair-trade profit margins adversely affect the consumer is illustrated by a study of 208 major items in which selling prices in the 45 fair-trade States is compared to prices at which such commodities can be purchased in the non-fair-trading areas of Texas, Missouri, Vermont, and the District of Columbia. The composite selling price for all of these products in fair-trade States totaled $945.10 compared to only $740.86 in the non-fair-trade jurisdictions. Profits for the retailer in fair-trade States was 38.5 percent while in non-fair-trade areas it was only 21.5 percent, a saving to the consumer in non-fair-trade locations of 17 percent.

A survey appearing in the St. Louis Star-Times on April 19, 1951, also discloses how consumers pay more for liquor products which are sold under resale price maintenance agreements in the State of Illinois than they do across the border in non-fair-trade Missouri. Prices for 35 different fifths of nationally advertised liquors cost only 139.67 in St. Louis while consumers paid $22.25 more, or $161.92, in Illinois, a difference of 15.9 percent.

Mr. MORSE. A recent price comparison shopping tour for 10 items of ordinary consumption purchased in drug stores cost a total of $8.23 in Virginia and $8.80 in Maryland under resale price maintenance laws and only $7.05 in the District of Columbia without such a law, savings of 17 and 25 percent, respectively.

Similarly, the subsequent table comparing prices of important products sold on a resale price maintenance basis in drug stores in 45 States with prices for the same items presently prevailing in the District of Columbia is another graphic illustration of why the consumer is heavily penalized by resale price maintenance legislation.

I ask unanimous consent to have the table printed in the RECORD at this point in my remarks.

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

	Fair-trade price	District of Columbia price
Aspirin:		
100 Bayer	$0.59	$0.46
100 Squibb	.54	.47
100 St. Joseph	.49	.43
100 APC Co	.39	
Toothpaste:		
Colgate	.47	.33
Ipana	.47	.33
Pepsodent	.47	.39
Phillips	.39	.27
Squibb	.47	.39
Lyons	.47	.33
Ammident	.53	.47
Chlorodent	.69	.53
Afco	.47	.39
Pebammo	.49	.39
Shaving cream:		
Colgate	.53	.47
Barbasol	.39	.33
Palmolive	.53	.41
Burmashave	.40	.33
Mollé	.43	.37
Noxzema	.59	.47
Mennen	.53	.43
Gillette	.43	.37
Williams	.47	.37
Hair tonics:		
Wildroot	.48	.43
Kreml	.57	.43
Vitalis	.49	.33
Vaseline	.47	.39
Jeris	.49	.39
Lucky Tiger	.48	.39
Liquid shampoo:		
Admiration	.49	.43
Breck	.60	.53
Wonder	.48	
Drene	.57	.47
Kreml	.59	.47
Lavo	.43	.39
Conte Castille	.49	.33
Packers	.48	.43
Watkins Coconut	.48	.39
Richard Hudnut	1.00	.79
Wildroot	.48	.44
Woodbury's	.43	.29
Halo	.57	.43
Fitch	.59	.47
Deodorants:		
Veto	.59	.53
Arid	.63	.47
Fresh	.59	.43
Sanite	.39	.38
Chad	.43	.39
Coty	1.00	
Hush	.49	.43
Mum	.69	.39
Odorono	.48	.37
Barz	.39	.33
Five-day pads	.59	.47
Ydoro	.59	.43
Zipp	.50	.47
Stoppette	.60	.47
Dyrad	.49	.37
Mennens	.50	.41
Amolin	.59	.47
Heed	.59	.47
Hand lotions:		
Hinds	.49	.39
Italian Balm	.45	.37
Cashmere Bouquet	.43	.37
Frostilla	.47	.43
Jergens Lotion	.49	.31
Tushay	.49	.33
Pacquin	.49	.39

Source: Standard Drug Co., Washington, D. C.

Mr. MORSE. Mr. President, the effect of resale price maintenance in fos-

tering violations of antitrust laws is one of the major reasons for my intention to vote against the bill. As one who has at least dealt with and studied to a considerable extent the whole problem of antitrust violations in this country, and who is convinced that we are rapidly moving in the direction of monopolistic control of large segments of American economic life, I think we ought to stop, look, and listen before we, here and now, vote for a bill which, in my judgment, will weaken the antitrust laws of the country. I believe the position taken by the United States Department of Justice in testimony by their witnesses on the House side, and in public pronouncements which have been made in opposition to this bill, deserves the very careful consideration of the Members of this body. Therefore, Mr. President, I ask unanimous consent to have inserted at this point in my remarks the materials which I wish to offer in opposition to this bill—a bill which, in my opinion, will weaken the antitrust laws and the administration of the antitrust laws.

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

POINT 6. RESALE PRICE MAINTENANCE FOSTERS VIOLATIONS OF THE ANTITRUST LAWS

While section (f) of H. R. 6925 purports to prohibit horizontal agreements among retailers, among wholesalers, or among manufacturers under the act, this language is at best a piece of wishful thinking. By making resale price maintenance agreements applicable to nonsigners, there is no meaning whatever to this bit of legislative double talk. The Federal Trade Commission pointed out very clearly to the committee the effect which resale price maintenance would have upon the time-honored principle of antitrust policy condemning horizontal price-fixing agreements among competitors. Said the Commission:

"Moreover, when the nonsigner clause is added to resale price maintenance, the effect is the de facto nullification of our Federal laws against horizontal conspiracy, notwithstanding the fact that the proposed legislation expressly prohibits horizontal price fixing. Nothing is more clearly established in Federal policy than the principle that horizontal price fixing shall not be tolerated. The proposed legislation pays lip service to that principle, yet its effect would be that a minimum price fixed by contract with one retail distributor would become the minimum price for all other retail distributors of the manufacturer's product who were placed upon notice of the existence of the contract. The rigidity and uniformity of the price would be exactly that of the most rigid horizontal price-fixing conspiracy; the level of the price would be likely to be at least as high as in a horizontal conspiracy; and the public control over the reasonableness of the arrangement would be as nonexistent as in the case of a horizontal conspiracy." [1]

It is clear that insofar as economic effect is concerned, there exists no difference between a horizontal price-fixing arrangement among competing retailers on the one hand, and a price agreement between one manufacturer and one retailer which is in turn binding on all competing retailers on the other. As a practical matter, expediency would dictate that conspiring retailers should hereafter achieve their illegal objectives through the now legalized device of having a manufacturer enter into a resale price maintenance agreement with a single retailer which would henceforth apply to the sales of all competitors. In this context, the prohibition against horizontal price conspiracy now becomes meaningless.

That this law will encourage violations of the antitrust laws on a wholesale basis is not just idle speculation on our part. Past experience under the Miller-Tydings law yields abundant evidence of resale price maintenance legislation serving as a cloak to conceal price fixing and other undesirable activities in restraint of trade.

In 1942, the Colorado Wholesale Wine and Liquor Dealers Association was indicted by the Department of Justice under section 1 of the Sherman Act for engaging in a conspiracy to fix retail prices of liquor sold in the State of Colorado. Retail prices, it was charged, were agreed upon, out of State producers were persuaded to enter into fair-trade contracts embodying agreed-upon prices, and wholesalers and producers refusing to comply were boycotted. Pleas of nolo contendere were filed by the defendants and fines were imposed.

Similarly, the National Association of Retail Druggists, today the loudest advocate of fair-trade legislation, was fined in 1947 on a plea of nolo contendere to an indictment charging them with having engaged in a conspiracy to fix the retail and wholesale prices of drug items, to eliminate price competition among retail druggists, and to restrain competition. This conspiracy was perpetrated despite the existence of a consent decree filed in 1907 perpetually enjoining the association from engaging in such activities as boycotts, etc. Methods employed by the NARD to achieve its illegal objectives were summarized for the committee by the Assistant Attorney General in charge of the Antitrust Division, Department of Justice, as follows:

"They threatened to refuse to handle, or to boycott, or to urge their customers and prescribing physicians to accept substitutes for drug-store items, where margins of profits had not been approved, and refused to carry in stock, boycotted, and urged their customers to accept substitutes for such drug-store items; agreed to sell drug-store items whose retail prices had been established by producers at prices not below those so established and sold said drug-store items at prices not below those so established; persuaded, induced, and compelled producers of drug-store items to establish wholesale prices in relation to the retail prices demanded by defendants; threatened producers with lack of cooperation in the sale of drug-store items on which the wholesale prices were not established at levels bearing the relation to retail prices demanded by defendants and refused to cooperate in the sale of such drug-store items." [2]

The National Wholesale Druggists' Association was also indicted under the Sherman Act for conspiring to raise, fix, and stabilize wholesale selling prices of drug items. Alleged devices utilized to further the objectives of the conspiracy included lack of cooperation with recalcitrant manufacturers, boycotts, and refusals to sell from or carry in stock. Again, nolo contendere pleas were filed and fines levied.

In the *United States* v. *New York State Pharmaceutical Association*, the National Association of Retail Druggists was again indicted, this time in conjunction with the New York State Pharmaceutical Association and others, for fixing, stabilizing, and maintaining the retail and wholesale prices of drug-store items through the adoption of uniform prices and methods of sale, interchange of information, boycotts, and blacklists. Pleas of nolo contendere and fines also ended this litigation.

Proceedings involving the abuse of resale price maintenance legislation are extensive. The Department of Justice has brought cases of a similar nature against the Tri-State Record Dealers Association, the Record Dealers Association, and has currently pending cases against the Allegheny County Retail Druggists' Association and the Sunbeam Corp. Proceedings instituted by the Federal Trade Commission where resale price maintenance was an important factor include docket No. 4526, Law Book Publishers Co.; docket No. 4900, refractories case; docket No. 5448, rubber manufacturers group; docket No. 5734, Mid-Atlantic Distributors Corp. (which just recently has been appealed to the United States Court of Appeals for the District of Columbia Circuit); docket No. 5635, cycle jobbers; docket No. 5636, American Dental Association; docket No. 4093, Wholesale Liquor Distributors Association of northern California, et al.; docket No. 4132, Western Confectioners Association; docket No. 4168, National Retail Liquor Package Stores Association.

The success of the antitrust agencies in the above ligitation belies the serious competitive problems raised by the exemption of resale price maintenance programs from the antitrust laws. The Department of Justice was quoted in 1945 as having said that "if its Antitrust Division had sufficient men and money to examine every resale price maintenance contract written under State and Federal legislation, and to proceed in every case in which the arrangement goes beyond the authorization of the Tydings-Miller amendment, there would be practically no resale price maintenance contracts."

The Assistant Attorney General in charge of the Antitrust Division, Mr. Morison, confirmed this view as of the present by averring that from the experience of the Antitrust Division the vast majority of resale price maintenance contracts, if examined fully, would be found in violation of the antitrust laws. A study of how resale price maintenance has operated in practice goes far to reinforce Mr. Morison's conclusion.

Mr. MORSE. Mr. President, for further material by way of rebuttal to the argument of my good friend from Minnesota [Mr. HUMPHREY], in regard to the matter of analogy between support prices and this bill, I ask unanimous consent to have printed in the RECORD at this point the statement of Matt Triggs, assistant legislative director, American Farm Bureau Federation, before the Senate Committee on Interstate and Foreign Commerce, relative to House bill 5767, on June 4, 1952.

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

The opportunity of expressing the viewpoints of the American Farm Bureau Federation relative to H. R. 5767 is appreciated.

The American Farm Bureau Federation is an organization of 1,452,210 farm families located in 47 States and Puerto Rico.

The American Farm Bureau Federation opposed the enactment of the original Miller-Tydings Act and since then has periodically reiterated its opposition to resale price maintenance legislation.

At the most recent annual meeting of the federation at Chicago in December 1951, the following resolution on this issue was developed by the house of delegates:

"So-called fair-trade pricing legislation is inconsistent with the maintenance of the principles of a free competitive economy. Flexible and freely moving prices are an important element of these principles. We oppose legislative efforts to require nonsigners of fair-trade contracts to comply with their provisions. We favor legislation to eliminate fair-trade pricing provisions of law."

[1] Hearings, February 14, 1952.

[2] Hearings, February 13, 1952.

Our basic objection to price-maintenance legislation is our belief that flexibility of prices achieved by the interaction of supply-and-demand factors in a free market is a fundamental feature of a free competitive enterprise system.

The distinguishing feature of American private enterprise system, as compared with other economic systems, is our belief in the principle of competition. We are one of the few nations which has established competition as an economic ideal by legislation prohibiting practices or conspiracies to interfere with competition. This is an all-important element contributing to the vitality and dynamic growth of our society. It is the heart of our capitalistic system. Legislation which would restrict competition in the field of distribution is inconsistent with the most successful operation of the competitive enterprise society.

Many other private enterprise economies do not have this concept. Much of the effort of their business and governmental leadership is in the direction of the establishment of Government-industry agreements, the development of cartel arrangements, the enactment of programs to mitigate the effects of competition, the furthering of measures to protect individuals in this category or that from competitive pressures with their supposed harmful effects. By such devices they tend in the direction of providing an umbrella for the inefficient and of reducing the pressures and the incentives for increased efficiency which is so vital a part of the American economic pattern. The intermixture of public and private endeavors to regulate competition and fix prices has in many other countries been the forerunner of planned economy or socialism.

It is a basic defense of the profit system that competition compels the passing on to the consumer of any savings which may be made by efficient distribution. The enactment of H. R. 5767 would, in some measure, destroy this fundamental defense of private enterprise and serve as an argument for similar ventures in the regulation of competition in other fields.

We are opposed to all forms of price fixing, but the nonsigner provision incorporated in H. R. 5767 is, in our opinion, a particularly undesirable form of price fixing. One distributor, by contracting with a manufacturer, may establish marketing margins with which every other distributor must comply. It is contrary to our concept of contractual relationships to require people to comply with contracts to which they are not a party and with respect to the terms of which they have had no voice.

Any retailer who is able to serve the public more efficiently than other retailers, whether due to managerial ability, volume, location, or for any other reason, should be encouraged, not prevented, to reflect such reduced costs of operations in his prices and by such means keep competition alive and active.

A consumer who is willing to shop in less exclusive stores or who is willing to accept less service (credit, delivery, or other service) than is available elsewhere should have the opportnuity to participate in the savings thus made.

It appears that most of the support for fair-trade legislation comes from the belief that it is helpful to small individual retail stores. We believe this is fallacious. If margins are held unduly high on some articles by fair-trade practices, this only increases the ability of low-cost retailers to compete more aggressively in pricing other articles, or providing better service, or to be more effective in merchandising display and advertising, or to provide better trade-in valuations.

On the contrary, so-called fair trading will be harmful to many small retailers. Many small concerns are insufficiently capitalized. They must have their stores in less desirable locations. They must do with less expensive fixtures and furnishings. They are unable to provide the credit, delivery, and other services that larger stores furnish. To bring customers to their shops, they must be permitted to compete on a price basis.

Furthermore, the existence of fair-trade programs with their guaranteed margins induces many competing retailers to carry such items who would not otherwise do so. An outstanding example of this is the extent to which grocery stores have undertaken the distribution of many fair-trade articles.

We know of no convincing evidence to indicate that those retail trades which have generally resorted to fair-trade price practices have been more profitable than those retail trades which have not, nor do we know of any evidence that retail trade has been made profitable in those States having resale price maintenance legislation than in those States which do not.

Resale price maintenance provisions of law provide a framework which may be used to implement undertakings and agreements contrary to the letter and spirit of antitrust legislation, and beyond the limitations contemplated by Congress. The United States Department of Justice has concluded, as a result of its experience with "fair trade" legislation, that "the Tydings-Miller Act does not serve the purposes which were urged upon Congress as a reason for its passage in that it sanctions arrangements inconsistent with the purpose of the antitrust laws, and becomes a cloak for many conspiracies in restraint of trade, which go far beyond the limits established in the amendment." The legislation would provide a mechanism for organized retail groups to bring concerted pressure upon manufacturers and wholesalers, in many instances supplemented by economic reprisal, to force such manufacturers to undertake a "fair trade" pricing program.

It may, perhaps, be demonstrated that price cutting is a practice that is occasionally harmful to other retailers, or to manufacturers, but H. R. 5767 does not endeavor to discriminate between loss-leader types of sales and legitimate price reductions; rather, it groups all price reductions together, labels them as unlawful practices and prohibits them.

The question which is frequently asked of us is "How can farmers oppose 'fair trade' legislation when they are in favor of price-support programs?"

There are some very obvious and important differences between price support and "fair trade" legislation.

Flexible farm price support programs, as set forth in the Agricultural Act of 1949, are intended to prevent disastrously low farm prices. They are not intended to fix prices. They are intended to permit a free market above floor levels established at 75 to 90 percent of parity. They leave agricultural prices generally free to fluctuate in response to free-market conditions.

Farm price supports are comparable to minimum wages for labor or loss-leader legislation for the distribution trade.

The latest annual meeting resolution of the American Farm Bureau Federation on this point states that:

"Farm price supports are an appropriate and necessary protection against unreasonable price declines. It is not, however, the responsibility of the Government to guarantee profitable prices to any economic group * * * We do not believe that action to raise the level of price support above that now provided in the Agricultural Act of 1949 is in the long-run interest of farm people."

Pursuant to this policy, the American Farm Bureau Federation has opposed in this Congress efforts to increase the level of price support by three different bills heard a few weeks ago by the Senate Committee on Agriculture. We have opposed the Brannan farm program, which would endeavor to establish a responsibility of the Government to fix and guarantee prices for farm products at profitable levels. We will continue to oppose any efforts which may be made to increase the mandatory level of price support above that now provided in the Agricultural Act of 1949. We believe this position is entirely consistent with our opposition to so-called fair trade legislation.

The American Farm Bureau Federation, therefore, recommends your opposition to the enactment of H. R. 5767.

Mr. MORSE. Mr. President, I think Mr. Trigg's statement is a clear rebuttal of the argument of the Senator from Minnesota. We should remember that farm parity supports may decline if industrial prices decline. There is no such protection to the public in the private price fixing in the McGuire bill. It will cost the public $2,000,000,000, a year.

Mr. President, I desire to have printed in the RECORD an article from one of the great newspapers of our land, the St. Louis Post-Dispatch. Let me say that the Post-Dispatch, in my judgment, has a magnificent journalistic record in placing before the public, as it discusses the great controversial issues of American public life, information of primary importance. This great newspaper fights for the public interest and the welfare of the Nation in keeping with the best of newspaper traditions. I ask unanimous consent that there be printed in the RECORD at this point in my remarks an article entitled "The Customers Didn't Write," an article written by Edwin L. Dale, Jr., first published in the New York Herald Tribune, and later republished in the St. Louis Post-Dispatch on Saturday, May 17, 1952.

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

THE CUSTOMERS DIDN'T WRITE

(By Edwin L. Dale, Jr., in the New York Herald Tribune)

Events in the House of Representatives on May 8 were the climax to a perfect lesson in how an organized group of citizens who want anything from Congress should go about getting it.

The group of citizens in this case was the Nation's druggists, the manufacturers and wholesalers of drug-store products, and some other retailers and manufacturers.

What they wanted was fair trade—the system under which a manufacturer or wholesaler can set the minimum retail price of his article in a State by signing a contract with a single retailer in that State.

Though fair-trade laws are State laws, the druggists—who completely dominated the fight for fair trade—needed congressional action because a Supreme Court decision of last May largely nullified the effectiveness of the State laws.

The druggists needed from Congress a law validating the nonsigner provision—the provision which makes all retailers, including the majority who do not sign specific fair-trade contracts, abide by the fair-trade price as if applies to goods shipped across State lines.

The administration was heartily against the bill, as evidenced by vigorous testimony from the Justice Department and the Federal Trade Commission.

Most of the press (conservative and liberal) was against it, and two of the four

leading Washington newspapers campaigned actively against it.

Though there are two points of view about its effect on consumers, it has the agreed effect of keeping prices up in some cases.

But when the House voted, 196 Members supported the bill and only 10 opposed it.

The steamroller vote was only the culmination of a story that had begun during the first session of this Congress last fall.

The drug industry lobbyists, contemplating their strategy for a bill to nullify the Supreme Court decision, were well aware (1) that the original Federal fair-trade legislation had been in the form of an amendment to the antitrust laws, (2) that all legislation regarding the antitrust laws is considered by the Judiciary Committee, and (3) that the chairman of the Judiciary Committee, Representative EMANUEL CELLER, of New York, is an inveterate foe of fair-trade legislation.

So the lobbyists got their lawyers to draw up a bill amending the Federal Trade Commission Act instead. The FTC is under the executive jurisdiction of the Interstate and Foreign Commerce Committee, headed by Representative ROBERT CROSSER, of Ohio, a friend of fair trade.

Then they got Representative JOHN A. MCGUIRE, of Connecticut, to introduce their bill, and the chief hurdle was passed.

The bill went to the Commerce Committee. Hearings began soon after Congress reconvened in January, a subcommittee was promptly appointed to continue the hearings, and the McGuire bill rolled out of the committee on February 27, virtually unchanged.

Meanwhile, the Judiciary Committee, which had been bypassed, attempted a rearguard action by promptly reporting out a bill of its own which would restore fair trade but which contained a group of four limiting provisions.

When debate in the House began, it became clear immediately that there would be no effective opposition to fair trade as such. The only fight was over which bill to approve, with some private fair-trade advocates urging the Judiciary Committee's bill as containing more protection for their interests.

But the drug people had told the constituents to tell their Congressmen that the McGuire bill was the only one that would do the job. The Congressmen were so informed. And the result was that when voting began, the substitute bill was knocked down 111 to 12.

Other amendments were offered. Sensing their strength, the bill's managers cut down debate to as little as 3 minutes on some of them. They were all turned down by voice vote or overwhelming standing votes.

The whole thing took only a little over 2 hours, and the McGuire bill was passed and sent to the Senate (where there is a chance of another committee juggling act, incidentally, because the chairmen of the two committees there are in reverse positions regarding fair trade).

Mr. CELLER, almost the only fair-trade opponent who took the floor, asked plaintively if there wasn't anyone in the House trying to protect the consumers. But, as the drug spokesmen frankly pointed out, the letters from their people arrived and letters from consumers didn't.

Mr. MORSE. Mr. President, I think the RECORD ought to show the names of some of the leading authorities in our country in the fields of law, economics, and business administration who are opposed to the bill. I ask unanimous consent to have printed in the RECORD at this point in my remarks materials setting forth their names and some of their comments in regard to their opposition to the bill.

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

STATEMENT IN OPPOSITION TO FAIR-TRADE LEGISLATION

(Submitted by M. A. Adelman, Massachusetts Institute of Technology; Ralph S. Brown, Jr., Yale University Law School; Kenneth S. Carlston, University of Illinois College of Law; J. K. Galbraith, Harvard University; Harold C. Havighurst, Northwestern University School of Law; Edward S. Mason, Harvard University; Fritz Machlup, Johns Hopkins University; W. Rupert Maclaurin, Massachusetts Institute of Technology; John Perry Miller, Yale University; Prof. Frank Kennedy, University of Iowa Law School; Prof. Carl Fulda, Rutgers University Law School; James A. Rahl, Northwestern University School of Law; Lloyd G. Reynolds, Yale University; Eugene V. Rostow, Yale University Law School; O. Glenn Saxon, Yale University; Louis B. Schwartz, University of Pennsylvania Law School; George W. Stocking, Vanderbilt University; James Tobin, Yale University; John Thompson, Yale University Law School.)

We are opposed to legislation undoing the effect of *Schwegemann Bros.* v. *Calvert Distilling Corp.* (344 U. S. C 384 (1951)). In fact we support the outright repeal of the Miller-Tydings Act. Resale price maintenance has no place in a society which depends on the competitive market as a major instrument for determining price and output. Whatever appeal the device may have had in a depression, there are no sound arguments in its favor under present and prospective circumstances of near-inflation and of high-level employment.

The original passage of the Miller-Tydings Act, and of the State fair-trade laws to which it gave scope, rested on an erroneous analysis of the depression. The depression was a time when prices fell. Therefore, the supporters of fair-trade laws contended, we can raise prices by law, and end the depression. This was the same case advanced for the NRA, the Smoot-Hawley tariff, and other devices of protection against the consequences of depression. The argument was incorrect. Fixing retail prices, in the face of inadequate demand, could only cut the volume sold, further intensify the depression and complicate the task of recovery.

At the present time, the economy is working under the forced draft of the rearmament program, and the price system should operate to extract every possible ounce of production from industry and agriculture to absorb and offset the volume of purchasing power left in the pockets of consumers after taxes. Even after the bulge of the rearmament program is passed, the economy will in all probability be kept at high levels of employment and economic activity by the policies of business and government. Business should be required to compete vigorously for its share of the public's purchasing power. There is no excuse in a capitalist economy for the subsidy of price fixing in the ordinary distribution of food, drugs, clothing, and other consumers goods. Existing law offers fully adequate protection against genuinely predatory and cutthroat competition.

The drive for price fixing by law comes from some groups of retailers who obtain their supplies through the older channels of wholesale distribution. They want to sell in their local markets under monopolistic conditions—that is, free of price competition. Not only do they want to eliminate competition with each other. They also typically oppose the growth of chain stores, mail-order houses, cooperatives, department stores, and other techniques of distribution which have over two generations greatly increased the degree of competition in, and reduced the costs of the distribution of consumers goods in almost every local market of the United States. Experience proves that the efficient retailer, if he gives good service, can compete with the chain store and make a reasonable profit. There is no ground of public policy for restricting the development of the newer methods of distribution which have so greatly reduced the social cost of distribution in this country.

Unless competition in distribution is preserved and encouraged by law, consumers may well be deprived of most of the advantages of technological progress in production. Retail price maintenance is characteristic of economic practice in Western Europe, and is an important factor in the relatively slow rise in the standard of living of Western European countries. It has been regarded as contrary to the policy of the antitrust laws since Justice Hughes celebrated opinion in the Dr. Miles Medical Co. case in 1911. In a long line of cases the Supreme Court has held that devices for retail price maintenance are illegal—and that the overriding policy of the Sherman Act in favor of competition (*Standard Oil Co.* v. *Federal Trade Commission* 71 S. Ct. 240, 249 (1951)) qualifies and limits even the exception of the Miller-Tydings amendment, so as to confine it to the narrowest possible ground. (*United States* v. *Bausch & Lomb Optical Co.* 321 U. S. 707 (1944); *United States* v. *Frankfort Distilleries, Inc.* 324 U. S. 293 (1945)).

Resale price maintenance is incompatible with the principles of a market economy. This is a good time to abolish it. The repeal of the Miller-Tydings amendment now would put the economy into a better position to meet the pressures which future changes in supply and demand relationships may call for more flexibly and more effectively.

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point in my remarks a statement, in opposition to the pending bill, by Wendell Berge, of the District of Columbia bar, former director of the Antitrust Division of the United States Department of Justice.

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

STATEMENT BY WENDELL BERGE BEFORE THE SENATE INTERSTATE AND FOREIGN COMMERCE COMMITTEE ON H. R. 5767, JUNE 4, 1952

For more than 15 years I have had a deep interest in opposing all efforts to nullify the application of the Sherman Act to resale price maintenance agreements. For 10 years I was a member of the staff of the Antitrust Division and later for nearly 4 years was assistant attorney general in charge of that division. As a result of this experience I gained some appreciation of the serious impact of so-called fair-trade laws upon the basic effectiveness of Federal antitrust legislation. The purpose of my appearance today is to add to the record a brief statement of my own convictions on this subject.

I shall not undertake to outline the history of the judicial decisions outlawing resale price maintenance, or of the efforts of the States, goaded on by powerful lobbies, to neutralize these court decisions. Such matters are well known to this committee. Nor is it necessary for me to recite the history of the Miller-Tydings Act which legalized to a limited extent resale price maintenance in interstate commerce. You are fully familiar with the Miller-Tydings Act and its background.

I do want to state, at the outset, that I am opposed to H. R. 5767, which undertakes to make effective in interstate commerce the so-called nonsigner clause which was held

by the Supreme Court in *Schwegmann Bros.* v. *Calvert Corp.* (341 U. S. 384) not to be authorized by the Miller-Tydings Act.

In the early days of the Sherman Act resale price maintenance commonly meant an agreement or agreements between a producer and dealers providing that the dealers would agree to observe prices dictated by the producers. In the leading case of *Dr. Miles Medical Co.* v. *Park & Sons Co.* (220 U. S. 373), the Supreme Court held that such agreements were illegal under the Sherman Act. Later, however, the Court affirmed the right of a producer to refuse to deal with particular dealers provided there was no agreement respecting price maintenance involved. *United States* v. *Colgate & Co.* (250 U. S. 300.) This, of course, left the door open to refuse to deal with price cutters in the absence of an agreement to maintain prices. But in *Federal Trade Commission* v. *Beech-Nut Packing Co.* (257 U. S. 441) the Court in effect held that any effort to police retailers to assure that they were observing suggested prices was illegal. Thus, for some years the test of legality seemed to be whether or not on the facts, an agreement to maintain prices or enforcement methods, in the absence of specific agreement, existed.

But there was strong sentiment among manufacturers, particularly those who made and marketed branded products, to seek the right legally through contracts to dictate resale prices. The so-called fair-trade movement started with the first Fair Trade Act passed in California in 1931. This act, however, merely legalized resale price maintenance agreements in intrastate commerce. The really significant fact in the growth of fair-trade legislation came with the development of the so-called nonsigner clause. This clause, as you know, provides that if prices are set by agreement between a manufacturer and a dealer, thereafter all dealers in the State are bound by the dictated price. They do not voluntarily undertake any contractual obligation but, nevertheless, they are bound. California adopted this nonsigner clause in 1933 and thereafter, I believe, all State laws that were enacted contained it. By 1941 45 States had fair-trade laws.

It is my belief that the essentially undemocratic character of the nonsigner clause escaped the attention of the American people until the Schwegmann case last year. I think that many people believed that the policy of resale price maintenance might be a debatable policy, but they thought of it in terms merely of legalizing voluntary agreements between producers and dealers. Many people felt that resale-price maintenance in any form was an inadvisable restraint because it prevented competition on the dealer level. A series of resale-price maintenance contracts could have the same effect so far as dealer competition was concerned as horizontal agreements between dealers fixing prices. And, of course, such horizontal agreements were illegal per se under numerous court decisions applying to the Sherman Act.

But it occurs to me that in most of the policy discussion the importance, and the basically undemocratic character of the nonsigner clause, was overlooked. Not only had the type of resale-price maintenance condemned in the Dr. Miles case been legalized by the State fair-trade laws, but under those laws dealers having no desire to be brought into a system of resale-price maintenance or any economic interest in participating, were legally forced to accept it at the risk of losing their product, and in some instances at the risk of criminal prosecution. Thus, by the simple act of making a contract with a single dealer in a State a producer could force every dealer in that State to accept and abide by the dictated price. No more effective way of eliminating price competition on the dealer level can be imagined.

As Alfred Friendly, a reporter for the Washington Post, stated in an article in the Post last Sunday, June 1, 1952:

"Thus, if one manufacturer of a trademarked item agreed with one retailer of the item in Maryland that the article will be sold for $1 at retail, no other retailer in the Free State could sell it for less than $1, regardless of whether he approved the contract price or not.

"It is self-evident, of course, that such an agreement—and the law that would permit it—is exactly 180 degrees opposite the philosophy and spirit of the national antitrust policy.

"The bill is advanced ostensibly to protect small business, the heart and essence of the free enterprise system. Yet it would deny small businesses all opportunities to act freely in their main field of action, price. They would remain not independent retailers, but would become conduits for disposal of a manufacturer's product, at the price the manufacturer sets, without leeway to attract customers by lower prices, or to convert what economies and efficiencies they develop into lower prices and higher volume."

The fair-trade movement grew rapidly in the 1930's but its effectiveness was impaired by the fact that fair-trade contracts were not valid in interstate commerce. Hence the movement to amend the Sherman Act which resulted in the Miller-Tydings Act.

As Assistant Attorney General Morison has pointed out, all that the Miller-Tydings Act did was to amend section 1 of the Sherman Act to provide that vertical minimum price fixing contracts shall not be in violation of the antitrust laws or the Federal Trade Commission Act when such contracts involve: (1) Trade-marked or branded commodities, (2) which are in competition with other similar commodities, and (3) when such contracts are valid under the State law of the place of resale.

Thus, as he says, the act speaks only in terms of "contracts or agreements" and makes no reference to nonsigners. In *Schwegmann Bros.* v. *Calvert Corp.* (341 U. S. 384), decided May 1951, the Supreme Court held that persons not parties to agreements establishing minimum resale prices are not bound by those agreements even though the State of resale does have a law binding nonsigners. The Court pointed out that the Miller-Tydings Act sanctions contracts or agreements between a distributor and one or more retailers to fix minimum prices, if State law permits, but added:

"When they seek, however, to impose price fixing on persons who have not contracted or agreed to the scheme, the situation is vastly different. 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."

The Court also stated that when a State compels retailers to follow a parallel-price policy, it demands private conduct which the Sherman Act forbids. After examining the legislative history of the Miller-Tydings Act, the Court went on to say that "we cannot find that the distributors were to have the right to use not only a contract to fix retail prices but a club as well."

I think that the Schwegmann case is absolutely sound, and it is surprising that the point was not raised until nearly 15 years after the enactment of the Miller-Tydings Act.

Let us consider the real significance of the nonsigner clause. Whether the economic reason for utilizing the clause in a particular case is pressure from the dealers or from the manufacturer, the effect, once the clause has been adopted in a single contract, is to put the whole retail industry of a given State under absolute price dictation. There is no factor in such a situation to protect the public interest. Competition does not operate to protect the public interest because competition is eliminated by the nonsigner clause. There is no public representative in the transaction to protect the public interest as in the case of Government price regulation.

We are all familiar with the tendency of American businessmen to resent price regulation—the constant lashing at the old Office of Price Administration and the present Office of Price Stabilization. Any regulatory agency that undertakes to set prices is in for a tough time. And yet, those public regulatory agencies that have taken such a beating have been agencies of the Federal Government whose powers are subject to termination by Congress and whose every act is subject to public accountability. They operate under standards laid down by congressional authority.

But all such factors to protect the public are absent in a scheme of price regulation in which the ultimate sanction is the nonsigner clause. The price may or may not be reasonable. But it is imposed on a whole retail industry by a single contract to which most of the retail industry is not a party. There is no administrative or judicial review as to the fairness of price. It is hard to imagine a more absolute form of economic dictatorship.

Although the original impetus for fair-trade legislation came from manufacturers interested in protecting their brand names, the chief interest shifted and the later pressure for fair-trade legislation has come largely from the organized retail groups who saw in this device a means of legally eliminating price competition. Thus there have been many instances where retail interests have employed their combined power to coerce manufacturers to give them fair-trade contracts. This coercion has not infrequently been accompanied by threat of boycott.

But, on the other hand, the retailers themselves may often suffer by the enforcement of prices imposed by the manufacturers which require such a low margin of profit that the retailers cannot profitably operate. With the vast power of national advertising a manufacturer can build up such good will for a particular product that a retailer must carry such product whether or not he desires to do so. There are, for example, in the drug field many products where national advertising has created a good will for a particular brand name that is not possessed by other competing products of fully equal merit. The local druggist must carry the product which has the benefit of national advertising. Under fair-trade contracts containing nonsigner clauses, the manufacturer can, in effect, force the retailer to handle these nationally advertised brands at a ridiculously small margin of profit or even at no profit at all.

The present bill, it should be noted, not only permits the manufacturer to dictate minimum prices but it also permits him to prescribe stipulated prices if such are authorized by State law. This provision could well work against the interest of the retailer. Thus, one manufacturer and one retailer could agree upon a stipulated price—that is a maximum as well as a minimum—which would apply to all retailers.

Under this provision, suppose that a manufacturer find one big cut-rate drug store willing to operate on a very small margin of profit and contracts that a certain vitamin capsule product shall sell at a stipulated price of $2.98 per bottle. That price then becomes binding upon every druggist in the State. The margin may be much too low for the small druggist to handle the capsules at a profit, but because of the nationally advertised brand name of the product, the small druggist must carry it as a service

to his customers and sell it at an unprofitable price.

As Mr. Friendly has said in his article:

"Multiply (such examples) by a few hundred of the brand-name items which every druggist deals in, and the result is obvious: the little fellow goes to the wall, and the cut-rate octopus, against which the bill is supposedly directed, takes over all the business.

"For this reason, and from other evidence (chiefly the contributions of big drug manufacturers to the lobby for the McGuire bill), there is considerable reason to believe that the small druggists have been made the unwitting frontmen for the manufacturers in the lobby campaign."

In a free economy the conflicting interests of the consumer and the retailer find their proper level through the forces of normal competition. It should not be our interest to give the consumer the benefit of products sold at an uneconomically low price nor to give the retailer the benefit of uneconomically high prices. But under fair trade both injustices occur. In some instances the manufacturer uses his power to impose on an industry prices so low as to be unfair to retailers. In other instances the retailers succeed through their organized associational activity in forcing manufacturers to raise prices above a normal competitive level. I understand, for example, that the record before the House committee showed that the National Association of Retail Druggists put on an organized effort to force manufacturers to increase profit margins on certain items, and I assume similar evidence has been or will be produced here.

The proponents of fair-trade legislation have managed to stir up a great deal of emotional sympathy by identifying themselves with the small independent retailer as against the larger so-called predatory chain stores. I hold no brief for the chain stores. Indeed, I was in charge of the Antitrust Division when the action against the Great Atlantic & Pacific Tea Co. was instituted at Danville, Ill. That case was based upon a number of alleged discriminatory and monopolistic practices, and in the criminal action the Government's position was sustained. The civil action is still pending.

But because chain stores may in some instances attain monopolistic proportion in their industry does not demonstrate that our method of retailing must necessarily be frozen in the nineteenth century pattern. There are undoubtedly some economic discriminations enjoyed by certain chain operations, especially when they exceed a certain point in expansion, that must be neutralized by legislation. But it is my opinion that the independent retailers are barking up the wrong tree when they seek to impose compulsory vertical price control upon a large segment of American industry in their effort to overcome what they believe to be the unfair advantage of other forms of distribution.

For example, it is a well-known fact that the resale price maintenance of branded goods is wholly ineffective as against the larger chain operations. If a manufacturer undertakes to fix a price on a nationally advertised brand which is distasteful to a large chain operation, that chain has the facilities to introduce new brands at its own price and the power to advertise them in competition with the older established brand. The small independent druggist is often dependent, as I have previously pointed out, upon nationally advertised brands and must handle them at whatever price is dictated. But the chain store can introduce its own brand at a cheaper price and exert all its sales effort on behalf of its own brand. I am sure that plenty of economic testimony could be introduced to the effect that resale price maintenance is ineffective in neutralizing certain advantages of chain stores.

A great deal of the complaint of the proponents of the McGuire bill is against so-called loss-leader practices. They contend that the McGuire bill, or legislation similar to it, is necessary to stop loss-leader sales which they claim injure the good will of a product and also result in unfair competition on the retail level.

I am not going to question that the McGuire bill would, if enacted into law and vigorously enforced, eliminate loss-leader sales in respect to the commodities to which the bill would apply. But I contend that it goes much further than is necessary to eliminate loss-leader sales. In order to stop this practice of loss-leader sales, you do not need to throw the baby out with the bath; you do not need to eliminate all price competition at the retail level. The problem of loss-leader sales should be dealt with separately, as such. Perhaps it could be done by the Federal Trade Commission under existing law or, if necessary, by adding specific provisions to the Federal Trade Commission law dealing with the subject of loss-leader sales.

But I am also impressed with a bill introduced in the House of Representatives on March 11, 1952, by Chairman CELLER, of the House Committee on the Judiciary. I refer to H. R. 6986, a bill to amend the Clayton Act and the Sherman Act for the purpose of prohibiting loss-leader sales. I am attaching a copy of that bill as an appendix to this statement but I shall not read it. In summary, the bill would add a new section to the Clayton Act which would define the term "loss-leader practices" to mean selling a commodity, or advertising or offering a commodity for sale at retail 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 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.

(b) Any sale of commodities which are substantially damaged or deteriorated, when plain notice of that fact is given.

(c) Any sale by officers acting under order of the court.

(d) Any sale to any association organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for prevention of cruelty to children or animals.

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

(f) Any sale which reasonable business practices require a 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.

Any loss-leader practice which affects commerce is then declared to be unlawful and actionable at the suit of any person damaged thereby. Such person is given a right to sue for treble damages in the district courts of the United States, as provided in section 4 of the Clayton Act.

The above are the principal provisions of the Celler bill, but there are subsidiary provisions which may be examined by reading the bill in full.

In addition, section 2 of the Celler bill is to my mind very important in that it repeals the Miller-Tydings Act by amending section 1 of the Sherman Act so as to restore the text of section 1 as it existed before the Miller-Tydings amendment of August 17, 1937. I think there is no need for the Miller-Tydings Act, especially if the complaints against loss-leader sales can be met.

I think that time has demonstrated that the Miller-Tydings Act was a mistake. It has tended to make price competition less effective at the retail level. If we believe in competition as the primary regulator of price, and if we believe in passing economies in distribution on to the consumer, then there is no more reason why price competition should be eliminated at the retail level than at the wholesale or manufacturing level. If, on the other hand, we believe in eliminating competition at the retail level, why should we not be consistent and permit horizontal agreements between competitors, not only eliminating price competition, but competition in other matters, such as the rendering of service.

I hope that a bill similar to the Celler bill will be introduced in the Senate and that it will be given preferred consideration. I also hope that no final action is taken on the McGuire bill until a Senate bill similar to the Celler bill is considered and disposed of. I think that if a bill similar to the Celler bill is enacted, it will eliminate any necessity for further consideration of the McGuire bill.

There are several details concerning the McGuire bill which should be briefly noted. Although the Miller-Tydings Act only legalizes agreements prescribing minimum prices, the McGuire bill also applies to stipulated prices; in other words, specific or maximum prices as well as minimum prices.

The McGuire bill does not purport to be a direct amendment of the Miller-Tydings Act (which, in turn, was an amendment to section 1 of the Sherman Antitrust Act), yet the effect of the McGuire bill is to create an immunity greater than that of the Miller-Tydings Act itself, since the McGuire bill legalizes agreements relating to stipulated prices in or affecting interstate or foreign commerce.

Indeed, if one wanted to be critical of procedural matters, this method of amending the Sherman Act indirectly through an amendment to the Federal Trade Commission Act is subject to criticism. The Schwegmann case rested on an interpretation of the meaning of the Miller-Tydings amendment to the Sherman Act: the case held that such amendment did not legalize the nonsigner clause. The McGuire bill is solely an attempt to nullify the Schwegmann decision. Why did the lobby not seek to amend the act which was involved in the Schwegmann decision—the Miller-Tydings Act? Instead, the McGuire bill is directed to the Federal Trade Commission Act and reaches the Miller-Tydings amendment to the Sherman Act only by reciting in the language amending the Federal Trade Commission Act, that "nothing contained in this [Federal Trade Commission] act or in any of the antitrust acts shall render unlawful et cetera." That is certainly a back-handed method of cutting down the Sherman Act.

In conclusion, I want to call attention to the fact that practically all the newspapers of the country which have commented on this matter have opposed this and similar bills. There has been repeated strong editorial comment from at least three of the four Washington papers. The same can be said for newspapers in many other cities. In addition, there have been many consumer organizations, authorities in law and economics from faculties of many of our leading colleges and universities, and many other experts in the field of price economics who have testified against this bill, or signed letters and public statements opposing the bill.

So far as I know, there has been no support for this bill except from special interests who think they would benefit from the enactment of the bill. I am not aware that any independent experts have testified in favor of the bill in either the House committee hearing or here.

I am sure that the committee must be in receipt of resolutions, petitions, and the like, from groups of citizens who are interested

in opposing this measure simply from the viewpoint of the public good. Informed consumers everywhere are against this bill, but we are all aware that consumers as a group are not highly organized or articulate, certainly not in comparison with the National Association of Retail Druggists or the American Fair Trade Council.

I urge that this committee and the Senate of the United States not be stampeded by high-pressure lobby tactics into approving a bill so obviously against the public interest.

TEXT OF THE CELLER BILL, H. R. 6986, AS INTRODUCED IN THE HOUSE OF REPRESENTATIVES MARCH 11, 1952

A bill to amend the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and to amend the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, for the purpose of prohibiting loss-leader sales

Be it enacted, etc., That the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, is amended by adding at the end thereof the following new section:

"SEC. 27. (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 resale 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 this act, 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 this 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 this act (providing for suits by 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 dealing in such commodity or of discontinuing the seller's business, when plain notice of the 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."

SEC. 2. That section 1 of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, as amended, is amended to read as follows:

"SECTION 1. 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 such contract or engage in any such combination or conspiracy 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."

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point in my remarks, without my taking the time to read it, a very able memorandum by Corwin D. Edwards, economic consultant of the Department of Justice, in connection with the bill pending before the Senate.

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

DEPARTMENT OF JUSTICE,
Washington, February 10, 1941.

Memorandum for Assistant Attorney General, Antitrust Division.

Re grounds for the repeal of the Miller-Tydings amendment which authorizes resale price contracts.

The passage of resale price legislation has become a classic example of the use of misrepresentation by a pressure group. Since this group has boasted of its achievements, there is no longer any doubt about what happened. The so-called "fair trade" laws which legalized resale price legislation in the States were drafted and urged by lobbyists for organized retail druggists and were enacted with practically no support from any other source. Druggists were organized under captains, district by district, to bring pressure to bear upon legislators. Care was taken, however, to describe their bill as one generally supported by entire retail trade of the State. The bill was given the ambiguous and appealing name of "fair trade" law. A systematic effort was made to prevent public hearings and to secure the enactment of the bill without public debate. This effort was successful. There was a public hearing on the bill in only 3 States out of the first 32 in which it was passed, and in one of these the hearing followed the passage. Indeed, there was so little consideration of any kind that, although the original draft of the bill contained a stenographic error which made utter nonsense out of one of the most important provisions, this error appeared without change in the statutes of 11 States before it was caught and corrected. Another stenographic error, not quite so serious, was included in the laws of 17 States. Some members of State legislatures subsequently told consumers' organizations that they did not know what they were voting on.

Meanwhile, every effort was made to throttle public discussion and to intimidate business opposition. In California an aspirin manufacturer was forced by boycott to issue resale price contracts against his will. The druggists' intention to coerce was indicated in the following language: "This aspirin is a sort of Napoleon in the patent-medicine army, but then even the great Frenchman met his Waterloo when the rest of Europe got together, decided that they had enough of

him, and cooperated against him." In the same State the manufacturer of Pepsodent toothpaste, who had experimented with resale price contracts under the California law, decided to withdraw these contracts, apparently under advice of counsel who believed the contracts violated the antitrust laws. Thereupon the druggists organized a campaign to put Pepsodent under the counter and to switch customers to other brands. This campaign was so effective that the offending company made public apology at a subsequent convention of the National Association of Retail Druggists and, as a token of its contribution, subscribed $25,000 to a fund to lobby for resale price maintenance in other States. On one occasion an expression of opposition to resale price maintenance by the New York Times and the New York World-Telegram led to an effort by organized druggists to demoralize the dealers who distributed these papers, by selling them at less than 3 cents. On another occasion Harper's magazine carried an article against resale price maintenance and thereupon received a letter from a druggists' association in a midwestern city, demanding information as to whether Harper's endorsed the views expressed in the article and indicating that if these views were not repudiated they intended to sell Harper's at a substantial discount, presumably in an effort to create trouble among its distributors. Within the last 2 months the newspaper PM in New York has carried a series of articles against resale price maintenance, and the same tactics of intimidation have been attempted by dealers of PM at less than its customary price. The editors, having more sense of humor than some of the other victims of this policy, ran a photograph of a cut-rate advertisement in a store and gave it the caption "The best bargain in the city."

The campaign of misrepresentation became the basis of the lobbying to amend the Sherman Act. The draft amendment was urged upon Congress with argument that it did not involve any acceptance of resale-price maintenance as a Federal principle, but merely committed the Congress to the view that if States desired to authorize resale-price maintenance the Federal control over interstate commerce should not stand in the way. The State laws were described as though they consisted merely in grants of authority for manufacturer and retailer to agree upon the resale price of branded goods. Actually, there is not one of the State statutes which is limited to such a grant. A statute of that kind was tried in California, and proved to be a miserable failure because many retailers would not sign such contracts. All of the State laws now provide that when a manufacturer and retailer sign a resale-price contract all other retailers who have notice of the contract price must refrain from selling below that price. In other words, these State laws give to manufacturer and retailer the right to coerce the retailer's competitors by fixing the resale price of these competitors against their will. There is no provision for public hearing, for standards in the establishment of the price, for any process of appeal of the nonsigner, or any other safeguard such as is always included in a plan for price fixing by public authority. (The State of Wisconsin is an exception to this rule. Its law provides that the State may set aside contracts which establish unreasonable price.) Thus, the price-fixing power granted to private individuals by State laws is far greater than that which any Federal public official may exercise. Moreover, many of the State laws empower the contracting parties not only to fix minimum prices but to prevent the giving of premiums, to control various other terms of sale, and to require the purchaser in his turn to fix minimum prices if he resells. It is doubtful that half the Members of Congress who voted to amend the Sherman Act were aware that State laws in question granted authority broader than the fixation of a minimum price.

The Senate and the very text of the amendment demonstrate that those who amended the Sherman Act had been misinformed about the status of nonsigners under the State laws. The amendment explicitly prohibits agreements between retailers to fix minimum resale prices. Yet in practical effect such agreements would not be as severe a restraint upon competition as a grant of power to a single retailer to make an agreement with a manufacturer which then becomes binding upon all other retailers. When persons are bound by law, they do not need to be bound by contract. It is inconceivable that Congress would have enacted the prohibition upon agreements if it had intended to sanction coercion. Indeed, the report of the Senate Committee on the Judiciary concerning this amendment, which was later incorporated in the majority report of District of Columbia upon the appropriation bill to which the amendment was attached as a rider, described the State resale-price laws merely as statutes to authorize resale-price contracts, and added:

"The States acts are in no sense general price-fixing acts. They merely authorize a manufacturer or producer to enter contracts for the maintenance of his price, but they do not compel him to do so. In other words they are merely permissive. They do not authorize horizontal contracts, that is to say, contracts or agreements between manufacturers, between producers, or between wholesalers, or between retailers as to the sale or resale price of any commodity."

If this committee had been informed that the State laws require every retailer to maintain the same price upon a commodity covered by a contract, it could not in candor have described these laws as merely permissive nor have emphasized the point that horizontal agreements among retailers were not authorized.

It is noteworthy that the advocates of the Miller-Tydings amendment were unable to pass it as a separate bill and eventually secured its enactment by attaching it as a rider to the appropriation bill for the District of Columbia. In signing the bill, the President described this method of enactment as a vicious practice, said that he hesitated to approve the rider which weakened the antitrust laws, and expressed the hope that the bill "will not be as harmful as most people predict."

The campaign of misrepresentation has continued since the amendment of the Sherman Act. Although Congress was told that it was not being asked to express a view upon the merits of resale price maintenance as such, but merely to liberate the States to follow their own policy, it has ever since been told by the same lobbyists that in amending the Sherman Act it did express approval of resale price maintenance and that therefore it is inconsistent in refusing to pass a bill establishing resale price maintenance in the District of Columbia. But a campaign of misrepresentation becomes increasingly difficult as time passes; thus far no such bill has been passed.

Resale price maintenance has failed in both of its mutually conflicting announced purposes. When the State laws were tested in the Federal courts, they were represented as statutes which allowed a manufacturer to protect the good will attaching to a brand by making contracts concerning the resale price of articles carrying the brand. Thus described, the bill is intended to defend the manufacturers' property rights. Actually this interpretation of the bill was mere pretense. In the words of the counsel for the Illinois Pharmaceutical Association, "the fair-trade movement is a retailers' show, with a manufacturers' sign or label over it." The bill originated with retailers, was backed by a retailers' lobby, was passed by retailers' pressure, and has been used by retailers to force the issuance of contracts whether the manufacturer wants them or not. Retail organizations in the drug trade and elsewhere have used white lists of manufacturers issuing contracts, and black lists of manufacturers who do not, in an endeavor to coerce those manufacturers who are reluctant. Repeatedly the officials of retail drug organizations have had to urge their own members not to be too hasty in boycotting manufacturers who announce retail prices lower than the retailer thinks satisfactory. Most manufacturers using resale price contracts would rejoice at the opportunity to get rid of the so-called protection of their property which these contracts afford. They would like to control their own sales policy rather than have it dictated to them by organized retail groups.

A different purpose for the statutes was urged upon Congress and State legislators. They were told that resale price maintenance contracts were necessary to enable the small independent retailer to survive against the competition of the large chain. The legislation was presented as a part of the effort to defend little business and to avert monopoly in retailing. Actually this announcement of purpose involved a mixture of misrepresentation and self-deception. In the first place, though the independent retailer may be threatened in some industries, he was not actually threatened in the drug trade. The number of independent retail druggists was increasing during the period when the plight of the independent was being urged on behalf of this legislation. The average life of an independent drug store is greater than that of almost any other kind of retail store. The mark-up realized upon drug products is higher than that of almost any other kind of retail store. The mark-up realized upon drug products is higher than that upon other fast-moving retail lines, so much so that organized retail druggists are now trying to prevent the handling of packaged drugs by grocery stores which are attracted by the relatively high margin upon this merchandise. The statistics of the drug trade make it clear that there never was a major problem of the survival of the small druggist. Hence it has not been surprising to discover that the whole effort to represent the resale price maintenance laws as measurers directed against chain stores was a deliberate perversion of fact. The chains themselves supported these laws, although they were very careful to keep themselves in the background. There was no campaign of chain store opposition similar to the campaign against the taxation of chain stores. Instead, the secretary of the National Association of Chain Drug Stores testified before committees of the House and Senate in favor of the Miller-Tydings amendment.

Subsequent experience has made it clear that resale price legislation is admirably designed to further the interests of the drug chains. In their early days, when they were seeking a foothold, some of these chains were fond of cutting prices upon national brands. Once they became established, however, they lost interest in this kind of price cutting. They could draw trade by the prestige of their name and the size of their stock. Desiring a reputation for low prices, they continued their price cuts upon some items and particularly upon products which were allowing an unusually large retail mark-up. But the managers of the chains were afraid of the small independent cut-rate stores, sometimes described in the trade as pineboard stores, which sold fast-moving drugs items at a very low mark-up, with a minimum expenditure for rent, store decoration, and the arts of salesmanship. We have in Washington, for example, at least on independent cut-rate store which sells packaged drugs much more cheaply than any chain.

Indeed it sells so cheaply that one of the chains which established a competing store near this independent in an effort to drive it out of business was careful not to use its own chain name upon this competing store. Parenthetically, it is reported that to the chain's surprise and embarrassment its own cut-rate establishment, expecting to lose money while driving out the independent, has actually made money at the same low level of prices.

Resale price maintenance has served the chains in two ways: first, it has relieved them from the competition of the pineboard independent and thus protected them from the newest and most effective channel through which fast moving packaged drugs can reach the consumer at low prices. Second, it has enabled the chains to organize a low-price raid against any independent drug store without fear of retaliation. This second effect is due to the recognition which chains have established for their own private brands. With national brands of drug products price controlled, the chain can collect substantial margains upon such products while reducing the price of its own private brands whenever it desires to use them as leaders or to make a raid upon the national brand business enjoyed by other stores. Since these other stores are bound not to cut prices upon the national brands and do not control private brands which have acquired prestige through extensive advertising, retaliation by the victims is not possible. Thus the most obvious effect of resale price maintenance upon the relations between chain and independent is to deprive the independent of a price cutting weapon still available to the chain. The complacency with which chains have accepted the operation of the State laws is no doubt partially due to this fact.

The actual effects of resale price maintenance have been those which are to be expected from private price fixing conspiracies unregulated by public authority, whether or not they enjoy the sanction of law. Some of these effects were summarized by Mr. Isador Lubin, Commissioner of Labor Statistics and a member of the Temporary National Economic Committee, in a letter transmitting to the chairman of the Committee Monograph No. 1, entitled "Price Behavior and Business Policy." Mr. Lubin said:

"This report indicates that there are certain important rigidities in retail prices, which prevent them from being reduced freely, and to which this Committee may well direct its attention. I refer to the so-called fair-trade laws which have been enacted by 44 States and to the Miller-Tydings Enabling Act which legalizes resale price maintenance contracts in interstate commerce. I refer also to the Unfair Practices Acts which are on the statute books of about half the States and which, while purporting merely to prohibit sales below cost, seem to lend themselves to highly restrictive activities. Further, in some lines of trade, particularly in certain drugs, there appear to be unduly wide margins between the cost of ingredients, the sale price at wholesale, and the price to the consumer."

The report by the Bureau of Labor Statistics, like other impartial studies, indicates that resale price contracts have hurt the consumer. Pineboards, chains, and independents which were operating under the pressure of competition in the downtown areas of large cities have raised their prices very substantially. The consumer who cannot afford high mark-ups upon drug items, or who is willing to seek out the most economical source of supply, has lost his opportunity to save money. Outlying drug stores which enjoy a neighborhood monopoly have often found it worth while to cut their prices slightly in order to announce that they are not being undersold.

Druggists determine the amount of selling effort they will spend upon a product in the light of the size of the operating margin which the manufacturer is willing to establish between his wholesale price and his fixed resale price; and under this pressure, manufacturers have begun to bid for business by raising the retailer's margin. The pages of the drug journals contain advertisements by some manufacturers calling attention to the fact that their contract resale prices guarantee operating margins as high as 50 and 60 percent of the retail price. Upon most products the margins are not as great; but many margins are probably lower than those which will be eventually established, for the officials of the retail organizations have frankly recognized that the safest way to raise prices is in a series of small increases spread over a period of time.

Naturally, higher margins have increased the profits of the drug business and already the druggists have begun to worry about the handling of drug items by grocery stores and about an increase in the number of drug stores. In Massachusetts, a State law which formerly required the State to grant a drug license upon proof of proper qualifications was recently changed to make it optional with the State authorities whether they will grant such a license, and the reason for the change was said to be a desire to limit the number of druggists. Organized retailers are seeking to make it unlawful for packaged drugs to be handled except through drug stores. The alternative is plain—either outsiders will push into the business of selling drugs until, in spite of his sheltered position, the druggist loses in average volume of sales what he has gained in wider margins, or else further steps will be taken to give a limited group of retail establishments a vested right to profits. Whichever happens, druggists who are blocked from competing with each other on a basis of price will be forced to compete by carrying larger stocks, displaying goods more lavishly, and thus raising the actual cost of distribution. The consumer is sure to lose; in the long run it is doubtful that the druggist will gain.

Resale price contracts have also been used widely in the gasoline industry, the liquor industry, the tobacco industry, and in bookselling, and sporadically in the sale of household appliances, musical instruments, and jewelry. In Ohio they have been used to prevent competition by retailers in selling certain kinds of food. It is still too early to see how much of American industry such contracts may eventually cover.

The economic grounds for repeal of the Miller-Tydings amendment are clear in the foregoing discussion. They are set forth in greater detail in appendix C, which contains a part of a speech which I made in 1939 before the American Economic Association. In addition there are persuasive legal reasons for repeal. The amendment has encouraged flagrant violations of the Sherman Act which it does not actually sanction. This situation is a consequence of the misrepresentations already described. When Congress passed the Miller-Tydings Act, the great body of retailers in the drug industry supposed that they had been given congressional authority to get together to fix resale prices and to force the reluctant into line. Actually they had been given no such authority. The facts had been misrepresented to Congress, and Congress had passed a statute which granted what had been asked for but not what was actually wanted. The gap between what is lawful and what is being done under the color of law has been visible ever since. Congress forbade competitors to get together to fix resale prices, extending its sanction to vertical but not to horizontal price fixing. In practice it is nearly always impossible for one manufacturer to establish a system of vertical price fixing unless he can be sure that his competitors will do likewise; and a single price-fixed commodity is exposed to the inroads of competing commodities when these articles can be sold for less than the fixed price. Consequently, horizontal collusion in violation of the law has been an indispensable part of the movement for resale price maintenance. Wholesalers' and retailers' committees have sought to force all competing manufacturers to issue contracts and have set up systems for the review and approval of contracts issued. The effort to keep nonsigners in line has been a collective undertaking of the competitors of those nonsigners, many of whom were nonsigners themselves. Although Manufacturer Jones and Manufacturer Smith cannot agree with each other about prices without violating the Sherman Act, they have found a ready means of evasion by which each makes an identical agreement with Retailer Brown. If the Antitrust Division had the men and the money to examine every resale price contract which has been written under the cloak of State and Federal legislation, and to proceed in every case in which the arrangement goes beyond the authorizations of the Miller-Tydings amendment, there would be no resale price problem, for there would be practically no resale price contracts. In the absence of such wholesale law enforcement, the system of resale price legislation has become a breeding ground for restraints of trade such as Congress never intended to sanction and did not sanction.

Attached as appendix A is a detailed statement concerning the limitations involved in the Miller-Tydings amendment and the various devices prevalent under resale price maintenance which typically violate the Sherman Act as amended. Such devices are prevalent in the issuance and enforcement of most resale price contracts.

There is also attached as appendix B a copy of recent decision by the Court of Appeals of Ohio, throwing out one resale price case because of collusion not contemplated in the statute. This case illustrates the fact that even the State laws, which enforce an effectual collusion among retailers, do not sanction the collusion among producers or wholesalers which is actually generated by such legislation. Although this proceeding also illustrates the fact that nonsigners have a remedy at law with which to defend themselves against collusive arrangements by those who supply them, it is neither practical nor fair to depend upon the ability of a small retailer to uncover such price-fixing conspiracies and to carry the burden of legal costs necessary to deal with them.

The simplest and most effective way to restore competition in such cases is to repeal the Miller-Tydings amendment. Such action would not strengthen the chains against the independents—indeed, it might have the opposite effect. It would not threaten the existence or the prosperity of independents as a group, for these were not in jeopardy when the act was passed and are not in jeopardy now. It would restore competition in retailing, destroy the unlawful monopolies and restraints of trade which now use this amendment as a pretext for their existence, and make it once more possible for the ingenuity of American business to decrease the charge to the consumer for the distribution of goods.

CORWIN D. EDWARDS,
Economic Consultant.

Mr. MORSE. Mr. President, certainly there is one article I wish all Members of the Senate had time to read before voting on this bill, though I know the time is not going to be available to them. Nevertheless, it ought to be in the RECORD. It is a very fine article entitled "A Chance for Really Fair Trade," which was published in the

March 1952 issue of Fortune magazine. I ask unanimous consent that the article be printed in the RECORD, at this point in my remarks.

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

A CHANCE FOR REALLY FAIR TRADE

Hearings have begun in Washington on several bills to restore the so-called fair-trade laws, which the Supreme Court knocked out in the Schwegmann decision handed down last May. That decision, it will be recalled, touched off some spectacular price wars, mostly in New York and mostly centering around Macy's, a bitter and articulate foe of legalized price fixing. For six giddy weeks consumers had a field day and then the wars petered out.

Whether Macy's was as wise as it was smart remains to be seen, for the big spree provided the powerful fair-trade lobbyists with precisely the ammunition they needed to mobilize congressional sentiment behind new and holeproof legislation. The American Fair Trade Council (the manufacturers' group) and the National Association of Retail Druggists began pamphleteering for a new Federal law that would restore the nonsigner clause, the heart of the whole fair-trade controversy. Their strategy was to introduce a new bill in Congress just before it adjourned in October and then put the heat on the local Congressmen as soon as they set foot in their home districts. With 22 NARD lawyers guilding his hand, Congressman JOHN A. MCGUIRE, Connecticut Democrat, completed H. R. 5676 last October 17. Actually, Congressmen MORANO and POULSON had each introduced a fair-trade bill in June, but when these were referred to Judiciary, chairmaned by anti-fair-trader EMANUEL CELLER, no great things were expected of them. The McGuire bill was designed for introduction into the more sympathetic Interstate and Foreign Commerce Committee.

The fair traders went right back to the grass roots, or as their campaign guide for fair trade counseled them, to "where the bodies are." The homeward-bound Senators and Representatives got the full treatment. Their local offices were deluged with some of the 150,000 pieces of background literature mailed out by the Bureau of Education on Fair Trade. In hundreds of personal contacts with their old friend, the druggist, or the friends of that old friend, they were told that the fate of little businessmen everywhere depended on fair trade, that the drugstore was an American forum to be cherished as one should cherish liberty itself, and that the consumer must be protected from the depredations of the price cutter. The success of the 12-week program may be summed up in the words of one Senator not so safely back in Washington. Asked whether he would vote against fair trade, his comment was: "I don't bleed good."

THE HEART OF THE MATTER

Why is it that the fair traders have no difficulty whatever in mustering formidable political support, while the arguments against fair-trade legislation can apparently be swept aside or ignored with political impunity? Fair trade is bad economics, bad law, and bad politics. Fair-trade legislation clearly violates the spirit of the Sherman Antitrust Act, which law carries immense magic with the voters. It is legislation that runs completely counter to the pocketbook interests of the voter as consumer. It is true that the neighborhood druggist occupies a unique place in the hearts of Americans. He is a local institution to which Americans are willing to trust their children, their health, and their troubles. But there just are not enough votes in the independent druggists and other interested small retailers to account for the indisputable political pressure behind fair trade. Is there some uncorrected abuse, some deeply felt fear, that fair trade satisfies, however awkwardly?

The easy answer is, of course, that small business is being threatened, and the small-business man is a universally appealing American symbol. The small retailer, and the neighborhood druggist in particular, did take a terrible beating during the great depression. The Miller-Tydings Act, the basis for the State fair-trade acts, was essentially a depression measure to meet a depression situation. It is extremely unlikely that we will see in our lifetime anything comparable to the thirties.

A repetition of last June's fancy price cutting also seems unlikely. Manufacturers have been busy signing individual resale price agreements with retailers and even Macy's has been forced to accept them in order to get certain brands of merchandise. (Sunbeam showed how serious it was about price maintenance by filing a $6,000,000 triple-damage suit against Macy's, charging that the store had unlawfully restrained trade by using mixmasters as loss leaders.) The economics of retailing seemed as well behaved without "fair trade" as "fair traders" claimed it had been with it.

But if the driving force behind "fair trade" is a mystery, at least there is nothing obscure about what needs to be done. Opposition to "fair trade" legislation should center on one thing and one thing only. That is the provision by which a price-maintenance contract between a manufacturer and one retailer is binding on all retailers in the same State who sell the product. No one can take exception to a manufacturer's right to police his own distribution. But to appeal to the Government for assistance in policing a price structure is bad political theory. To coerce a retailer into a contract he has never seen, let alone signed, is bad law. Giving special protection to a special group is not exactly new in United States history but that does not alter the fact that it is bad economics.

WHAT'S THE ALTERNATIVE?

As matters now stand, "fair trade" seems likely to pass this spring, or perhaps it will slip through in the something-for-everybody days just before the July conventions. The Celler committee began hearings February 13 on three pro "fair trade" bills and one against it. The Celler hearings, as announced, were to be all-inclusive with testimony both for and against "fair trade" by the most competent experts. Meanwhile, however, the Interstate Committee, at the prodding of the druggists, had announced hearings on the McGuire bill 9 days earlier than those of the Celler committee.

The druggists' tactics, obviously, are to rush the McGuire bill through the Interstate Committee before the Celler committee has had a chance to complete its hearings. The affair is strongly reminiscent of a previous stratagem when they slipped the original "fair trade" statute (the Miller-Tydings Act) through Congress by attaching it as a rider to an appropriations bill.

In the event the McGuire bill is favorably reported by Interstate, and gets past the Rules Committee, the opponents of price fixing are afraid that legislative timidity will permit passage notwithstanding the logic brought to bear against it. Such an eventuality has even produced a backstage split in the ranks of the Federal Trade Commission, once of a single mind on how to combat "fair trade." Part of the staff is still in uncompromising opposition; but an equal important number, though still opposed to "fair trade" as such, are murmuring about "politics being the art of the possible." Since permanent prohibition of "fair trade" seems politically impossible to them, they hope to work out a compromise.

Briefly, their proposition is to provide small business with special protection by rewriting section 2 (b) of the Robinson-Patman Act so that loss-leader selling by producers would be illegal even though prices were cut "in good faith" to meet competition. With loss leaders thus prevented at the producer level, the policing of loss-leader selling at the distributor level could be handled by triple-damage civil suits.

Unfortunately the remedy in this instance is almost as bad as the disease. The Supreme Court, in the Standard Oil of Indiana case, has already confirmed the right of a producer to price-cut, even though injury to competition might result, if the cut is motivated in good faith by a desire to meet the price of a competitor. Prevention of this competition among producers in order to forestall a bill that would restrict competition among distributors is merely robbing Peter to pay Paul.

RECIPE FOR PRICE CUTTING

The way to handle the predatory price cutter—and there is such a species, if increasingly rare—is through enforcement of the Federal Trade Commission Act, Robinson-Patman Act, the Sherman Act, by individual non-statutory agreements, and through civil suit brought by manufacturers, not by a statutory price-fixing scheme, which rides roughshod over all dissenters. If more is needed, now is the time to investigate and establish clearly the need. But the fact that the original Miller-Tydings Act was passed as a rider, the fact that the new bill is being hurried through with unseemly speed, does not make for confidence in the validity of the legislation.

The truth is that the small retailer, particularly the druggist, would do better to channel his energies and enthusiasm away from pseudo-panaceas like fair trade and into new marketing methods. He needs to become, as Prof. Joseph Klamon of St. Louis' Washington University put it, "less margin-conscious and more volume-conscious." A fixed set of minimum prices will not, for example, neutralize the competition of the joint grocery-and-drug store. These really formidable competitors operated on the sound belief that the housewife (if given the opportunity) will buy drugs along with her daily food purchases, are increasing in number. Chain food stores are putting in drug counters and chain drugstores are opening complete food sections. The 85-store Owl Drug chain has three on the west coast and its sister subsidiary, Liggets (125 outlets), will shortly experiment with two in the East. The time seems to be approaching when everyone will sell everything. The best defense for the small druggist is keener merchandising, continued reliance on service, the extension of credit, and convenience of location.

Through all the oratory that beclouds rather than illuminates the status of the American small retailer, one fact is clear. The fair traders have never been able to prove that price competition has caused more merchant bankruptcies in non-fair-trade States than in those where prices are policed. Under the circumstances they would render a service to their colleagues, themselves, and the free-enterprise system by combatting the merchants' real antagonists—low volume, lack of mobility, inertia.

Mr. MORSE. Mr. President, if I were to be limited to but one source material in opposition to this bill, and if I were told, "That is all you are going to have time to read," in order to get the main reasons for saying that the bill should not be passed, I would select the very able statement of Dr. Joseph M. Klamon, professor of marketing,

School of Business and Public Administration, Washington University, St. Louis, Mo., made before the Senate Committee on Interstate and Foreign Commerce, on June 4, 1952. He is well known throughout this country for what some call a crusade against so-called fair-trade legislation by the Federal Government. His testimony speaks for itself. In my judgment, it is the best rebuttal that can be offered to the proponents of this bill. I think it is devastating rebuttal, and, on the basis of that testimony alone, after listening to the proponents of the bill, I would still vote against the bill. I ask unanimous consent to have Professor Klamon's statement before the Senate Committee on Interstate and Foreign Commerce, printed in the RECORD at this point as part of my remarks.

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

OPPOSITION TO THE MCGUIRE RESALE PRICE FIXING BILL, H. R. 5767

STATEMENT BEFORE SENATE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, BY DR. JOSEPH M. KLAMON, PROFESSOR OF MARKETING, SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION, WASHINGTON UNIVERSITY, ST. LOUIS, MO.

My name is Joseph M. Klamon. I wish to thank the committee for permitting me to appear in opposition to the McGuire price fixing bill. I live at 7464 University Drive, University City, Mo. Since September 1929, for the past 23 years I have taught marketing and related business courses at Washington University. I am professor of marketing in the school of business and public administration in our university. Prior to returning to St. Louis I was a tutor at Yale in economics, professor of economics and chairman of the department at William and Mary, instructor in marketing and business policy in the Harvard Graduate School of Business Administration, associate professor of economics at Carnegie Institute of Technology, and visiting lecturer at the University of Pittsburgh. Although I am not, at my own request, presently speaking or serving in that capacity, since 1934 I have served as marketing consultant to the consumers group in St. Louis, which was originally set up by Prof. PAUL DOUGLAS, now Senator from Illinois. This group has continued to function after the NRA ceased to function on a local level. I received the LL. B. from Washington University and the M. A. J. D. and Ph. D from Yale University. I also held a fellowship in 1926 in the Harvard Law School. I am opposed to the price fixing bill before you for in reality it will amend to the point of destruction the Sherman Act and the rest of our antitrust laws.

The price fixing bill before you, the McGuire bill, has only one purpose and that is by legislation to reverse the Schwegmann and Wentling cases and thus to destroy by legislation the restoration of competitive pricing on branded merchandise, which occurred as a result of the Supreme Court's decisions in the above two cases. I am opposed to the enactment of this so-called fair trade bill, but which in reality is price fixing on branded merchandise because it is entirely antithetical to the Sherman Act. If enacted into law it will seriously and adversely affect the living standards of a large portion of our population. It will cost the public no less than $2,000,000,000 a year. It will reach into the pocket of every man, woman, and child and be the equivalent of a 10 percent tax, virtually a 10 percent sales tax on all branded goods purchased. We must have either price fixing or price freedom. More than 40 professors signed or submitted statements in opposition to price fixing bills in recent hearings before the House Judiciary Committee. These included faculty members who major in marketing, business, and government legislation. They included professors from Yale, Harvard, MIT, Michigan, Chicago, Illinois, the University of California, and many others. Farm groups testified in opposition to price fixing. So did the Antitrust Division of the Department of Justice and staff members of the Federal Trade Commission.

Various labor groups and civic organizations have always opposed these price-fixing bills, which seriously impair consuming buying power, particularly during a period of high inflation. It is idle to suggest that the aggressive lobbyists of the retail druggists and brand name manufacturers are conducting this very expensive pressure campaign in order to help the public get lower prices for branded goods. The price-fixing bill before you is advocated by trade groups such as the NARD and similar trade associations who are interested in legislation to benefit only their members and not the public.

I hold no brief whatever for any particular channel of distribution. I have always been opposed to any legislation in favor of price-fixing or legislation that would weaken our antitrust laws and our competitive economy. I should suggest that your committee consider the desirability of securing the views on the proposed price-fixing bills before you from economists and professors of marketing in perhaps the 200 leading universities. Those who would destroy our antitrust laws and reverse by legislation the Schwegmann and Wentling cases have never been able to secure as many as five or six, if any, economists of national repute to testify that their bills for fair-trade price-fixing are in the public interest. The Miller-Tydings Act since its enactment has cost the consuming public many billions in higher fixed prices on branded goods. Legislation of this sort that is the equivalent of a 10-percent to 12-percent sales tax collected by retailers and manufacturers of branded goods, for themselves, should not be enacted without adequate information from disinterested experts as to whether or not such legislation is truly in the public interest.

Consumers are entitled to adequate information, competitive pricing on all goods, branded or unbranded, and the widest possible choice under such conditions of competition. I have been for many years unalterably opposed to all forms of price fixing, vertical or horizontal, when practiced by individuals and trade groups. Such price fixing by and on behalf of retailers, manufacturers or trade groups is essentially featherbedding. Featherbedding appears to be a form of business racketeering. It is invariably inimical to public interest and the consuming public. Featherbedding is no less harmful whether practiced by labor, agriculture, manufacturers, retailers, or any one else. The bill before you is essentially featherbedding, price fixing in behalf of retail druggists, brand name manufacturers, and others handling branded merchandise. It is designed to lessen, not widen, consumer choice. It is further designed to condition and police coercively and by compulsion the pricing practices of lower-cost, volume merchandisers; firms who are content with a smaller margin on an immense volume rather than a maintained high margin on a lesser volume.

About 12 years ago there was a bill introduced in the House known as H. R. 1. It was the Patman chain-store bill. It never became law. It attempted to carry the Indiana and Louisiana graduated tax on multiple retail outlets, a step further by multiplying such increasingly severe taxes by the number of States in which a chain did business. This would have taxed A & P, for example, 60 percent of its gross dollar receipts when at that time its average gross margin was ony 16 percent. This, of course, was not an attempt to regulate but to destroy a competitor. I suggested at the time that this type of legislation represented simply another effort to hold back the dawn, to halt the inevitable as I believed then and believe now that the giant superstore in food and drugs is here to stay. Restrictive legislation of this variety as enacted on a State level boomeranged.

The development of the immense food and drug superstore would probably have come in any event. However, legislation of this sort simply gave the chains and the independent superstores a tremendous shove in the direction in which they were headed anyway. In 1929 A & P was the first food chain to cross a billion dollars in volume. They did this in some 16,000 stores. Now they sell about $3,000,000,000 annually in approximately 6,000 stores. The restoration of fair trade by writing the compulsory nonsigner clause into Federal law will, in my judgment, even if legal, which is very doubtful, likewise boomerang. For super food stores, attracted by the high fixed margin on drug proprietaries and sundries have been moving and are now moving into the handling of drug items with incredible speed. The Nielson Service of Chicago and the Progressive Grocer of February 1952 indicate clearly that super food stores in the last 3 years have tripled the volume of drug items, proprietaries, and sundries that they are handling. Since the NARD the retail-drug lobby which boasts that it secured the enactment of the Miller-Tydings Act as well as 45 State fair-trade laws has been in the forefront of fair-trade price-fixing efforts, it may be of some interest to see the effect of maintained margins upon independent retail-drug stores.

Super food stores respect the maintained margins on drug items, as they have had to do in the past. However, they have such an enormous volume of traffic through their food stores that they are thus enabled to give their customers very attractive buys on many other items and then make available drug, proprietaries, and sundries on a self-service basis at or close to recently maintained prices.

The most important trend in drug marketing in the last few years has been the increasing sale of drug products in food stores. Four percent of the sales volume of the average supermarket, doing a business of better than $250,000 a year on a self-service basis, now comes from drug proprietaries alone. There are some 15,000 such supermarkets. Practically all of these now handle drug products in varying degrees. More eye-opening is the revelation that drug sales per square foot is as much as 4 to 1 over certain grocery departments. Sales of drug products in supermarkets were three and one-half times as great in 1951 as they were in 1948. Colgate reports 55 percent of its dentifrice sales are in food-store outlets. In Springfield, Mass., three supermarkets sell more Pepsodent than the top 15 drug stores in the city. A few of the more striking developments in the field of marketing in the past few years have been the establishment of branches of department stores in neighborhood shopping centers; the rack jobber or rack operator and perhaps most significant the movement of nationally advertised drug products through grocery supermarkets. The movement of these drug products through super food stores is easily the most important development in such stores since the handling of meats and produce in grocery stores.

According to the Grey Advertising Agency, women visit supermarkets at least four times as often as they visit drug stores, and signifi-

cantly, women visit drug stores more often than department stores from whose housewares and hosiery departments the supermarkets will soon be taking a bigger bite. A move which will bear watching is the drug-grocery recently opened in California and operated jointly by Mayfair Markets and the Owl Drug Co. This is still in the experimental stage, and too early to tell if it constitutes a trend or an exception. The retail drug lobby, the NARD, and the brand name manufacturers lobby, the American Fair Trade Council of Gary, Ind., have been most active in promoting price fixing fair-trade laws and destroying competition in branded merchandise by legislation on a Federal and State level. This has tended to interest and attract other merchandisers in handling such margin-protected, price-fixed drug and other name-brand items. The rack jobber or rack operator as a result has recently had a surprisingly rapid growth. The margin on drug proprietaries is 30.5 percent to 33 percent on an average. On drug sundries it may be a few percent more.

The average margin in food supers is close to 16 percent or 17 percent, in some instances a little less, rarely more. The rack operator keeps his 15 percent plus an additional 6 percent to 8 percent as he offers the food super store about 22 percent to 24 percent average on drug proprietaries, and about 30 percent to 33 percent profit on drug sundries. The rack operator, therefore, in placing and servicing nationally advertised, fast-moving drug proprietaries and sundries in food stores takes his regular jobbers' or wholesalers' margin of about 15 percent plus an additional 6 percent to 8 percent on the drug items for servicing the drug rack in food stores. Dewing & Co., a rack operator, now services over 3,000 food stores in California alone with drug products. There are some 175 or more rack operators in the country. There has been a geographical expansion from the far West to the Midwestern States, then to the Southeast, then to the Mid-Atlantic, and lastly to the New England States. Recently there has been an association formed of these rack operators composed of the leading rack jobbers in the country with a former Kroger executive who pioneered drug products in Kroger stores heading this group.

One purpose of this association appears to be to get a better margin from manufacturers of nationally advertised items in order to give them a wider margin and greater leverage. The alert chains have watched the rack jobbers closely, learned all they could from them, and are now demanding that manufacturers of nationally advertised drug items sell them directly. This the manufacturers are only too glad to do and have had to do simply because they must have their nationally advertised products available and on display on a self-service basis or otherwise wherever the traffic and volume happen to be. Wholesalers in the drug field have, of course, been alert to what the rack jobber means to them in the movement of drug items through food stores. Some wholesalers have been quick to engage in rack jobbing activities themselves, taking the normal wholesaler's margin plus the same amount that the rack jobber has taken for servicing super food stores. Naturally, the independent retail druggist has taken a dim view of the activities designed to move greater quantities of nationally advertised drug, proprietaries, sundries, and other items through food stores, and in some instances has attempted to resist the movement of such drug items through food stores, all, of course, to no avail. It will do the retail druggist no good to attempt to take a change of venue from the free market of open competition to the political arena on either the Federal or State level, as is here attempted. There is tremendous traffic in practically all food stores.

Consumers seem receptive and desire to purchase packaged drug products in food stores. Super food stores seem interested only in about 100 or more of the fastest moving nationally advertised items. The average gross on food store products as indicated is around 15 percent to 17 percent. The average profit on drug items is almost twice that on food percentages. It is apparent that the movement of drug products in food stores is here to stay and perhaps to grow. Kroger's latest estimate is that its drug business last year was about $12,000,000 with its dollar profits per square foot of floor space exceeded only by three other departments—canned goods, meat, and bread. Other giant food distributors in the field include National Tea Stores, American Stores, Food Fair, Safeway, and last to enter the field, A & P, which is now testing drug and toiletries sections in a cross section of its stores.

In general it may be said that food store sales of drug products have moved most rapidly during the last 2 to 3 years and is a trend that cannot be arrested, nor is it a distribution factor that can be overlooked. The retail druggist himself will have to fight this new-found competition based on mass traffic movement through food stores, not with price fixing or other restrictive legislation, but with better merchandising of drug products in his store. The average druggist, it seems, finds it difficult to grasp the importance of turnover, which to the food merchandiser is of major importance. Too many druggists are high margin and price fixing conscious and not sufficiently volume conscious. Too many druggists display canned goat's milk, Wample's Remedy No. 82, Father John's Medicine, and a few other so-called profitable items whose rate of inventory turnover is often one time a year or less. The retail drug lobby, the NARD, and many of its members tends to look at the percentages which cannot be put in the bank instead of the dollars resulting from volume which pay bills. This refers mostly to the NARD and many of its independent druggist members and not to the alert super store chain or independent operator who runs his business as a business and not as a college of pharmacy.

Many proprietors of drug stores today are pharmacy school graduates with unfortunately little or no training or understanding of merchandising principles and the methods of operation and the formulas that will pay profits over the long term. The real solution to the problems confronting manufacturers of brand name merchandise and the retail druggist are not to be found in amending or destroying our antitrust laws with various price-fixing devices involving the policing of the pricing policies of lower-cost and perhaps more efficient distributors, but rather in better merchandising. In the Progressive Grocer of February 1952 the lead article featured on the cover and in detail from pages 50 through 58 has a few high lights that may be of interest. Among these are the following: 85 percent of stores surveyed (food supers) $300,000 or over annual volume as well as smaller stores now handle drugs and toiletries compared with 37 percent in 1941. This department adds about 2 percent to total store sales and 4 percent to total store gross margin. They sold an estimated $340,000,000 in drugs and toiletries in 1951 and indications are that they will continue to grow in these departments.

Leading drug and toiletry brands are now readily available to food stores from many sources, including manufacturers who are naturally pleased to exploit this added channel not only because of the added volume, but because it gives manufacturers leverage in bargaining with less fear when facing the demands of the NARD. Superfood operators find it pays to give drug department preferred high-traffic location. Drug sales per square foot of floor space in food stores are double over-all store average and the dollar margin is four times the store average because margin on these items is twice the average margin on all other food items. Most food stores support fair-trade prices for drug and toiletries and the average margin on these is 30.5 percent. It increases their ability to give greater values on items not fair traded, thereby increasing traffic, volume, and over-all gross profit. Sixty-four percent of the stores in the Progressive Grocer survey report drug sales up 22 percent over the previous year, and 47 percent of the stores in this survey plan to enlarge and improve the drug department in 1952. In a free economy capital naturally tends to flow where it may be most profitably employed. The above merely proves again that a fixed and false price level tends to defeat itself by inviting competition if not immediately in price competition, then by attracting other distributors to handle the product who then will give greater values in unbranded merchandise. The idea that sharp price competition in branded merchandise will automatically cause a quality dilution harmful to the public has no basis in fact.

Fair trade price fixing is but 20 years old. We have had thousands of national brands and hundreds of nationally advertised brands long before fair trade. Indeed, price competition may well cause emphasis upon greater quality in brand names. Manufacturers will not be inclined to destroy wide consumer acceptance and good will predicated upon known quality. Then, too, minimum quality standards may be had without price control. The basic assumption on the part of the American Fair Trade Council that a manufacturer should be able to write himself a ticket granting immunity from our antitrust laws merely by branding one or more of his products would seem difficult to justify. It is frequently argued that the aggressive use of loss leaders justifies fair trade price fixing. The two are, of course, entirely separate. If loss-lead selling were an evil instead of merely one of many sales promotional devices, it could be stopped by unfair sales acts alone or so-called fair trade practices acts aimed directly against below-invoice sales. Fair traders talk no end about the evils of loss-lead selling and then ask for the unrestricted right to fix sky-high margins on all branded merchandise. Present antitrust laws and powers of the Antitrust Division, Department of Justice, and Federal Trade Commission appear to be adequate to handle predatory price cutting designed to destroy competitors. The absence of any factual basis to justify the bills before you because of loss-lead selling and severe price wars is best evidenced by two items. First, the spectacular price wars that occurred right after the Schwegmann decision of May 21, 1951, ended in less than 2 months. Indeed, they did not even extend to many parts of the country. This proves that business does not commit suicide very often. Second, there is not a single price war of any major significance at the present time in any large city in the country.

There is no evidence whatever indicating a greater mortality among small retailers in free-trade Missouri, Texas, Vermont, and the District of Columbia than in fair trade territory. The States that do not have fair trade laws have not had any greater degree of mortality among marketers who did not enjoy the price fixing that prevailed in other States.

In the effort to enact a fair trade law in the State of Missouri, one of many, which came to an abrupt end with the U. S. Supreme Court Schwegmann decision of May 21, 1951, the American Fair Trade Council sent speakers in many parts of Missouri to tell Missourians that industry was staying out of Missouri because of the absence of

fair trade and because of our excellent antitrust laws. The St. Louis Chamber of Commerce repeatedly stated that there is no basis whatever in fact for this assertion. Indeed, the St. Louis Chamber of Commerce which strongly opposed a fair trade bill on many occasions proved that St. Louis with about one-third the population of metropolitan Chicago had over $300,000,000 in new industry and expanded industry which was greater than we ever had had and greater than Chicago's dollar total for the year. At the time the AFTC suggested Missouri was going downhill industrially because manufacturers were boycotting the State for lack of fair trade, our industrial area was about to be declared a scarce labor area for housing and other purposes, so great was our industrial expansion and our labor shortage. It is significant that all of our larger newspapers in the State, the Kansas City Star, the St. Louis Post-Dispatch, the Globe-Democrat, and the Star-Times before it was purchased by the Post-Dispatch for many years all strongly opposed fair trade price fixing. Missouri is indebted to its newspapers, the St. Louis Chamber of Commerce, and to our State law enforcement officers, Attorney General J. E. Taylor, and former Assistant Attorney General H. Jackson Daniel and their staff for enforcing our antitrust laws and preventing manufacturers and retailers from treating Missourians as if we had a fair trade law. I asked former Assistant Attorney General Daniel and our attorney general to summarize Missouri's experience with antitrust violations which they consented to do. The following is significant as indicating what those who would destroy our antitrust laws really want. I include the communication below:

FEBRUARY 6, 1952.

Dr. JOSEPH M. KLAMON,
Clayton, Mo.

DEAR DR. KLAMON: As per our conversations, I am enclosing herewith a brief summary of my impressions, as a result of my experiences in the office of the attorney general of the State of Missouri, during the years 1949–51. During the principal part of my appointment as an assistant attorney general, I was either in charge of or intimately connected with the prosecution of cases arising under the antitrust law of the State of Missouri.

In the antitrust division of the attorney general's office, we had a number of skilled and trained investigators, whose function it was to inquire into and report on possible violations of the antitrust statutes. I read all of these reports, talked to witnesses, and prepared informations in the nature of quo warranto, with a view toward ousting those engaged in antitrust violations from the State of Missouri. The first six or seven informations that were filed resulted in the defendants (respondents) entering into consent judgments and paying penalties which ranged from $2,500 to $50,000, depending upon the size of the offending corporation and/or the gravity of the offense. The next group of defendants, being five or six in number, have apparently determined to fight the issue through, and their cases are now pending in the Supreme Court of Missouri. The issue in those cases is whether or not vertical price fixing violates the antitrust statutes of Missouri. While it is true that that specific issue has never been directly determined by the Supreme Court of the State of Missouri, it was the unequivocal opinion of the attorney general that the statutes clearly prohibit "any corporation from fixing or regulating the price of any article whatsoever" and that the language in those cases involving horizontal price fixing was sufficiently broad to condemn vertical price fixing. Since the McGuire bill and others of the similar nature are concerned with vertical price fixing, this summary will be confined to that particular field.

Missouri does not have a fair-trade statute. Each and every one of the surrounding States, as well as a vast majority of the rest of the States of the Union, do have such statutes. It was our experience that manufacturers, wholesalers, jobbers, and retailers, by and large, treat Missouri as a fair-trade State. Whether this attitude resulted from a flagrant disregard for the antitrust laws or whether it was induced by the lack of prosecutions from 1927 to 1949 is unknown, but in any event, the feeling that Missouri could be considered a safe fair-trade State was universal among manufacturers, jobbers, etc. It was our experience the manufacturers and jobbers sent to their customers suggested price lists, and we found in a number of instances that when an occasional retailer deviated from the minimum price suggested by the manufacturer or distributor, that he would be forthwith cut off from any direct supply of that article. The only reasonable deduction from this course of conduct, of course, is that the minimum prices were not suggested but were mandatory. When a retailer, who had been cut off for lowering prices below the suggested minimum, had brought this to the attention of the Attorney General, our investigation would then uniformly reveal that the manufacturing company had been consistent in punishing any retailer who deviated from the minimum price schedule. Occasional attempts were made by certain manufacturers, who were more discreet than others, to police prices in a more unostentatious manner. During the trial of the cases now pending in the Supreme Court where witnesses could not testify that they had been directly warned about prices, they did, however, state that there was a tacit understanding in the trade that certain products could be cut and others could not. Where the manufacturer directly policed prices in a vigorous manner, the usual practice was to have salesman, during the course of his periodic visits to his customers throughout his territory, observe shelf prices and report by wire to the manufacturer any apparent price cutting. Advertisement in local newspapers were closely watched and clippings indicating price cutting were forwarded to the manufacturer or distributor by salesmen and also by competitors, usually small retailers. The testimony in the cases now pending in the Supreme Court uniformly revealed that price fixing in the State of Missouri is a two-way proposition, i. e., that the manufacturer himself may not have been particularly anxious, in most case, to maintain prices but that small retailers of his product were. In an effort to cooperate with the small retailers, the manufacturer, who would otherwise have been indifferent, often took upon itself the duty of policing and maintaining minimum prices. Large retailers and volume merchandisers, by and large were not interested in maintaining fair-trade prices but small retailers and others who have adopted the classical 40 percent markup were the chief proponents of fair trade within the State of Missouri.

These low-volume retailers receive considerable assistance, not only from manufacturers but from certain fair-trade councils, retail druggists' associations, etc., who flooded the State of Missouri, each time the fair trade bill came before the assembly, with pamphlets, speakers, and financial assistance. These pressure organizations had a number of approaches. One was to the inefficient high-cost, low-volume merchandiser and was an out and out appeal to his selfish interest; that is, if retail minimum prices are not maintained, you will be outmarketed and outsold by the larger-volume buyers. The second was an appeal to chambers of commerce, etc., on the apparently plausible theory that manufacturers would be less likely to locate in the State of Missouri, if they did not have the protection of a fair trade law. The first approach needs no explanation. The second, however, is open to considerable criticism. Investigation revealed that manufacturers, by and large, were not interested in maintaining fair trade prices, unless there was considerable pressure by small retailers, and that actually any plants which failed to locate within the State of Missouri, had other and more compelling reasons for so doing. The phenomenal growth of industry in Texas, which is a non-fair-trade State, lends substantial support to the view that this latter approach is fallacious and incorrect.

The activities of the attorney general, in filing these antitrust proceedings, were noteworthy in many respects, but particularly in the following: When we filed an antitrust suit against the Seagram distillery, the very next day, after the announcement of the filing of that suit appeared in the press, the price of liquor in St. Louis collapsed and spiraled downward for several days. When we filed our next antitrust suit, prices in many drug products also fell and continued to fall until they had reached a competitive level. Not only was the reaction on prices noticeable but the policing methods became more cautious and in many cases disappeared altogether. Price reduction then began to appear all along the line on many previously fair-traded items. A few months after the announcement of our first prosecution, the Star-Times made a comparative price study on a number of previously fair-traded items in St. Louis, and across the river in Illinois, and found that for the most part, prices in Illinois where fair trade was still strong, were uniformly anywhere from 10 percent to 15 percent higher, resulting in a saving to the people of Missouri of uncalculated proportions and scope. Shortly before I resigned from the office of the attorney general to resume the practice of law, our investigators were noting substantial difficulty in finding any more violations and what few violations we did find had principally occurred before the announcement of our vigorous antitrust prosecutions.

Either fair-trade practices are now completely at a standstill in Missouri among manufacturers, distributors, and retailers, or else policing and maintenance methods have become so skillful and under the table that we are unable to detect them. The torrent of propaganda and informational literature speech making continues, however, and it may be assumed that the fair-trade bill will be again presented to the assembly on an even more pronounced and desperate scale. The fair-trade bill being, of, course, the very antithesis of free competition, it is believed that the assembly of the State of Missouri, an island of free competition, will again reject the cloak-and-dagger tactics of the so-called fair-trade proponents.

Respectfully,

H. JACKSON DANIEL,
Former Attorney General (Assistant), State of Missouri.

The activities that resulted in successful legal action for violation of the Missouri antitrust laws would be legalized if the bills before you to reverse the Schwegmann and Wentling cases were enacted into law and if Missouri likewise modified or destroyed its antitrust laws. Fortunately, this has not occurred, and if the problem is approached from the standpoint of public interest and on the high level of statesmanship that caused Congress to enact our antitrust laws is maintained, none of the price-fixing bills will be recommended.

It is suggested by those favoring fair trade that retail prices on branded goods are not greatly increased. I find it difficult to believe, however, that brand-name manufacturers represented by the AFTC and the Drug Retail lobby and the NARD in putting over the Miller-Tydings Act and in organizing an intensive campaign which secured fair trade in 45 States and until the Schwegmann and

Wentling cases established the sanctity of price-fixing and wider retail margins—I find it difficult to believe that all of this very expensive activity was only concerned with helping the consumer and the public interest. All of this activity and all of the activity in introducing the McGuire bill and in introducing the price-fixing bills presently before you involves spending a vast amount of money and effort in the interest of sheer altruism.

It is hardly necessary to point out that it is the sworn duty of the attorney general of Missouri, Texas, and every other State to enforce the laws of that State. Because Attorney General J. E. Taylor, of Missouri, and the attorney general of Texas, took steps to end flagrant price-fixing activities in violation of State antitrust laws, the Fair Trade Council of Gary, Ind., denounced our attorney general in a letter dated October 4, 1950, for operating a "speed trap." Note the assumption that there is nothing wrong with price fixing and an absence of competition on branded merchandise, and the implication that if our attorney general has an idea that the Missouri antitrust laws should be strictly enforced both against vertical and horizontal price fixing that he is thereby persecuting violators. The great Champ Clark is reported to be the author of Missouri's excellent antitrust laws. The language in the law is crystal clear, very broad, comprehensive, and in my opinion Attorney General Taylor is entirely correct in believing that they declared illegal not only vertical but also all forms of horizontal price fixing. I asked Mr. Daniel, former assistant attorney general, if he would kindly request Attorney General Taylor to write me his recent experience in enforcing the law in Missouri against illegal price fixing. I here set forth the letter from our attorney general in Missouri:

STATE OF MISSOURI,
OFFICES OF THE ATTORNEY GENERAL,
Jefferson City, Mo., February 5, 1952.

DR. JOSEPH M. KLAMON,
University City, Mo.

DEAR SIR: Mr. Jack Daniel has requested us to submit to you information concerning my enforcement of the Missouri antitrust laws, particularly with respect to vertical price-fixing practices in this State.

Since December 23, 1949, this office has filed 15 suits charging violation of the Missouri antitrust laws. Four of these actions involved horizontal price-fixing arrangements. The 11 remaining involved vertical price fixing. Of those 11 cases 7 have been concluded on the basis of stipulations entered into by the respondents and the payment by the respondents of various sums into the State treasury. No evidence was taken in any of those cases. The cases and amounts paid in settlement are as follows:

Supreme Court, No. 41839—*State ex inf. J. E. Taylor, Attorney General, relator,* v. *Seagram-Distillers Corp., a corporation; All-State Distributors, Inc., a corporation; Stickney-Hoelscher Cigar Co., a corporation; and McKesson and Robbins, Inc., a corporation,* respondents. Fines: Seagram, $35,000; All-States, $2,500; Stickney-Hoelscher, $2,500; McKesson-Robbins, $2,500.

Jackson County Circuit Court—*State ex inf. J. E. Taylor, Attorney General, relator* v. *Peter Digiovanni and Joseph Digiovanni, Co-Partners, Doing Business as Mid-West Distributing Co.,* respondents. Fines: Each, $1,250; aggregate, $2,500.

Cole County Circuit Court, No. 12213—*State ex rel. J. E. Taylor, Attorney General,* v. *International Cellucotton Products Co.* Fine: $50,000.

Supreme Court, No. 42050—*State ex inf. J. E. Taylor, Attorney General, relator* v. *Faultless Starch Co., respondent.* Fine: $7,500.

Supreme Court, No. 42177—*State ex inf. J. E. Taylor, Attorney General,* v. *Central States Distributors, Inc.* Fine: $2,500.

Cole County Circuit Court—*State ex rel. J. E. Taylor, Attorney General,* v. *Ironrite, Inc.* Fine: $6,000.

Supreme Court, No. 42186—*State ex inf. J. E. Taylor, Attorney General,* v. *Swift & Co.* Fine: $10,000.

The Digiovanni case in the Jackson County Circuit Court was a companion case to the Seagram-Distillers Corp. case filed in the Supreme Court and involved Seagram products.

The Central States Distributors case and the Ironrite case are companion cases, both involving Ironrite ironers.

The case against Swift & Co. involved only the Swift product Vigoro.

In addition to the above cases, there is one case which is still pending in the Supreme Court, *State ex inf. J. E. Taylor, Attorney General, realtor,* v. *Authorized Motor Parts Corp., et al., respondents,* in which five of the nine respondents have stipulated for decree of ouster from illegal practice and the payment of $2,500 each, or $12,500 for the five respondents. This case involves price-fixing practices in the distribution of Champion spark plugs.

In the following cases evidence has been presented to a special commissioner appointed by the supreme court. No report has been made by the Commissioner in any of the cases. They are:

Supreme Court, No. 42152—*State ex inf. J. E. Taylor, Attorney General, realtor,* v. *Miles Laboratories, Inc., McKesson & Robbins, Inc., The McPike Drug Co., C. D. Smith Drug Co., St. Louis Wholesale Drug Co., and Meyer Bros. Drug Co., respondents.*

Supreme Court No. 42185—*State ex inf. J. E. Taylor, attorney general,* v. *Armour & Co.*

Supreme Court No. 42407—*State ex inf. J. E. Taylor, attorney general, relator,* v. *Authorized Motor Parts Corp., Beck & Corbitt Co., Fred Campbell Auto Supply Co., Cities Service Oil Co., General Auto Parts Co., Hayes Automotive, Inc., Kansas City Automobile Supply Co., Myers Motor Equipment Co., and Phillips Petroleum Co., respondents.*

The case of *State ex rel. J. E. Taylor, attorney general,* v. *Sunbeam Corp.* is pending in Jackson County Circuit Court. No hearing has been held in that case.

We are enclosing herewith copy of a statement prepared for use before the Missouri State Senate in connection with senate bill No. 42, proposing the adoption of a fair-trade act for the State of Missouri. No hearing has been held on this bill by the senate committee and I have not used the statement, but you might find it of interest.

If there is any further information that you would like to have concerning any of the above cases or the activities of this department, please let us know and we will be glad to cooperate with you.

Yours very truly,

J. E. TAYLOR,
Attorney General.

The proponents of fair trade point out as the public relations man of the retail drug lobby, Mr. Mermy, did on February 4, 1952, in the hearings on the McGuire bill that while 45 States have enacted fair trade laws, not one has repealed such a law. This is supposed to be evidence that price fixing laws on branded goods are in the public interest. If the retail drug lobby and the brand name lobby were as efficient in marketing as they are in applying coercive political pressure they would not need this political crutch to protect them from inefficiency in distribution. Once they succeed, it is almost impossible to restore competitive pricing in the public interest. This is certainly no evidence that such a law promotes public welfare. The opponents of fair trade in Missouri were to be heard before a legislative committee in Jefferson City toward the end of May 1951. Like a breath of fresh air, the Supreme Court on May 21, 1951, held the nonsigner clause invalid in the Schwegmann case, and the effort to enact a fair trade bill in Missouri lost much of it organized drive. Attorney General J. E. Taylor prepared a statement in opposition to Missouri Senate bill No. 42, the proposed fair trade bill in our State. It has never before been published or used, and it is so apropos and pertinent to the bills before you seeking to legalize the nonsigner clause and reverse Schwegmann that I here set forth the statement referred to in the above letter from the attorney general:

"STATEMENT BY J. E. TAYLOR, ATTORNEY GENERAL, STATE OF MISSOURI, AGAINST THE FAIR TRADE BILL FOR MISSOURI

"Senate bill No. 42 proposes the adoption of a so-called Fair Trade Act for the State of Missouri. The essential purpose of the bill is to enable a manufacturer to require that his products be sold at retail at a price not less than a minimum which he may specify.

"Missouri has been a regular target for the advocates of fair-trade legislation since the movement received the benefit of exemption from the Federal antitrust laws upon the enactment by Congress of the Tydings-Miller amendment in 1937. That act, incidentally, was passed as a rider to a District of Columbia appropriation act after the House and Senate had failed to act on a bill directly covering the subject. President Roosevelt, on signing the bill, denounced the practice of attaching extraneous rider clauses to bills and expressed his fear that the law would lead to increased prices to consumers. Experience under the law has shown such fear to have been justified.

"Despite the regular efforts to obtain passage of a fair-trade law in this State, the people and the legislature have recognized that fair-trade legislation is inconsistent with the free enterprise economy of which we are justly proud and have refused to subvert the welfare of the people as a whole to that of a special few.

"Undaunted by their rebuffs in this State, advocates of the legislation are now engaged in a vigorous campaign for the passage of Senate bill No. 42. The campaign is being directed by the American Fair Trade Council, Inc., of Gary, Ind., and the Fair Trade Education Bureau of New York.

"The president of the American Fair Trade Council is John W. Anderson, who is also president of the Anderson Co., of Gary, Ind., a corporation which engages in the manufacture of automobile accessories. The American Fair Trade Council is an association of manufacturers, all, or practically all, of which are located outside the State of Missouri. Mr. Anderson recently solicited membership in the organization among manufacturers all over the United States by means of a deliberately misleading letter in which my action in enforcing the antitrust laws of this State was described as 'a lucrative speed-trap operation.'

"The organization last year held its annual meeting at the Waldorf Astoria Hotel in New York City. At that meeting various manufacturers pointed out the results of their operations under fair-trade laws. A representative of G. & C. Merriam Co., publishers of Webster's Dictionary, pointed out that, before fair trade, the $20 Webster's International Dictionary was sold for as little as $12.34, but that with the advent of fair trade the price was restored to the $20 figure. Just how the purchaser benefited by this increase under fair trade was not explained.

"The report also contains a statement by a representative of Ronson Art Metal Works, Inc., a manufacturer of cigarette lighters, which operates under fair trade. This statement shows how under fair trade a merchant is deprived of his right to operate his business as he sees fit. The statement is as follows:

"'We have a lighter fuel under the trade name of "Ronsonol" which is fair-traded

at 25 cents. Let's say, for example, that they take our minimum-price lighter which is $6 and sell the combination for $6.19. We immediately put a stop to that.'

"Equally enlightening is a statement made at the meeting by Mr. Ivan D. Tefft, attorney for the Parker Pen Co. Mr. Tefft stated:

" 'Now (under fair-trade laws) the terms "price cutters" and "price cutting," when applied to a merchandiser are synonymous with law violator and no one likes to be adjudged a law violator.'

"Thus, under a fair-trade law, a Missouri merchant would not only lose the right to operate his business as he saw fit, but he would be a law violator should he attempt to do so.

"The Fair Trade Council has recently written its members outside Missouri requesting that they write their customers here and suggest that the customers see, write, wire, or telephone members Senate Criminal Jurisprudence Committee, urging that Senate bill No. 42 be reported out promptly for favorable action by the Senate. Missouri retailers have been flooded with such letters received from their out-of-State suppliers. A number of them have undoubtedly written members of this committee in response to these urgings from the outside manufacturers.

"Another part of the campaign has been a series of speeches delivered throughout the State by Mr. David Molthrop. Mr. Molthrop's position is described as community relations consultant for the Anderson Co. This is the company of which Mr. John W. Anderson, president of the American Fair Trade Council, is president. Mr. Moltrop's speech, which has been delivered before numerous civic organizations throughout the State, is described as a speech on attracting industry to the community. Two of Mr. Molthrop's points, as reported in the press, are:

"(1) 'Back your chamber of commerce to the fullest and the activities of its industrial committee.'

"(2) 'Support your local inventors. Fruition of their ideas means more jobs and more payrolls for your community.'

"However, Mr. Molthrop's purpose in coming into this State has not been merely to voice such obvious recommendations. The main point in his address has been that the enactment of Senate bill No. 42 is the most important factor in the obtaining of any industries for the State of Missouri. He has attacked the enforcement of the antitrust law. He has stated that a number of industries have refused to locate in Missouri because of the absence of a fair-trade law. The press reports of these speeches, however, disclose the specific mention of only one industry which has declined to locate in Missouri because of the lack of a fair-trade law. By coincidence that industry is the Anderson Co. Mr. Molthrop stated that that company proposed to build a $600,000 plant in Missouri, but erected an addition to its Gary plant instead after learning of the situation here. Just where the Anderson plant was to have been located has never been stated.

"If any answer is needed to Mr. Molthrop's statement in this regard, one need only point out that the Ford Motor Co. is now engaged in the construction of a $40,000,000 plant in Clay County. Numerous large industrial plants are under construction in St. Louis, including a $6,000,000 plant by Groves Laboratories and a large plant by Procter & Gamble.

"Mr. Molthrop delivered his speech before the Springfield Lions Club and that organization immediately passed a resolution appointing a committee to support the enactment of Senate bill No. 42. Members of that organization, in order to see the fallacy of Mr. Molthrop's argument, need only have reminded themselves that the Lily Tulip Cup Co. now has under construction in Springfield a plant costing several million dollars. That company evidently was not deterred by Missouri's lack of a fair-trade law.

"Why is all of this pressure being put on this committee by firms and organizations located outside the State of Missouri? The answer to me appears to be an obvious one. Forty-five States have enacted fair-trade legislation. No such legislation is found in Texas, Vermont, District of Columbia, and Missouri.

"The St. Louis Star-Times recently published articles in which prices of certain items on sale in Illinois under fair trade were compared with the prices of the same items in the State of Missouri. A survey of 50 drug items showed that the Illinois fair-trade price was approximately 12 percent higher than the price in Missouri. A survey of the prices of liquor showed that prices in Illinois are nearly 16 percent higher than in St. Louis.

"The proponents of fair trade are anxious to eliminate the remaining few States which have failed to enact fair trade legislation, in order to remove any basis for comparison of prices in fair trade and non-fair-trade States, because any such comparison always shows that prices to the consumers invariably are higher under fair trade laws. Furthermore, should fair trade laws be enacted in all States, there would be no limit to the extent to which the manufacturers might increase the prices of their products. The fair trade laws always render lip service to the antitrust laws by prohibiting combinations of manufacturers, but it is much simpler for manufacturers to combine and fix the price of their products when they know that their retailers can be forced to sell their products for whatever price they might fix.

"Missouri has a strong, effective antitrust law. For more than 50 years it has operated for the best interests of the people of this State. Any weakening of it by a 'fair trade law' is contrary to the best interests of the people. Therefore, I submit that this committee should resist the pressure of selfish out-State interests, and refuse to approve Senate bill No. 42."

Those who are responsible for the current effort to destroy the Schwegmann and Sunbeam-Wentling cases, to destroy by Federal legislation the restoration of competitive pricing in interstate commerce through the de facto repeal of the Sherman Act, and our other antitrust laws, should give us clear, simple answers to a few questions relative to the bills before you, which they have sponsored and introduced:

1. If a cash and carry super store has lower costs, should not the public be permitted to benefit (in lower prices) from all such lower cost methods of doing business?

2. In the above situation, why should all be required to sell a so-called fair-traded item at the same retail price?

3. If competition among producers of an item is good for the public, why should competition among retail sellers of that item be denied?

4. Has any pressure group ever campaigned for price-fixing privileges except to make prices higher than they are under free competition?

5. What real and specific evidence is there that truly meritorious articles have ever been driven from the market by price competition?

6. Why should the retail drug lobby, the NARD, set up permanent headquarters in the District of Columbia Press Building and the brand-name manufacturers' lobby, the American Fair-Trade Council, set up headquarters in the Mayflower Hotel in Washington and spend large sums of money to lobby for the McGuire bill before the Commerce Committee and all the bills before this committee, other than the Curtis bill, to make the public pay more than they now pay for aspirin, tooth paste, liquor, appliances, drug items, and almost any other branded item?

7. How much money have these and other lobbies been supplied with and how much have they spent and do they intend to spend to enact the above bills into law and to destroy the Schwegmann and Wentling cases, and, specifically, by whom has this money been provided?

8. If a merchant wants to locate a store outside the city limits, operate at lower costs, price accordingly, and therefore sell at lower prices because of his lower costs, what good reason is there to deny him that right and forbid the public that benefit and would not legislation directed toward this end be held invalid by the Supreme Court as an unconstitutional deprivation of property without due process of law?

9. If the public is deceived by loss-leader prices, what would prevent equal deception as to fair-trade prices which are and have always been rather exorbitant?

10. If we grant monopoly price privileges to the select few responsible for most of the bills before you and also for the McGuire bill, who is going to regulate those prices to make certain that the public is not mulcted by the price fixers?

11. Is the Keogh bill, H. R. 6367, intended to regulate or to destroy and prevent interstate commerce in branded goods, mail-order fashion, at any price below a State fair-trade minimum?

12. Is it not probable that the United States Supreme Court would hold H. R. 6367 invalid on the ground that this does not regulate but destroys interstate commerce done by a mail-order house, and that such a bill would interfere with the inherent property right one has to conduct a lower-cost operation and to price accordingly for the benefit of the public?

These are but a few of many questions that suggest themselves the moment anyone attempts to modify or to destroy the affirmative faith in competitive pricing as evidenced in our Sherman Act and other antitrust laws. The Boston conference on distribution of last year developed a number of points that are very pertinent here. The public interest would seem to require that we should repeal the Miller-Tydings Act, as the Curtis bill before you proposes for we must have the complete restoration of the right of a distributor to set his own prices on his own property when he offers it for resale. We are here concerned with basic principles of national policy that should promote the public interest and that are vital to the future of efficient marketing. For many years there has unfortunately been conspicuous failure to recognize that competitive price making among distributors is just as vital to the public as competitive price making among producers.

A number of disinterested studies indicate clearly that about one-half of the final retail price in many fields represents distribution costs. It would seem difficult logically to maintain that factory prices should be competitively determined and that the cost of distributive services should not. If price competition among producers is good for the consuming public, then price competition among distributors serves an equal and perhaps an even more important public purpose for today the greater weight is not so much in production as it is in distribution. Does it make sense from the public standpoint to effect significant economies in manufacture and then to dissipate a great part of such lower unit cost in inefficient distribution perpetuated by an absence of competitive pricing in marketing? The Miller-Tydings amendment to the Sherman Act and the Federal Trade Commission Act is a radical and dangerous denial of the fundamental principles of competition be-

cause it makes lawful the destruction of price competition among distributors in the sale of certain branded merchandise. The Miller-Tydings Act represents affirmative governmental interference in behalf of restraint of trade and is clearly diametrically opposed to the principle in the Sherman Act and the Federal Trade Commission Act. The real issue of high price fixing has not been settled by the Schwegmann decision. It can be settled by enacting the Curtis bill into law and thus repealing the Miller-Tydings Act which was slipped through Congress as a rider to a District of Columbia appropriation bill. President Roosevelt denounced it at the time and would have vetoed it had he had the item veto.

On the production side we depend upon competition to weed out the inefficient and to reward the progressive manufacturer who finds a new way to produce the same or better article at a lower cost, and to pass on to the public a part of such saving. What is it that makes a similar operation inimical to public interest when it occurs in distribution? The public must have adequate information and competitive prices and have the unrestricted right to shop for values at all times and on all goods, branded and unbranded, particularly now when we have the greatest degree of inflation we have ever had in the history of the country and when the dollar buys less than it ever has before. Competition is a great economic and social force. To be sure, it is not wholly painless in operation. But we cannot wisely curb it on the theory that lower costs for products and services are necessarily against the public interest because some producers and sellers cannot meet them. These are some of the contentions not only of economists at the Brookings Institution, the Harvard Graduate School of Business, Dr. Q. Forrest Walker, economist of R. H. Macy & Co., but they are, of course, elementary and fundamental principles of economics that are taught everywhere.

No one can study the history and development of fair-trade laws, the various State laws imposing cost plus restraints on retail price competition, unfair sales acts, and a number of other restraints on the price making freedom of distributors, without being impressed with the dangers which now seriously threaten national progress toward lower costs and more efficient distribution. If we believe sincerely in free enterprise, it becomes readily apparent that these restrictive pricing devices are definitely not in the public interest. They occur only when higher cost distributors take a change of venue from the market place of open competition to the political arena. They are essentially political devices designed to secure the votes of a small minority of distributors and manufacturers interested in trade restraint on branded goods, at the expense of the entire consuming public. The wide-awake competent small merchant and the giant independent super store such as Schwegmann in New Orleans and Doc Webb in St. Petersburg, Fla., does not need price protection. And the incompetents in distribution cannot possibly attain economic salvation by such means. We should actively promote healthy price competition among distributors as well as producers.

Restraint of price competition has never been in the public interest and has never served any useful purpose. It tends to shrink markets, not to broaden them, just as the Keogh bill before you and all other bills before you other than the Curtis bill are intended to do. The growth of the rack jobber or rack operator is merely one of the later examples of the fact that ironclad price rigidity can never capture more than part of the market. Even if the fair traders succeed only in part, they reap a rich harvest at the expense of the public. As a matter of enduring national policy we are not interested in restricted markets and reduced production. Pricing policy and the freedom to price competitively is perhaps one of the most crucial of all future marketing problems. In facing this problem it may be well to bear in mind one crisp sentence from the majority opinion in the Dr. Miles case: "The complainant having sold his product at prices satisfactory to itself, the public is entitled to whatever advantages may be derived from competition in the subsequent traffic." This is the best answer to the brand name manufacturers who attempt to maintain that they can give themselves immunity from the Sherman Act by merely putting on a cloak on the package, or a brand name. If that is all that is necessary to avoid our antitrust laws, there will, of course, be an endless multiplication of brands and the manufacturer and marketer of unbranded merchandise will then want to know why he cannot operate in similar fashion.

I am in favor of the Curtis bill and favor the immediate repeal of the Miller-Tydings Act because price maintenance agreements throw a monkey wrench into free enterprise, penalizing more efficient dealers. We must have competition not only between producers and dealers of similar goods, but also between retailers of identical brands. Trade restraint, rigid prices, and margins are functional featherbedding and like all featherbedding seriously injurious to competitive free enterprise. If we do not repeal the Miller-Tydings Act and if we do approve the bills before you, we shall accomplish the defacto repeal of all of our antitrust laws. I strongly support the position taken before you by the Federal Trade Commission spokesmen and by the Anti-Trust Division of the Department of Justice. I believe the Anti-Trust Division of the Department of Justice and the Federal Trade Commission have well earned a salute of gratitude from the consuming public for having maintained the national policy and tradition in favor of competition and opposed to all forms of price fixing.

Recently the national income has been running well in excess of $275,000,000,000 a year. The volume of all retail trade is at the rate of $150,000,000,000 annually. When fair traders attempt to minimize the damaging effect of price fixing on consumers, they deliberately dilute the percentage of dollar volume fair-traded items by including many commodities that are not price-fixed in retail trade. The percentage may vary a small amount, but perhaps the best conservative estimate of the volume of branded goods fair traded before Schwegmann was approximately 10 percent of the total volume of retail trade, or $15,000,000,000. On the basis of a number of disinterested studies (not inspired by any trade group and not self-serving, or purchased special pleading) the average increases on prices on branded goods, on price-fixed fair-traded items, is not any less than 10 percent to 12 percent. This means that on drugs, appliances, liquor, and all other fair-traded goods, the American public prior to the Schwegmann decision, paid no less than $1,500,000,000 to $1,800,000,000 extra each year. This is the virtual equivalent of a 10 percent to 12 percent Federal sales tax on such items levied not for the benefit of the Public Treasury, but the groups of retailers and manufacturers who have sponsored most of the bills before you.

In January and April of 1949, Fortune magazine conducted a survey of prices on many items in the District of Columbia and comparable prices on such identical items in surrounding fair-trade territory. On the basis of this and other surveys Fortune conservatively estimated that fair trade was costing the American public no less than $750,000,000 annually. This study was made about 3 years ago and needs to be brought down to date. The St. Louis Star-Times conducted two surveys on prices in St. Louis where we have no fair trade and nearby Illinois that has a fair-trade law. Both of these studies will be made available to your committee, and while it is true they are flash surveys, they indicate clearly that average prices on liquor in Missouri are approximately 16 percent lower than in nearby Illinois, and that average prices on many drug items are no less than 12 percent lower than in Illinois.

Shortly after the Miller-Tydings Act was passed R. H. Macy & Co. of New York surveyed over 4,000 items sold under conditions of fair trade and before fair trade. This was one of the widest surveys conducted, and although it may come from an interested source, it indicated that the price of cosmetics as a result of fair trade price fixing had been raised 8.6 percent; drugs, 15.8 percent; liquors, 11.8 percent; books, 17.5; and miscellaneous items, 16.0 percent. In all the mass markets the survey indicated fair-trade laws have raised prices and have placed an added burden on the consuming public. The Chairman of the Department of Marketing in the School of Business and Public Administration of Temple University, Mr. Myron S. Heidingsfield, in a survey and article published in Women's Wear Daily of July 5, 1951, indicated that his study in Philadelphia, Pa., showed that most fair-traded items, particularly in appliances, were priced 20 percent too high for the average consumer, and that a number of devices had been resorted to by consumers, manufacturers, and retailers to get around fair trade price fixing restrictions in Philadelphia even before Schwegmann.

It would not be overstating the case to say that the annual overcharge to the public as a result of fair trade in 45 States has been closer to $2,000,000,000 a year than any other estimate that can be made. Approximately 200 discount houses in New York City alone the year before the Schwegmann case was decided sold more than $450,000,000 in brand-name appliances in violation of the New York Fels-Crawford fair-trade law. The savings to the public cannot be measured alone by the average 15 percent lower price than the fair-trade minimum for the marketing practices and prices of the competitors of the discount houses were obviously conditioned downward by the immense volume the discount houses were doing. The public saved no less than approximately $75,000,000 a year in lower prices on branded appliances bought in discount houses alone. This gives but a fair idea of the immense public benefit resulting from competitive pricing. The fair-trade laws are still on the lawbooks of 45 States and remain valid in intrastate commerce and also in interstate commerce, but do not apply to nonsigners. Such laws would be reactivated in a manner extremely harmful to public interest if the nonsigner clause should be upheld if enacted into law. This would mean that recalcitrants could be "dragged in by the heels" and their pricing policies policed by competitors to destroy competition and harmful to the public.

I do not believe the United States Supreme Court would declare legal the compulsory, coercive pricing imposed by the nonsigner clause, but would hold such action to be a possible violation of the inherent right of any businessman to operate at the lowest possible cost and to price his merchandise accordingly. The statistical data of Mr. Maurice Mermy, the public relations man for the NARD, given in support of the McGuire bill on February 4, 1952, would seem to have little, if any, value. His data was designed to show that fair trade does not result in appreciably higher prices to the public. This data is anything but convincing because the number of items in the various surveys he relies on are not given; nor do we know who conducted these surveys because for the most part he speaks of disinterested surveys but does not identify them; nor does he give

the size of the sample, nor do we know when and in what cities and on what items and on what days the surveys were made, or whether the data is derived from comparable metropolitan areas. In statistics as in economics and in law and in some other fields, as Dean Roscoe Pound once pointed out, it is not too difficult to take a train that will get you where you want to go. As indicated, I find it difficult to believe that the American Fair Trade Council and the retail drug group, the NARD, two of the major organizations presently spending vast sums to restore fair-trade price fixing, and to destroy our anti-trust laws, are at all dumb or do not know what they are after. On the contrary, they are well financed, well organized, and understand perfectly what they want—and I trust that the members of your committee understand equally well what they want and whether their bills are truly in the public interest. Their activities, according to the AFTC, are solely in the public interest and are not propaganda but truly educational work designed exclusively to promote the public interest.

I sometimes wonder how far the art of rationalization and self-deception can go. The AFTC states in a letter, to all members, of October 4, 1950, that all financial contributions and membership dues to the Fair Trade Council are for purely educational activities. It advises its members in the above letter that any money paid to the Fair Trade Council is a deductible item and tax-exempt. In this letter of October 4, 1950, the Fair Trade Council also advises and suggests that the advertising agencies handling its members' accounts may be asked or invited to pay a certain percentage of the advertising agencies' 15 percent to support the Fair Trade Council. This letter contained a sharp attack by the AFTC on the attorney general of Texas and the attorney general of Missouri and offered to help its members in fighting antitrust prosecutions. The letter of October 4, 1950, from which the above is taken must have been forgotten when in a later letter to all Fair Trade Council members, dated January 7, 1952, it solicited contributions from its members not for educational purposes, but on the basis of the actual financial interest of all members in fair trade. It would appear to be such a comfort when education and self-interest can properly go hand in hand; when patriotism and increased profit synchonize so beautifully. To be sure, it may sometimes be a bit difficult to draw the line, to know just where patriotism ceases, and self-interest begins. However, that is a matter that we need not concern ourselves with at this time.

Under conditions of competition that type of production and distribution will tend to survive which performs its function most efficiently, wins wide consumer acceptance, and therefore deserves to survive. The resistance of established producers and distributors to new techniques that may lower costs and give the public better values is easy to understand. There were riots and bloodshed in Scotland when textile machinery was introduced. Toll roads resisted railroads and the rails in turn have resisted lower cost methods of transportation. The department stores providing certain marketing advantages to the public were denounced as iniquitous institutions encouraging the public to buy on credit and thus go into debt. Perhaps there is a point there that we ought not to pass over too lightly? Chain-store merchandising was likewise resisted just as the movement of food stores into meats and produce was not welcomed by competitors. Retail druggists made many efforts to resist and are still making such efforts to resist the movement of drugs, sundries, toiletries, and similar products through super food stores. I trust and believe that your committee will weigh with the utmost care not only the requests of the NARD and the AFTC, but also what I believe to be the excellent recommendations of the Federal Trade Commission and the Antitrust Division. I should think it unnecessary to urge you to look beyond those who seek to destroy competition—those who seek special privileges for their groups—and instead to keep your eyes steadily on the 150,000,000 consumers who are trying to fight inflation, buy under conditions of competition, protect their living standard, and make their 50-cent dollars go a little further. I trust and believe that your recommendations will be in the public interest and designed to protect our national policy against horizontal and vertical price fixing, and our national faith in the American free competitive economy, without which it would be very difficult for political democracy to survive.

I shall make available to your committee in a few days a number of exhibits from my file on the matters before you, showing the attitude of the press and also some data on comparative price studies. The following editorial appeared in the St. Louis Post-Dispatch December 27, 1951:

"ANOTHER FAIR TRADE SCHEME

"It is an old tactic of pressure groups, faced with an unpleasant Supreme Court ruling, to try to get Congress to legalize what the Court has already declared illegal. And that is what the American Fair Trade Council hopes to do when Congress convenes. The council has drafted a proposed law to permit fair trade which, by any other name, means price fixing. Last May the Supreme Court ruled that retailers who do not sign fair trade contracts with manufacturers do not have to observe the minimum retail prices which the manufacturers set for their goods. In short, the retailers could charge what their purses and prospects allowed them to. This, of course, applies to goods in interstate commerce. The ruling knocked the wind out of a lot of efforts to fix retail prices. Moreover, the Justice Department later warned it would prosecute if it caught manufacturers trying to gang up on small retailers to make them sign the so-called fair trade contracts. So now the fair trading lobby wants to amend the Sherman Act, and there is irony in this. The Sherman Act is intended to help protect free competition. The amendment is intended to help cripple it. For the measure would make the manufacturers' retail prices binding on all retailers, whether or not they sign contracts and whether or not the goods are even in interstate commerce. Congress will quickly discover that such a bill would defeat the intent of the antitrust laws, the Supreme Court decision, and the Justice Department. It would help those few who fear that economic competition is dangerous business."

On February 7, 1952, the Wall Street Journal carried the following editorial which put the matter on some of the bills before you in rather clear fashion. The editorial reads as follows:

"THE FAIRNESS OF FAIR TRADE

"As was to be expected, friends of the so-called fair-trade laws are working in Congress to rehabilitate them. A Federal statute declares that where State-made law enables a manufacturer to bind all retailers to a fixed resale price by making a contract with a single retailer, the Federal Government will not object. But last year the United States Supreme Court ruled that no person can be bound by a contract to which he is not a party.

"Thereupon retailers all over the country reduced their prices on a great variety of merchandise. The reductions spread to goods which had not been price-fixed through fair-trade contracts and for a time the price cutting assumed the characteristics of an irrational price warfare. In a few weeks the war burned itself out, but without quieting the clamor that the Supreme Court decision had left small retail businesses at the mercy of their more effluent and therefore more powerful competitors.

"The court decision coincided with events which would doubtless have lowered selling prices in its absence. The buying mania that followed the outbreak of war in Korea had had two unsettling results. Consumers in general were more than usually well supplied with goods of many sorts while distributors had accumulated unusually large inventories. The latter had to move their goods against rising consumer resistance and price cuts were the only effective motive power.

"Now indignant protest rises against what Chairman PATMAN of the House Small Business Committee calls 'deceitful and misleading price cutting.' This is a reference to the 'loss leader,' the offering of one or a few items at prices near or below cost as a means of luring buyers into a store. The idea is, of course, that once inside they will buy other goods not similarly marked down. They are assumed to be that dumb.

"Partisans of fair trade frankly say they are out to overturn the Supreme Court decision in practical effect. It is hard to see how they can restore the dangerous privilege of manufacturers or wholesalers to control the actions of thousands of merchandisers without their consent and even against their will. The Supreme Court has said that such a power is beyond the law and certainly it should be. But in their heyday the fair-trade laws and the contracts under them did not completely freeze prices for the goods involved. There were then many indications—and complaints, too—that this putative method of protecting small business was breaking down. Traders who were active in defeating them were called chiselers and other hard names, which didn't bother them much.

"Fair trade practices as heretofore in use are potentially dangerous. They invite manufacturers and distributors of competing articles to enter into understandings to maintain prices higher than would otherwise prevail. Carried far enough, they would defeat the efforts of lawmakers and administrators to prevent unreasonable restraints of trade, which are the hallmarks of monopolism. A congressional regard for the safety of small business is proper enough, but the stake of all consumers in a free market cannot be ignored."

Ninety percent of the membership of the St. Louis Chamber of Commerce is made up of small businesses. The large retail stores do not constitute 2 percent of its membership according to Frank E. Lawrence, secretary of the chamber of commerce. However, because the chamber strongly opposed the retail druggists' fair trade bill for Missouri, the Missouri retail drug group resigned from the St. Louis Chamber of Commerce. A two-column story announcing this action appeared in the St. Louis Post-Dispatch of September 17, 1951. On the next day the Post-Dispatch carried the following editorial:

"THE DRUGGISTS WALK OUT

"The Retail Druggists' Association of Greater St. Louis got its ideas pretty thoroughly confused in the attack on the St. Louis Chamber of Commerce with which it withdrew its membership in that organization. Herman P. Winkelmann, executive manager of the druggists' association, denounced the chamber's opposition to the so-called fair trade law, a misleading name for a price-fixing device. He said the chamber 'is strictly big business and controlled by big business, principally the large retail stores.' We do not think Mr. Winkelmann can prove that there is anything wrong about bigness in business unless the bigness is used to destroy competition. The manager of the druggists' association is, however, all in favor of destroying competition, not by bigness,

but by price fixing under the guise of fair trade. The law, the association advocates, would enable druggists and manufacturers to fix prices at which a product could be sold. The chamber of commerce deserves commendation for the sensible and courageous attitude it has taken toward fair trade legislation. Fair trade is a device to soak the consumer and the chamber believes it is poor business. Do the druggists who are members of the Retail Druggists' Association think they are improving relations with their customers by this display of organized effort to deprive their customers of competitive prices?"

Remove the coercive pressure of organized retailers and often, not all, but many manufacturers lose interest in fair-trade price fixing. Often these manufacturers have reluctantly yielded to the demand to price fix, fair-trade fashion their brands, only to find they have priced themselves out of a good part of the market, thus necessitating the sale of multiple and/or unbranded merchandise, or private retailers brands, in order to utilize idle-plant capacity. Manufacturers have not forgotten the Pepsodent experience; nor has the retail drug group forgotten it. Manufacturers have been faced with a demand for a maintained resale price and margin. Then the demand takes the form of a request for a wider margin; then efforts are made to force manufacturers, for example, not to sell drug items in food stores. Until some manufacturers begin to wonder if they or their retail outlets control the manufacturers marketing policies. Some manufacturers of drug items are happy to see more of their products move through food stores, directly, by means of rack operators, or otherwise; for in this fashion the power of such groups as organized retail druggists to force manufacturers to do their bidding, ala Pepsodent fashion, is lessened.

Moving with the organized precision of a Panzer division, groups of interested retail druggists and brand name manufacturers, such as the Fair Trade Council of Gary, Ind., have successfully used enormous political pressure in first lobbying through Congress, first, the Miller-Tydings Act, and then, with the same tactics, adequately financed, lobbied through the State legislature, 45 fair trade laws, in all States except Texas, Missouri, Vermont, and the Federal District of Columbia. Shortly after the Miller-Tydings Act was passed, these groups successfully pushed through 17 State legislatures, fair-trade laws. Prof. Malcolm P. McNair, of Harvard, pointed out in the April 1938 Journal of Marketing that 10 of these State laws enacting fair-trade price fixing copied the same stenographic error into their State statute. This would seem to give some idea of the organized pressure of interested groups for such legislation.

The constitutional right of citizens to assemble and peaceably petition their legislators for redress of grievances is so fundamental and important that there is no abuse too great to bear rather than to infringe upon that right. However, in some proper way, Members of Congress and of State legislative bodies, must find means to protect themselves from such political pressure and coercion, so that they may legislate fearlessly in the public interest, without threats of political reprisal of interested lobbies. I should suggest frequent and very detailed financial reports of all regular professional lobbyists as a start in the right direction. We must not confuse these organized and heavily financed pressure campaigns of interested manufacturers and retailers with the public interest.

In an Ohio Court of Appeals case, *Serer* v. *Cigarette Service Co.* (74 N. E. (2d) 853), decided toward the end of 1947, it was held that in this case the Ohio unfair "Cigarette Sales Act, prohibiting a wholesaler from selling cigarettes at less than cost to wholesaler" with intent to injure competition, was declared unconstitutional. It was held that the act divested a cash and carry wholesaler of property rights, of advantages inherent in the cash and carry method of doing business. I do not know what may have happened in this case if it was appealed; nor do I know if there was any attempt to meet the objections by legislation, of the court decision in this case. It does serve, however, to indicate that courts are aware of the inherent property right that an individual may have in doing business with a lower operating cost factor, and the inherent property right to price accordingly; and that efforts by legislation or otherwise to deprive an individual of such right, may be an unconstitutional deprivation of property without due process of law. The above may be of interest relative to H. R. 6367 introduced by Mr. KEOGH, as an amendment to the Sherman Act of 1890. There is no misunderstanding the intent and purpose of this bill. It is aimed directly at reversing by legislation the Sunbeam-Wentling case that arose in Palmyra, Pa.

Briefly, Wentling is no Sears or Montgomery-Ward. These giant mail-order houses have their own private brands, such as All State, Cross Country, Kenmore, Silvertone, and others. Wentling appears to be essentially a discount house operator doing business in name brand merchandise, mail-order fashion. He sold Sunbeam Shavemasters at $17.25 when the fixed fair-trade minimum price in fair-trade territory was $23.50, a saving to anyone who would order from Wentling by mail, of $6.25. In the lower United States district court those interested in fair trade won a complete victory but on appeal a three-man United States court of appeals sitting in Philadelphia reversed the lower court. It was held that Wentling would have to respect the Pennsylvania fair-trade minimum in intrastate trade, but could sell in interstate commerce for any price that he wished. Then of course Schwegmann came along May 21, 1951, to give Wentling added freedom to price competitively in interstate commerce, since he was a nonsigner and could not be "dragged in by the heels" to price as fair-traders wanted him to. Now the Keogh bill, H. R. 6367, obligates a mail-order dealer, such as Wentling to respect fair-trade minimum prices on branded goods and prevents any mail-order house from selling in interstate commerce below any fair-traded minimum price, even though he is not party to such contract. This would permit Wentling to do busines in Palmyra, Pa., but effectively destroys all of his interstate, mail-order business. This does not regulate interstate commerce; it clearly destroys it. Why would anyone in his right mind sit down and take the time and effort necessary to order by mail a branded product, even if Wentling absorbed shipping charges, when with no effort at all a buyer can get immediate delivery by going to any retail outlet and buy the branded product at the same price, have the opportunity to examine the product and take it home at once?

The full import of the Keogh bill would seem to be rather shocking. In a release from the American Fair Trade Council temporary headquarters, suite 773, Mayflower Hotel, Washington, D. C., the AFTC proudly states that the "council has participated in the long series of discussions and studies which have brought about this draft regarded by the council as legislatively leakproof and economically sound." The above AFTC bulletin goes on to say the Keogh bill "has as its primary intent and certain effect, among other objectives in which consumers have a vital interest or stake," "the restriction, in the public interest, of the growth of retail monopoly, than which there is no form of monopoly more oppressive and to the public in general." "In fact, H. R. 6367," continued Mr. Anderson (head of the AFTC), "may quite properly go down in history as the Keogh antimonopoly law." This seems to be taking in quite a lot of territory. I find it difficult to believe that this bill is quite equal to the discovery of the principle of the wheel or the discovery of fire or the invention of printing. Perhaps the lady doth protest a bit too much. It should be noted that the AFTC (as above quoted in its release of February 3, 1952) now speaks not only as the trade group speaking for 5,000 brand-name manufacturers, one of the most effective and aggressive trade groups promoting fair-trade price fixing and attempting to destroy all antitrust laws, but now also is the advocate of wage earners, consumers, and the public interest. This assumption that what brand-name manufacturers and retailers want in the way of private control of pricing policies is automatically in the interest of the public is a fallacy that the advocates of fair trade almost invariably fall into.

I do not believe that Congress after careful reflection will ever pass this bill frankly and clearly intended to destroy competitive pricing of branded goods in interstate commerce. If Congress should ever do so, I do not believe that any President, of whatever political party, would ever sign such a bill, if the device of a rider, to a bill the President cannot veto, is not used; nor do I believe the United States Supreme Court would sustain it.

Mr. John Anderson, of the AFTC, in the above release of a little over a month ago, calls the Keogh bill "legislatively leakproof and economically sound." If it is ever enacted into law, I should prefer to await the judgment of the Supreme Court relative to its constitutionality; just as I should prefer to await the judgment of disinterested professional economists as to its economic soundness. My own view is that it is neither sound law nor economics. Indeed, it seems rather shocking. I should like a detailed explanation as to how you fight monopoly by preventing a low-cost mail-order house from selling a branded appliance for several dollars below the fixed higher price of a higher-cost distributor, in interstate commerce. From the standpoint of the public interest and consumers, the Keogh bill is easily one of the worst introduced at this session of Congress, though it does have some keen competition for that honor; chiefly from the bills presently before you to validate the nonsigner clause. I should venture to suggest that if H. R. 6367 is enacted by Congress, the United States Supreme Court, at the first opportunity, would declare the law invalid, on the ground that it does not regulate but destroys the free flow of commerce between the States and also that it deprives an individual of property without due process of law, in that it prevents a mail-order operator from enjoying his inherent right to do business on a lower-cost basis and price accordingly.

The bills before you to reverse Schwegmann and validate the nonsigner clause are far worse than the NRA ever was. It was a fatal weakness of the NRA that it illegally delegated legislative authority relative to pricing policies and other practices to NRA code authorities. It was declared unconstitutional by a unanimous decision of the Supreme Court. The Court also held the retailing of chickens in New York was not interstate commerce. A basic weakness of the NRA was the belief that the industry that is to be regulated shall be the regulator. However, other groups were represented in the NRA. It had the appearance of a public body, although practically all NRA code authorities were dominated by trade groups. Many economists asserted that 90 percent of the enthusiasm of trade groups for the NRA was primarily motivated by a desire to engage in practices involving collusive restraint of trade and price-fixing

practices that were and are illegal under our antitrust laws.

It may be of interest to point out that the St. Louis consumer group, organized under the NRA successfully fought retail coal price fixing of Retail Solid Fuel NRA Code Authority No. 32 in St. Louis, and that the successful fight of the St. Louis consumer group to destroy coal-price fixing in our market led directly to the resignation of the National Coal Code Authority as well as the local code authority. This consumer organization, of which I was a charter member, with Bishop Scarlett and Father W. F. Mullally and a number of others, appointed by Prof. PAUL DOUGLAS, then with the NRA Consumers Council, functioned as a local body since 1934. In the past 18 years it has also fought high fixed retail milk prices, and on many occasions has defended the excellent Missouri antitrust laws whenever attacked by those who tried to introduce fair-trade price fixing into Missouri. The St. Louis consumer group has grown over the years and has many allied and affiliated civic bodies. Its constituent members represent organizations with a total membership of over 145,000 in the St. Louis metropolitan area.

I have served as its marketing consultant for many years, I have declined nomination to national consumer organizations as I do not have the time to serve on such bodies. Our local group of St. Louis consumers has no world shaking program, it has never advised the State Department on how to run its business, it is not interested in Spain, and wouldn't know how to start to make the world over. However its members and its executive committee does understand the Missouri antitrust laws, the Federal antitrust laws, and what all price fixers are up to. We have been interested exclusively in adequate consumer information about quality of products, and also very much interested in preserving free competitive prices against all efforts of trade restrainers. It is not too difficult to identify such groups, for sooner or later they suggest modifying our State antitrust laws; just as the bills presently before you fail utterly to achieve their true purpose, unless you agree to an end or destroy the Sherman Act and our other antitrust laws.

I should hesitate to trust the wisest and most benevolent bureaucrat with the compulsory pricing powers and the policing of competitors prices. Much less would I trust such compulsory pricing powers to private interested, unregulated trade groups, without any public authority to check abuses, Even public regulatory bodies do not always succeed in safeguarding adequately public interest. What justifies the assumption that the unregulated, vast pricing powers that go much further than the NRA ever permitted, may not be abused. I think such fair trade price fixing powers, eliminating competitive pricing on many branded items by legalizing vertical price control, and making nonsigners conform and not compete, would inevitably and unquestionably be abused. Either we want competition or we do not. If we are to legislate in the public interest then the bills before you to validate the nonsigner clause must be defeated, and the Curtis bill, to repeal the Miller-Tydings Act should be enacted into law.

Adam Smith was a professor of philosophy and a famous Scot. His great book on The Wealth of Nations is one of the classics of all time. Adam Smith is the father of political economy. You may be interested in one of his widely used quotations. This in no way disparages many excellent activities of trade groups. It is very pertinent, however, relative to resale price maintenance activities.

Adam Smith in his Wealth of Nations said: "People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices. * * * Though the law cannot hinder people of the same trade from sometime assembling together, it ought to do nothing to facilitate such assemblies, much less to render them necessary."

The late Prof. Frank Fetter of Princeton University often said, "Whenever you hear any trade group advocate fair trade, it is time for all hands to be on deck for the Republic is in danger."

In a 600-page study for the Twentieth Century Fund, Dr. George W. Stocking of Vanderbilt University and Professor Watkins have this to say relative to retail maintenance. The following quotation appears on page 330 of this book published in 1951, on Monopoly and Free Enterprise:

"Originally price maintenance was designed to prevent price-cutting dealers from exploiting the brand good will of manufacturers at the manufacturers' expense; currently it is used to prevent price-cutting dealers from upsetting the rigged market for price-maintained goods to the detriment of organized retailers with a vested interest in noncompetitive distribution. From the standpoint of the public interest in revitalizing competitive forces, resale price maintenance is objectionable whatever group sponsors it. It deprives low-cost distributors of the competitive advantage of superior efficiency, and thereby deprives consumers of their full share of the benefits from improved business organization and less costly merchandising methods. In many manufacturing industries it restricts opportunities for the launching of new enterprises, or the expansion of old ones, by fostering trivial differentiation of products, irrational choice of goods by consumers, and uneconomic allocation of resources."

Those interested in resale price maintenance often refer to the pricing practices of motorcar manufacturers as a justification for fair trade. It is evident, however, that rigid retail prices are impossible to enforce wherever there is a significant trade-in problem. In motors, in a sellers' or buyers' market, the evaluation of the used car, the purchase of accessories, and frequently outright premiums or discounts provide the necessary leverage for competitive prices and consumer shopping for values.

In the food trade, relatively few food products have been placed under minimum resale price contracts. This is due to the prevalence of giant super food stores, of which there are over 15,000, the prominent place of retailers' private brands, and the fact that not for long can any food get too far out of line competitively for which there is a fairly acceptable substitute.

Fair trade is a contradiction in a free-enterprise society. If manufacturers are to tell retailers the minimum prices at which to sell products, what incentive is there for more efficient distribution? For more efficient retailing? In no case was a fair-trade law ever enacted as the result of a request of any disinterested civic group. These laws did not come as the Sherman Act did, as a result of widespread public demand for the preservation and protection of the public against collusive pricing, horizontal and vertical. Resale-price fixing, particularly during the present high inflationary period, is extremely harmful to living standards, and invariably results in sharply higher fixed prices on many branded items—drugs, appliances, liquor, and any number of other branded goods. Had it not been for the press in Missouri, the St. Louis Chamber of Commerce, farm groups, and various civic groups, those interested in enacting a fair-trade law in Missouri would likely have succeeded in our States, as they did in 45 others. Certainly the organized groups sponsoring fair-trade laws tried often enough and hard enough, and I expect they may try again. For they may suffer any number of defeats, but need succeed only once. As one put it, during a period of high prices and low-purchasing power of the dollar, it is rather difficult to force many families with Third Avenue incomes to pay Fifth Avenue prices. People do not regard themselves as lawbreakers merely because they are obliged to shop for the better values and better buys. There is no mystery that surrounds the rise of 200 discount houses in New York City that did an annual volume in branded appliances of over $450,000,000. The wonder is they did not arise sooner and grow faster. Neither should we be surprised at the sharp increase in the number of rack jobbers, moving drug items through super food stores; just as drug stores took tobacco business from tobacco stores and candy trade from confectionery stores. If the public likes one step, self-service shopping, day and night, for food, drug, meat, bakery, and other items, that is the way it most certainly will be. Lower cost dealers and manufacturers, and rational buyers will find a method of circumventing artificial road blocks to competition.

Mr. MORSE. Mr. President, in the interest of saving time, I desire to read and very briefly discuss two amendments I shall call up later this afternoon, after action shall have been taken on the Douglas amendment. I shall support the Douglas amendment, because I think it meets the major argument of the Senator from Minnesota. The Douglas amendment involves a great question of public policy—yes, I believe it sets forth the duty devolving on the Congress to protect the small-business man from the type of economic blackmail involved in loss-leader tactics. The small-business man does not need protection from fair competition. He needs protection from economic coercion, duress, and monopolistic dictation of his economic opportunities to do business. We do have a public interest, Mr. President, in the economic practices of any group which, if allowed to go unchecked and uncontrolled, would work a great injustice on businessmen, on consumers, and on any other group to the detriment of which the practice is promulgated.

I think the Senator from Illinois [Mr. DOUGLAS] has put his finger on that area of legislative duty in regard to which Congress is called upon to take action. It is the amendment of the Senator from Illinois, in my judgment, that gives the small-business man the protection from the kind of economic blackmail the Senator from Minnesota [Mr. HUMPHREY] so eloquently discussed in his very persuasive speech of last night and this morning. But, Mr. President, the answer to the great evils, the great injustices, the great wrongs, which the Senator from Minnesota deplores so eloquently, is not to turn over to the retailers and manufacturers the power, legislatively unchecked, to fix prices.

The action that should be taken by legislation, as the Senator from Illinois has proposed, is to make clear that chain-store groups and manufacturers who use the kind of economic blackmail which characterizes the loss-leader technique violate sound public policy. It should be made clear to them that the practice exceeds competitive rights; that it is not in keeping with the principles of American justice, for men must so

conduct themselves in a society of self-governing people as not to wrong their neighbors. Those are sound jurisdictional and juridical bases for the principle of the Douglas amendment, but, frankly, Mr. President, I have not been able to make the jump in reasoning that my good friend from Minnesota makes when he says that because there are many instances in which great injustice is being done the small retailer by the chain-store groups, and by the loss-leader proponents, therefore, we should pass legislation which, in effect, in my opinion, would take from under the purview and the check of a sound antitrust legislative program those who would profit from the adoption of resale price maintenance legislation.

So, Mr. President, I can support enthusiastically the amendment of the Senator from Illinois, but I cannot go along with the Senator from Minnesota as he proposes in the pending bill to give too much unchecked economic power, to those who seek the advantages of the pending bill.

In the course of the afternoon, Mr. President, without further comment on the amendments other than what I now make, in the interest of saving time, I shall call up, after the Douglas amendment is disposed of, two amendments, one of which is as follows:

On page 2, line 24, after the word "resale", insert "*Provided, however,* That such minimum or stipulated prices as are prescribed in such contracts or agreements shall, after due consultation with representatives of persons substantially affected by such contracts or agreements, have been determined to be fair and reasonable by a duly constituted board or agency of the State in which such minimum or stipulated prices are to be charged."

In support of that amendment——

The PRESIDING OFFICER. Permit the Chair to state that the Douglas amendment has been offered as a complete substitute. Should it be adopted, then, of course, the amendment which the Senator from Oregon is suggesting would not be in order.

Mr. MORSE. I understand the parliamentary situation. I shall vote for the Douglas amendment. If it is agreed to, that ends it, so far as I am concerned.

I shall talk with the Senator from Illinois as soon as I finish these remarks in regard to my amendments to see if he thinks any revision of them might be worked into his substitute. If his substitute fails, I shall offer these two amendments to the bill proper.

The purpose of the first amendment is to insure an impartial determination as to the reasonableness of prices established in resale price maintenance contracts which are legalized under the bill.

Under the present bill, the manufacturer, providing only that he sign a single retail price maintenance agreement with one outlet in a given State, is able to determine the prices for fair-traded commodities. There is no one to say whether these prices are fair either to the small merchant or to the consumer.

The record shows that in many instances retailers have been victimized because large manufacturers have failed to provide them with adequate margins under resale price maintenance contracts. Conversely, consumers have at times been injured because of the extraordinary high prices set by the manufacturer.

To permit manufacturers to set prices without consultation with either groups of retailers or groups of consumers, is to authorize the exercise of power far greater than that which the Government has lawfully employed in support of its price-control activities. Ceiling prices established by Government agencies must be prefaced by consultations with representatives of industry and with other persons affected thereby. Elaborate appeal procedures have been established for persons aggrieved by price setting thereunder.

My amendment provides that the prices set in resale price maintenance contracts shall have been determined to be reasonable by a State agency after consultation with persons affected by resale price maintenance contracts or agreements. The consultation provision I have taken practically verbatim from the Defense Production Act of 1950 whereby Congress provided procedural safeguards for those affected by Government regulations fixing prices. I think it only fair that we extend these same safeguards to those whose prices are fixed pursuant to resale price maintenance contracts.

The second amendment I shall offer, Mr. President, is as follows:

Page 1, line 7, strike out the words "or stipulated."

Page 1, line 8, strike out the words "or stipulated."

Page 2, line 12, strike out the words "or stipulated."

Page 2, line 14, strike out the words "or stipulated."

Page 3, lines 21 and 22, strike out the words "or stipulated."

In regard to this amendment, I wish to say that as I understand, the purpose of so-called fair-trade legislation is to provide a minimum or floor for the independent merchant in order to assure him at least an adequate profit on many of his important selling items. Thus the Miller-Tydings Act, which the Congress passed in 1937, legalized contracts "providing for the establishment or maintenance of minimum resale prices." As I read the McGuire bill, however. it appears that it goes one step further and legalizes contracts which provide for "stipulated" prices.

I can see where it might be highly desirable to establish minimum retail prices as we have established minimum farm prices and minimum wages. However, I seriously question the desirability of authorizing so-called stipulated prices which, in effect, sanction the fixing of maximum as well as minimum retail price levels. To permit the establishment of maximum or stipulated prices is unadulterated price fixing by private businessmen with no public control and no public check, that really take care of the interests of the consumer, whereas, when we do something analogous to it, as the Senator from Minnesota was seeking to argue last night in regard to farm-support matters, we are doing it through the Government, with a Government check, and with the Government constantly in control of the procedure and determining what the minima shall be.

Permitting manufacturers to set ceiling prices as well as minimums is certainly not in the interests of the retail merchant. Mr. Herman Nolen, vice president of McKesson & Robbins, Inc., informed Mr. PRIEST's subcommittee that independent merchants would be driven out of business if they were required to sell at the minimums prescribed by the manufacturer and were not permitted to sell some products at higher than established retail levels. Let me quote you verbatim what the vice president of McKesson & Robbins said:

I don't think that I would be talking out of school, but I can tell you this: That if every distributor sold at fair-trade minimums and I am including ourselves, we would starve to death. We have got to sell some products at more than the fair-trade minimums, because the fair-trade minimums are not high enough. When a manufacturer sets a fair-trade minimum he is not thinking of us or the retailer, he is thinking of himself and, "Where will I sell the most products?" (hearings on H. R. 5767, p. 121).

I think that was a very frank, objective, truthful statement made by the vice president of McKesson & Robbins, but I believe it proves my point as to why it is desirable to strike out of the bill that little catchy word "stipulated"; with all of its implications for economic rape of the American consumer.

While independent merchants may need the safeguards of minimum floors on the selling of their stock, I believe it would be highly detrimental to the welfare of small business to permit the manufacturer to set price ceilings as well as price floors. Minimum prices to protect our small retailers is one thing; ceiling or stipulated prices is another. To sanction price fixing of this nature by the manufacturers would saddle retailers throughout the country with a private OPA answerable to no man or government.

Accordingly, Mr. President, I urgently ask the Senate to adopt this simple amendment which would strike out the word "stipulated" wherever appearing in the McGuire bill and thereby confine the bill to its original purposes—that of guaranteeing a minimum price to our small retailer.

Mr. President, I close by saying, as I indicated at the beginning of my remarks, that while I do not deny that there is much that can be said on the affirmative side of the bill, it is my honest judgment that when we weigh the pros and cons of the bill, the public interest, the consumer interest, yes, the interest of the businessman himself, calls for a negative vote.

I say that, Mr. President, because I am worried about some signs I think I see developing in the American economy. I believe we are moving too far down the road toward a regulated economy. We can have a regulated economy that takes a variety of forms; we can have a regulated economy by a bureaucratic government that seeks to exercise unchecked, discretionary, and arbitrary power over

the economic life of all the American people; we can have a regulated economy, too, if we yield to the growing monopolistic control over more and more segments of American business.

To the druggists and the food merchants who are so displeased with the junior Senator from Oregon because he would not agree to commit himself to vote for the McGuire bill, let me say that I shall continue to fight for their right to free competition, but it must be free competition.

As to the growing tendency toward monopolistic controls in the United States, the sad fact is that the small merchants—such as the druggists and food merchants—are not nearly so free economically as they think they are.

I think the bill is an economic wolf in sheep's clothing; and if the small merchants let in the wolf, it will devour their economic freedom.

Mr. McCARRAN obtained the floor.

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

Mr. McCARRAN. I yield to the Senator from Arizona.

Mr. McFARLAND. I know that a number of Senators are anxious to address the Senate on other than pending matters, but their remarks should more properly come after the disposition of the regular business.

I believe Senators are anxious that we proceed with the consideration of the bill, so in order that that may be done I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Nevada [Mr. McCARRAN] the debate be limited on the bill as follows:

One hour on the bill, the time to be divided equally between the Senator from Illinois [Mr. DOUGLAS] and the Senator from Minnesota [Mr. HUMPHREY]; that there be a limitation of 40 minutes on each amendment, the time to be divided equally between the proponent of the amendment and the Senator from Minnesota, in the event he is opposed to the amendment and if he favors the amendment, then the time to be controlled by the distinguished minority leader or anyone whom he may designate; and that all amendments shall be germane.

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

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Louisiana?

Mr. McCARRAN. I yield.

Mr. LONG. I see no reason why we cannot vote on the measure today without a unanimous-consent agreement. There is an amendment I might offer, which has been debated before, but it might require a greater amount of time for debate than that proposed.

Mr. McFARLAND. How much time would the Senator require? The main purpose that would be accomplished by the agreement would be that the remarks of Senators must be germane to amendments or to the bill. Other speeches would follow. I am willing to stay as late as any Senator desires to talk, but I should like to make it possible for the Senate to conclude today at an early hour. If the Senator from Louisiana desires a longer time to discuss his amendment, I will agree to an exception in that case.

Mr. LONG. It seems to me that we should be able to vote on the measure today, but I feel that rather than debate under a limitation, we should simply debate the bill. Then when the Senate is ready to vote, we can proceed to vote. I know of no Senator who is particularly anxious to delay a vote. At this time I would object to a limitation of debate.

Mr. McFARLAND. I regret very much that the Senator objects, because I would be willing to make an exception in the case of his amendment and to give him the time he needs. The purpose of the unanimous-consent agreement is to provide that remarks made during the consideration of the bill shall be germane to the issue. Senators would then know when they might rely on having an opportunity to make other speeches. Senators have been very cooperative about the situation. Many have stayed until late in the evening in order to be able to make their speeches and not interrupt the regular procedure. I hope the Senator from Louisiana will state a time which would be satisfactory in which to debate his amendment.

Mr. LONG. So far as I am concerned, I shall be happy to vote on the measure today, and I hope the Senate can do so. I do not see any reason why we should not be able to do so. However, at this time, I would not wish to agree to a unanimous-consent agreement on limitation of debate.

REPORT OF ACTIVITIES OF COMMITTEE ON FOREIGN RELATIONS DURING EIGHTY-SECOND CONGRESS (S. DOC. NO. 161)

Mr. CONNALLY. Mr. President, will the Senator from Nevada yield for a minute?

Mr. McCARRAN. I yield.

Mr. CONNALLY. Mr. President, it has been the custom of the Foreign Relations Committee at the end of each Congress to prepare a fairly comprehensive report, in accordance with the provisions of the Congressional Reorganization Act, outlining the activities of the committee for the 2-year period. At the present time, the staff of the committee is working on the report of our activities for the Eighty-second Congress, and I hope that the report will be completed some time during the month of July or early August. At this time I would like to ask the permission of the Senate to file this report after the Senate adjourns and to have it printed as a Senate document. While I do not know just now exactly how long the report will be, it will probably run between 60 and 80 printed pages.

I ask unanimous consent of the Senate that the committee may file its report when it is ready, and to have it printed as a Senate document.

The PRESIDING OFFICER. The Senator from Texas asks that following the adjournment of the Senate, the report of the Committee on Foreign Relations may be printed as a Senate document, consistent with provisions of the Reorganization Act.

Mr. McCARRAN. I think the Senator from Texas meant to include a request that the report might be filed within a reasonable time, which I take to mean July or August.

Mr. CONNALLY. We think we can have it ready during the month of July, or early in August.

Mr. McCARRAN. I respectfully suggest that the unanimous consent request be modified to make it a date in August, if that is agreeable to the Senator.

Mr. CONNALLY. Make it the 15th of August.

The PRESIDING OFFICER. The Senator from Texas asks unanimous consent that the report may be filed not later than the 15th of August, and printed as a Senate document. Is there objection? The Chair hears none, and it is so ordered.

THE INSTITUTE OF PACIFIC RELATIONS—REPORT OF A COMMITTEE (S. REPT NO. 2050)

Mr. McCARRAN. Mr. President, from the Committee on the Judiciary I submit pursuant to Senate Resolution 366, Eighty-first Congress, relating to the Internal Security of the United States, a report on the Institute of Pacific Relations.

The PRESIDING OFFICER (Mr. CAIN in the chair). The report will be received and printed.

Mr. McCARRAN. Mr. President, I ask that I may be allowed to complete my presentation without interruption.

Mr. President, 25 years ago a small group of men interested in the Far East made a deal with Russia.

On the face of it, this arrangement provided for nothing more than an exchange of scholarly information and for cooperation with other nations interested in the collection and dissemination of factual data about the North Pacific area.

Today we know that from that deal in Moscow there developed an operation, directed by the Soviet, that was a major factor in the loss of a valuable ally to the United States.

We find that, as an outcome of that project, initiated in 1927 and activated in 1934, our Government agencies have been infiltrated by persons whose allegiance is with Communist Russia. Our official secrets have been bared to agents of the Soviet; loyal and sincere men have been driven from their diplomatic posts; and, under the cloak of public office, messages have been written and words spoken that have tended to weaken this Nation's position in world affairs.

Even further than that, we have learned that there have been placed in teaching positions in various colleges and universities persons whose minds have been warped by communistic influences; and that our youth has been supplied with textbooks and reference volumes that twist and color facts to aid the Kremlin in its dreams of world conquest.

Mr. President, some 18 months ago, under a mandate of the Senate to seek out and expose subversive activities in

the United States, the Judiciary Committee, through its Internal Security Subcommittee, began an examination of the operations of the Institute of Pacific Relations, described as a scholarly research organization, privately financed.

It has been the settled practice of this committee to reserve its conclusions, with respect to the substance of testimony that is taken, until the conclusion of the hearings on the particular matter under investigation. We have done so in this case. But the time has come, Mr. President, to report on what we have found.

This has not been a pleasant job, Mr. President, even though we were dealing with persons who hold themselves out to be scholars of high integrity and lofty purposes; persons who have held themselves out as worthy of our trust to train our youth, to write our textbooks, to advise our statesmen, to help solve our international problems.

The impressive list of members boasted by the American unit of the Institute of Pacific Relations, including many persons of great intellectual attainments, marked business achievements or demonstrated statesmanship, should have assured us of unemotional and objective atmosphere in which to conduct our study.

But, as our hearings progressed, we learned that the membership of the Institute of Pacific Relations generally, and in fact most of the trustees, of whom there were some fifty—like the chairman of the board and major officers of the organization—participated only casually in the operations of the institute. In fact, these officials and members knew little about it except what they could learn from its publications, and appear to have been grossly misled by these.

Some of those who sought to act as spokesmen for the institute in their appearances before the Internal Security Subcommittee dropped their masks of scholarly objectivity and factual concern, and replied with invective and calumny, with misrepresentation and falsehood, to our requests for information.

We were faced with evasions, refusals, and barefaced lies, in our efforts to learn about the Institute of Pacific Relations, its people, its accomplishments, its affiliations, and its objectives.

But we persisted, Mr. President, and today we are ready to report our findings, together with certain recommendations—findings supported by written documents and sworn testimony, and recommendations amply justified by the record of our hearings.

This report, which I have filed with the clerk, covers 226 printed pages. The testimony which we have taken in public hearings and under oath, runs to more than 5,000 printed pages, counting exhibits. At this time I shall but touch on the high lights of our examination and our findings.

Responsibility for the day-to-day operations of the American Council and of the international IPR organizations is in the hands of an executive secretary and a secretary-general, who direct a relatively small staff of writers, researchers, editors and various office help. The secretariats of the national and international group work closely together and appear to be interchangeable in the lower levels, at least.

Though there are 10 national units in the international organization, our concern was, of course, only with the American Council, as the unit of the United States was called, and in the Pacific Council, or international organization, as its activities impinged on matters of concern to this country. Therefore, as I speak of IPR, I shall be referring to the American Council, or the joint administrative operation.

The Institute of Pacific Relations was founded in 1925 by a group of religious leaders, scholars, and businessmen of Honolulu, who wanted to know more about the resources, problems, and intergovernmental relations of the far eastern countries.

Within a year, this group had discovered that the field was huge and that the record on many basic facts of the area was either woefully inadequate or totally lacking.

It was then decided to inaugurate an international group for cooperation and continuing research, seeking financial support, not only from individuals and industries but from such sources as the Rockefeller Foundation and the Carnegie Corp.

In that effort it has spent, in the course of 26 years, more than $2,500,000, of which United States sources provided about 77 percent.

It has published two periodicals, and financed various studies and the printing of books and pamphlets in considerable quantities, all devoted to the subject matter of the far-eastern area.

The IPR thus became, within 10 years, an outstanding source of information about the North Pacific area and came to be regarded as almost the sole authority readily available for basic data on the Far East.

The chief functions of the International Institute of Pacific Relations appear to be promotion, programing, and the conduct of a biennial conference of IPR officials and members and—in late years—Government officials, preferably of policy-making rank.

Mr. President, that is the physical picture.

Officials and prominent members of IPR insist that is the whole picture; but the evidence adduced under oath in our year-long study reveals another.

Over the often dull and unchallenging patina of scholastic respectability there appears a ruby tone. In the mid-thirties, an element entered the IPR that soon became a controlling force, shaping the organization's programs in a way that contributed to the loss of China to communism.

I am convinced, from the evidence developed under oath in this inquiry, that, but for the machinations of the small group that controlled and activated that organization, China today would be free and a bulwark against the further advance of the Red hordes into the Far East. That is the way I read the record.

We have not taken any of the statements of our witnesses at face value. Each has been examined meticulously in the light of other testimony, of masses of documentary material, of historical records, and of such intelligence as the subcommittee could obtain from experts in research and political fields.

Among these experts we necessarily called upon ex-Communists, for these disillusioned persons are almost the only source of evidence of what transpired behind doors closed to the rest of the world. We have had the help of some Government agents who posed as Communists at the risk of their lives to gain a knowledge of Soviet methods and subversive plans.

We have recorded hearsay testimony as would a court in seeking to determine if a conspiracy exists, and we have measured it by every available test, and sought to give it proper weight.

We have been told repeatedly that the Institute of Pacific Relations has been investigated before and has received a clean bill of health. Reference has been made to a purported investigation in 1945 which the IPR staff performed for itself; to the Tydings hearings of 1950, which were not centered either on IPR nor primarily on individuals connected with it; and to a partial examination of IPR files by the FBI.

I think I may dismiss the IPR staff's purported investigation without comment, except to say the record shows no real investigation was in fact made. The Tydings hearings involved IPR only casually, and its chairman said that committee could not possibly go into the IPR matter. The FBI, which is not a reporting agency, has had no way to make a record on these matters or to expose them.

The Internal Security Subcommittee has made every effort to draw all the threads together, and to give every person who desired to testify an opportunity to do so. When the testimony has been pertinent, it has been placed on the open record, as has all that which IPR officials and its representatives desired to introduce.

Now, what have we found?

In the first place, we have testimony linking 46 IPR persons with the world Communist conspiracy. Eight more operated as Soviet agents.

W. L. Holland, executive officer of the IPR, when testifying under oath before us, would recognize as a Communist only 1 person in the list of 46, even though several of them had refused on grounds of self-incrimination to deny or affirm party membership; and even though every person named in the list had been identified as a Communist by at least 1 witness, in sworn testimony. Holland acknowledged that the testimony may indicate there could have been an attempt to use the institute for communism a good many years ago, but he defended even those staff members who refused to say whether or not they were Communists.

He would only affirm that their writing and other work for IPR was good and he found no ground for criticism of their conduct as IPR employees. At the time

of this statement several dozen members of the active IPR family had been identified in sworn testimony as Communists. Evidence had placed them in well-known Communist fronts or had shown their writings in Communist publications.

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

Mr. McCARRAN. I should like to continue with my remarks.

Mr. FERGUSON. I wondered whether the Senator would yield for a quorum call, so that there might be more Senators on the floor. Perhaps some Senators would wish to ask some questions of the distinguished Senator from Nevada. For example, if they thought anything was wrong with the report, now would be the time for them to ask questions with respect to it, while the distinguished Senator from Nevada is on the floor.

Mr. McCARRAN. Mr. President, my experience with quorum calls during the past few days has convinced me that either a quorum is not developed, or if one is developed Senators do not remain on the floor. Senators are very busy on committees.

Mr. FERGUSON. I notice that the Senator from Nevada is alone on his side of the aisle. Perhaps some other Senators on his side of the aisle may wish to ask him some questions.

Mr. McCARRAN. I would rather continue with my remarks. The reason for my haste in the matter is that I must attend a meeting of the conference committee on the appropriation bill for the Departments of State, Justice, and Commerce. The other conferees are waiting for me and I wish to get to the conference as quickly as possible.

Mr. FERGUSON. As a member of the committee I know that the Senator from Nevada wishes to get to the conference as soon as possible.

Mr. McCARRAN. Mr. President, Mr. Holland gave us a list of 30 publications of the IPR which he declared were taken at random. But in this random selection there do not appear any such names as Israel Epstein, Harriet L. Moore, Guenther Stein, Chi Chao Ting, Chen Han-seng, Kathleen Barnes, Marguerite Stewart, Julian R. Friedman, Michael Greenberg, Andrew Grad, or even Owen Lattimore. Every one of these wrote repeatedly for Institute of Pacific Relations publications, while many of those on Mr. Holland's so-called random list had but a single literary contribution each.

Mr. Holland gave us another list of writers who, he says, are well known for their opposition to communism. It is not at all the case that all of these writers are well known for their active opposition to communism. And apart from the question whether some of them may not have been slightly pro-Communist at one time, there is no doubt many of them were merely non-Communist, rather than anti-Communist. But, Mr. President, a pro-Communist plus a non-Communist still leaves a Communist balance.

For many years officials of the Institute of Pacific Relations courted the Soviet. Finally, on a vist to Moscow in 1934, Edward C. Carter, then newly appointed secretary general, managed to meet Constantine Oumansky, newly graduated from the Soviet Military Intelligence School. Oumansky was interested, and the Soviet unit was activated a few months later with the blessing of high quarters.

Immediately Carter envisioned a huge library of Russian literature to add to IPR prestige. His chief subordinate, William L. Holland, conjured up a Japan and China under Soviet control, and IPR staff people were given a glowing picture of future relations with the Red regime. But the announcement was labeled "confidential," and the fact that the deal was made with a Soviet military intelligence officer was ordered forgotten.

One witness who appeared before us, Igor Bogolepov, a former counselor in the Soviet Foreign Office, saw the U. S. S. R. council of the Institute of Pacific Relations at work. At first, he said, they were typical researchers and students. Then, in the middle 1930's, the personnel changed, he said. The researchers disappeared, and in their places were people from military intelligence and the foreign office. The Institute of Pacific Relations had become a double-track affair: propaganda going out, and information coming back.

Right there, Mr. President, let me digress slightly to say it may be that Bogolepov flashed a revealing light on our troubles with the Soviet, when, during the course of his testimony before us, he observed that, if you learn the wrong things about the Soviet Union, your thoughts also are wrong. In the secret files of the Soviet Foreign Office, he said, is a memorandum by Molotov—a primer for Russia's propaganda campaign.

He quoted this:

> We have to influence non-Communists if we want to make them Communists, if we want to fool them. So we have to try to infiltrate the big press.

Here is the way some of our other witnesses viewed the Institute of Pacific Relations:

Raymond Dennett, former executive of the American council of IPR, said of the Institute of Pacific Relations:

> I do not think it was an objective research organization.

Prof. Kenneth Colegrove, of Northwestern University, thought the Institute of Pacific Relations was "nothing less than a propaganda organization."

Prof. William M. McGovern, of Northwestern, said the magazine Pacific Affairs was "trying to advocate the Stalinist approach."

Prof. David N. Rowe, of Yale, described Owen Lattimore, editor of Pacific Affairs, as the "principal advocate of Stalinist ideas in the field of far-eastern studies."

Maj. Gen. Charles A. Willoughby, Chief of Intelligence of the Far East and U. N. commands, said: "The conclusion could be arrived at" that the Japanese unit of the Institute of Pacific Relations was "used as a spy ring for Russian Communists and the Red Army."

Prof. Louis Budenz, of Fordham University, said that in Communist circles the American Institute of Pacific Relations was described as—

> The little red schoolhouse for teaching certain people in Washington how to think with the Soviet Union in the Far East.

Alexander Barmine, former brigadier general in the Red Army, called the Institute of Pacific Relations a "cover shop for military intelligence work in the Pacific area."

Not on the testimony of any one witness, but on the basis of the numerous excerpts I have cited and many, many more supporting facts in the record, the subcommittee finds it impossible to avoid a conclusion that the Institute of Pacific Relations has not maintained the character of a nonpartisan organization of scholarly inquiry, as its spokesmen have pictured it. It appears, rather, that the Institute of Pacific Relations came to fit, very early in its history, the character of an international cover-shop, as another witness called it.

IPR spokesmen deny there has been any Communist influence acting in, or through, the organization; but in the next breath they assert that, if any such influence is found, it cannot be charged to IPR as such because its constitution forbids any political activity. The defenses are inconsistent, Mr. President.

The organization boasts that Senators and Congressmen have been IPR members, yet it cannot claim that these eminent personages were more active in its affairs than Frederick V. Field, Harriet Moore, Lawrence Rosinger, or Chao-Ting Chi, all of whom were identified as Communists by honorable witnesses before our subcommittee.

William L. Holland, chief executive officer of IPR, submitted a list of 20 distinguished Americans who, he said, have participated actively in the work of the American council of IPR. It is expected, of course, that the standing of these persons will be considered in any attempt to determine the political purity of the organization. But I am sure Mr. Holland will not contend that these persons were more active in the IPR and more representative thereof than Joseph Barnes, Len DeCaux, Chen Han-Seng, Kathleen Barnes, Philip Jaffe, William Mandel or Guenther Stein, all of whom have been identified as Communists.

Frederick Vanderbilt Field, scion of a wealthy and prominent family, well educated, but so closely identified with various Communist activities and interests that even Edward C. Carter and William L. Holland admitted he was at least pro-Communist, was a powerful figure within the IPR.

Edward C. Carter told William L. Holland, in 1940, that Frederick V. Field, alone, could speak for the American council.

Testimony of several witnesses placed Field in the Communist Party long before he became executive secretary of the American Peace Mobilization, which picketed the White House in 1941.

He was described as the political commissar for the Communist Party in far-eastern affairs.

Field wrote for the Daily Worker and other Communist publications under his own name in 1941 and later, but it was

not until 1947 that he resigned from the board of trustees of the Institute of Pacific Relations. He did that at the request of Carter, the secretary general, after the board of trustees had voted 14 to 1 against a demand that he resign. He is still a dues-paying member of the IPR, and until recently was custodian of its old files.

It is a peculiar commentary on the character of these people that Field held such power, or was held in such esteem in Institute of Pacific Relations circles that Edward C. Carter, Owen Lattimore, Lauchlin Currie and William T. Stone recommended him and worked for his appointment as a military intelligence officer during the war. His service would have been in connection with a strategic bombing survey. Fortunately, he was not appointed.

Frederick V. Field was an active member of the Institute of Pacific Relations. He wrote nineteen articles for the Institute of Pacific Relations periodicals between 1932 and 1952. He also wrote two Institute of Pacific Relations books on economic subjects. He proposed and ordered, over the objection of the executive committee, publication of the Henry Wallace book, Our Job in the Pacific, which Mr. Lattimore wrote and which the Communist party pushed.

The Institute of Pacific Relations records are filled with suggestions and solicited advice from Field to other members of the staff.

Institute of Pacific Relations spokesmen excused all Field's leftist activities with the observation that his activities with the Institute of Pacific Relations were beyond reproach.

Probably the true explanation of Field's long association with Institute of Pacific Relations lies in the testimony of one witness who reported that the other trustees would not vote him out, because they did not know how they could continue to raise money if they did so. Field acknowledged under oath that he had met several deficits for the organization.

It is the subcommittee's view that Field was no less a Communist at his desk in the Institute of Pacific Relations offices than when he reported to the Politburo of the American Communist Party, or handed in his column to the Daily Worker.

The evidence shows that the Institute of Pacific Relations family did not confine their energies to the one organization, but became interested and active in numerous organizations within the orbit of far-eastern affairs. Among these were:

The Committee for a Democratic Far Eastern Policy and its publication, Spotlight on the Far East. Both the organization and its magazine have been labeled subversive by the Attorney General. Even Lattimore and Holland acknowledged a pink tinge there.

The China Aid Council, described by witnesses as Communist-created and labeled a Communist-front by a congressional committee.

Amerasia, which was organized, according to one of the witnesses before the subcommittee, by the Communist Party; operated by T. A. Bisson, Owen Lattimore, Chi Chao-ting, Kate Mitchell and Frederick Vanderbilt Field, all intimate members of the IPR family. Most Senators will recall the incident in 1945, when hundreds of documents from secret Government files were seized in the Amerasia offices, and will need no further identification of the magazine.

China Today, a magazine published by the American Friends of the Chinese People; again with Bisson, Chi, and Maxwell S. Stewart as editors, Jaffe and Field as publishers. Lattimore had declined a place on the editorial board of this magazine, with the explanation that the magazine was more obviously partisan than Amerasia. Louis Budenz said China Today was designed by the Communists to influence other organizations.

The American Russian Institute, cited as subversive by the Attorney General, and Allied Labor News, which was described to the subcommittee as completely controlled by Communists.

All these associated—and often interlocking—organizations had some publishing or public-relations functions, as did IPR.

But research, writing, and publishing were not the only activities of the IPR. In truth, a study of the testimony indicates that a considerable portion of the IPR energies went into public relations, lobbying, propaganda and related activities.

Perhaps I should say here that the committee does not regard public relations work as an evil. It is concerned with this activity on the part of the Institute of Pacific Relations primarily because the IPR spokesmen have denied any attempt on the part of the organization to influence public opinion.

The spearhead, idea men, and active participant in this phase of the institute's activities was Mr. Edward C. Carter, who was for more than 20 years its chief executive officer and is still a trustee of the institute.

One witness described Carter as a promoter by temperament. His activities bear out that description. He seems to have been tireless in getting and taking ideas, reaching out for contacts, looking for funds and new organizational connections, traveling and meeting all over the world—pushing and shoving and exerting and encouraging. I think I may offer the comment that the general tone established by such people is not that of scholarship and research. There were others on the staff who were promotion-minded, but Carter was the epitome of IPR promotional activity.

One of the most fertile fields for any promotion effort is the educational system, and the IPR was by no means neglectful of this area.

Its opportunity was great. As Owen Lattimore pointed out, there were in the 1930's very few sources of information on the Far East, and the IPR publications were the only ones which specialized in that area.

Teachers and students interested in the Pacific were almost compelled to become members of the Institute of Pacific Relations—to obtain its publications. But the IPR did not rest there. It drew students or young scholars to its staff, trained and indoctrinated them, sent them abroad, and often aided them to get jobs elsewhere in business or in Government.

IPR and the Far Eastern Association controlled funds for publication of books and pamphlets. There also was a fine system for promoting the new books. The IPR family for some years had a virtual monopoly on the review of books on the Far East for several big eastern papers. Doing both writing and reviewing, they operated as a sort of mutual-admiration society.

But, Mr. President, while the colleges and universities were being thoroughly cultivated, there was no neglect of students and teachers on the lower levels. Literally millions of pamphlets were put out by IPR for high-school use, and programed for the elementary schools. A kit of promotion material went along with each order. The armed services bought several hundred thousand IPR pamphlets for the citizen-soldiers heading for the Far East.

Radio, the movies, the lecture platform, luncheon clubs, cocktail parties, discussion groups, and big-scale conferences all received a share of IPR attention. There even was projected a series of dinners—listen to this—and a staff of technical experts for the San Francisco Conference on the United Nations.

The record is replete with evidence that Owen Lattimore and Edward C. Carter were recipients of much special attention and many special privileges at the hands of the Soviet group. But testimony of Barmine, Bogolepov, and Poppe shows these Russian IPR people to have been operatives of the Comintern and of Soviet military intelligence, first, and scholars last, if at all.

Mr. FERGUSON. Mr. President, will the Senator from Nevada yield?

Mr. McCARRAN. I yield.

Mr. FERGUSON. I wanted to ask one question of the Senator. I should like to ask whether, when the technique of the IPR was being examined, the testimony showed that they attempted to have their views read by State Department officials as well as by Senators of the United States, in order that they might influence legislation along certain lines.

Mr. McCARRAN. The Senator has stated the matter correctly.

Mr. President, Carter and others were particularly assiduous in defending the Russian purge trials in print and from the platform. On one occasion Carter was host for a dinner, which Philip Jessup attended, for the purpose of hearing Constantine Oumansky, then counselor of the Russian Embassy, talk about the trials.

Lattimore published an article by Mary Van Klefck, identified as a Communist, defending the trials, and wrote an editorial attacking an article by an anti-Communist who wrote on the other side of the issue.

There are many similar instances where the IPR writers and publications have taken up the cudgels for the Russians, and the opportunities were ample: On the Nazi-Soviet pact, the invasions of Poland and of Finland. The theme

of Soviet superiority runs through the pamphlets and books published in such numbers by the institute and promoted in the schools and colleges of this country.

Owen Lattimore was the first of the IPR crowd to find an important place in Government. A friendship with Lauchlin Currie and his mastery of the Chinese language helped him get President Roosevelt's nomination in 1941 as political adviser to Chiang Kai-shek, who was in the midst of his troubles with the Chinese Communists and trying to get American help to keep them in subjection. Currie at the time was one of the White House assistants.

One of the first to know about this appointment of Lattimore to advise Chiang was Oumansky, the Russian Ambassador, with whom Carter and Lattimore had a 2-hour luncheon 11 days before the appointment was officially announced and at least a week before the Chinese Embassy was informed of the appointment.

From that time on Owen Lattimore moved steadily through Government circles. He was a close friend of John Carter Vincent, another protégé of Lauchlin Currie, the Soviet spy ring's White House informant.

In 1945 Lattimore published a book called Solution in Asia. It painted the Communist area as a happy land compared with Nationalist-governed territory, and it suggested a political compromise between the two factions, based on a coalition government.

This book of Lattimore's was praised by the Communists, plugged in their book stores, and sent to the current party leaders as representative of the party viewpoint. Follow this thought through, Members of the Senate. I shall dwell on it in another way later.

This man Lattimore seemed to have formed an early affinity for the Communists, or else the Communists generated an appreciation for his peculiar talents long before they were recognized in this country.

An interesting side light on Lattimore's life came to view in the testimony of Brig. Gen. Alexander Gregory Barmine about an incident in 1935 while he was a Soviet military officer charged with planning a series of secret munitions dumps in China. Follow this closely, Mr. President.

Barmine, now employed by the Voice of America, told the committee that General Berzin, then chief of Soviet military intelligence, proposed that they use "our men" to operate the project. The expression "our men," Barmine explained, meant, to him, members of the Soviet military intelligence. Among those whom Berzin proposed to use were two Americans, one of whom he names as Owen Lattimore.

When they talked again about the project, Barmine said, Berzin had decided that these men could not be used because they were with the Institute of Pacific Relations, and the institute was too valuable as a cover shop to be interfered with. Barmine said he understood IPR was being used, or was to be used, by the Russians in the countries on the Pacific where the Soviet was not yet recognized.

The project did not go through, but Barmine said those were the first American names he had heard, and they remained in his mind so that several years later, when he was testing Gen. Walter Krivitsky on his knowledge of America, where they both planned to go, he asked Krivitsky if he knew those two men. The general told him, Barmine said, that he did know them as people with the Institute of Pacific Relations and that they were still "our men."

Earlier Lattimore's name turned up again when the Russians wanted someone to promote the Mongolian Republic, so-called, into the League of Nations.

Mr. Bogolepov, the former Soviet Foreign Office counselor, told us that he first ran across Lattimore in the Library of the Institute of World Economics and Politics in Moscow, and asked who he was. Bogolepov was interested because matters were being discussed with Lattimore which Bogolepov regarded as highly confidential. He was told, Bogolepov said, that Lattimore was not Comintern—not quite Comintern—but that it was all right to discuss these matters with him.

Several months later, Bogolepov said, he was reporting to Litvinoff in an official Soviet meeting on the possibilities of obtaining recognition for the Mongolian Republic, and Litvinoff remarked that it would be necessary—listen to this—to prepare the terrain. The point then was to decide who would take on that campaign. Bogolepov said Litvinoff asked the question of the officer on the Mongolian desk, but before he could reply added, "Lattimore, perhaps?"—and it was decided officially that Lattimore would be given the assignment.

In this connection it should be noted that former Ambassador William C. Bullitt testified before the committee that while he was United States Ambassador in Moscow in 1936 Lattimore called on him and asked him to urge President Roosevelt to recognize the Mongolian Republic, assuring him that it was a fully independent nation. Actually, Bullitt said, the area was under rigid Soviet control, though Soviet agents had set up a phony local government.

Lattimore continued to insist over a period of years that Outer Mongolia was an independent nation, though he, himself—I again draw the attention of the Senate to this—recognized Soviet domination by seeking Soviet permission to visit in Outer Mongolia.

The Internal Security Subcommittee is convinced that Owen Lattimore, beginning some time in the 1930's, was a conscious and articulate instrument of the Soviet conspiracy. The subcommittee is convinced that Lattimore testified untruthfully before us on at least five different matters, and we have recommended that the Justice Department submit to a grand jury the question of whether he committed perjury.

Lattimore and John Carter Vincent, the latter then Chief of the China Division of the State Department, and a veteran of 20 years' service as a Foreign Service officer in China, were the Currie selections as companions for Henry Wallace on his China mission.

Louis Budenz testified that the choice of these two men was regarded by American Communist leaders as favorable to the interests of the Communist Party; that Lattimore and Vincent could be counted upon to lead Wallace.

An effort was made by several witnesses, including Henry Wallace, to challenge this view, but Vincent acknowledged on examination, based on his own reports of the Wallace conversations with Chiang, that he, Vincent, directed the course of these conferences and determined the subject many times. Under oath Vincent said he did influence the Wallace mission.

Vincent was a member of the Institute of Pacific Relations for only 1 year. He was a trustee during that period, but paid no dues. Nevertheless, the record is replete with instances—most of which Vincent said he could not recall—in which he was consulted by IPR executives. He arranged a reception at Blair House for some of their foreign members; manuscripts were sent him for review; his advice was sought on arrangements by which IPR could participate in the U. N. Conference at San Francisco; and many other evidences of contacts with him were drawn from the IPR files.

Vincent acknowledged that he was the drafting officer for two of the three papers which constituted the directive to Gen. George Marshall when he went to China in 1944, to try to make peace between the Nationalists and the Communists. Vincent testified it was his idea that the Chinese Communists should be given representation in the Government as the price of peace, and that the Marshall directive also provided that American aid should be withheld from the Chinese Nationalists until they agreed to take the Communists into the Government.

This was our left-handed intervention in the Chinese Civil War since, following the Vincent-devised directive, General Marshall cut off all supplies to Chiang Kai-shek, including even those purchased by the Nationalists, and thus let the Soviet-armed Communists take over.

Meanwhile, Owen Lattimore was busying himself with letters to the President and a call at the White House to urge a revision of United States policy which would give the Communists a share in the Chinese Government. The Communists, of course, had already indicated to Marshall that they would be satisfied with nothing less than a share that would give them real strength.

Coincident with this activity, the Communist Party organs were harping on the same theme. They also had begun to denounce those who would retain the Japanese Emperor as a means of establishing a peace with Japan, and Lattimore was writing and speaking along this line.

At that time the persons in the Department of State most concerned with far-eastern policy, were Joseph Grew, Joseph W. Ballantine, and Eugene Dooman. In 4 months all had been replaced and John Carter Vincent had

become director of the Office of Far Eastern Affairs, as well as head of the China desk. Vincent also was made chairman of the Far Eastern Subcommittee of the State-War-Navy Coordinating Committee. He entered the scene too late, apparently, to toughen the policy already established for post-surrender administration of Japan. The Coordinating Committee, however, turned out a document which sought to stiffen that policy, and Lattimore wrote a report for the Pauley mission which would have contributed to a hard peace for Japan.

In January 1945 the IPR organized one of its international conferences. It was described by the then executive secretary of the American council as a trial balloon for the United Nations Conference in San Francisco.

Raymond Dennett, executive secretary of the American council, tried to line up the proper Government representation, but ran into trouble and had to let Currie handle the situation. Apparently he made out all right, for the people whom Dennett wanted, including many of the 30 whom Philip Jessup recommended, were on hand. Jessup presided and Owen Lattimore was the most vocal, and the dominant conferee.

It was at this Conference that Lattimore and two members of the IPR staff stirred up the British, French, and Dutch delegates by attacks on the colonial system, and Lattimore put in a few thousand words in furtherance of his campaign to do away with the Japanese Emperor.

Alger Hiss, then in charge of plans for the U. N. meeting, recommended that copies of the Conference report be made available to each delegation and encouraged IPR participation on the fringes, with their people posing as technical advisers.

With Hiss as the head of the Government's postwar planning program, many Institute of Pacific Relations people found places in the organization, and the institute exerted its influence through at least two round-table discussions on China, with the usual carefully selected roster. This was during the United Nations meeting.

With considerable difficulty, the subcommittee was able to get a view of the State Department's 1949 Conference which was advertised as a prelude to review of our policy toward China.

Though it had quite a build-up, there was a distinct impression on the part of some of the conferees who testified before the subcommittee that not only was the policy already determined, but that the conferees were carefully chosen to make a record which would support that policy.

Chairman of the Conference was Philip Jessup, an active member of IPR. One of his 2 associates and 17 of the 25 persons invited were members of the IPR family. These included Lawrence K. Rosinger, a writer who refused to testify before our committee that he was not a Communist Party member, and, of course, also included Lattimore. These two led the discussions and spearheaded what one witness, a participant, called the prevailing group.

The three points which received the greatest stress were recognition of the Chinese Communist Government, establishment of normal trade relations between Communist China and the United States, and the breaking of what the Conference called the Nationalist blockade; that is, Chiang's attempt to hold the Communist troops in check.

The Subcommittee on Internal Security regards this as one clear instance in which persons connected with the IPR sought to be influential in shaping American foreign policy. The fact that public opinion prevented the Department from carrying out fully the policy the IPR group urged does not in any way detract from this view.

It is from these and many other revealing episodes, that the subcommittee has concluded that the effective leadership of IPR worked consistently to set up actively cooperative and, where possible, confidential relationships, with persons in Government charged with the determination of foreign policy. It is also the subcommittee's view that the sustained policy of IPR was to place in Government posts persons associated with the organization, and also other persons of whom the effective leadership of IPR approved.

The subcommittee has taken additional testimony on a matter involving John Paton Davies, a highly placed State Department employee, and has submitted this testimony to the Justice Department for consideration in connection with an earlier transcript. The new testimony was not made public.

The subcommittee is satisfied that Davies testified falsely regarding a recommendation he made for the employment by a sensitive Government agency of certain persons having known Communist connections.

The subcommittee is asking the Justice Department to lay before a grand jury the question of whether perjury was committed before the subcommittee by Davies.

In addition to these matters, the subcommittee is making the following recommendations:

First. That a thorough study be made by the Committee on the Judiciary, in cooperation with the Department of Justice, of the Espionage Act and related legislation with a view to determining what revisions may be necessary to deal effectively with present-day security problems.

Second. That the Committee on Government Operations undertake an investigation to determine the need for and proper scope of legislation to require departments and agencies in the executive branch to make available to congressional committees upon proper request material from their files.

Third. That consideration be given to investigation by some appropriate agency of the following:

(a) Possible Communist infiltration into and influence upon the Treasury Department and other agencies forming and administering fiscal and monetary policies and affairs of the United States;

(b) The role of Alger Hiss in foreign affairs and the foundation of foreign policy of the United States and his influence on personnel decisions in the State Department;

(c) The extent to which persons actively associated with the pro-Communist core of the IPR have been employed by any agency of the Government, and the activities and influence of any such persons still so employed; and

(d) The extent to which contributions by American charitable, scientific, and educational foundations have aided Communist or pro-Communist activity in the United States.

Mr. President, the work of the Judiciary Committee, carried on over a year and a half, has been justified beyond all question in bringing to the American people a realization of how enemies of our form of government have operated to gain access to the policy-forming branches of our Government. It is important that the American people may be awakened to what dangers may be lurking near, what techniques may still be employed against us in an effort to effect the destruction of our way of life, and of this very Nation itself. In days that might be ahead, when great stress and great trial could be visited upon the people of this land, it is well that we have before us the full record of the past and take to heart the lessons which may be drawn from that record.

PRINTING OF ADDITIONAL COPIES OF REPORT NO. 2050, RELATING TO INSTITUTE OF PACIFIC RELATIONS

Mr. HAYDEN. Mr. President, if I may have the indulgence of the Senate, the Senator from Nevada has submitted a committee report on the Institute of Pacific Relations. We may have additional copies of the report printed if we give the order when the report goes to the printer. Therefore, I submit a resolution to provide for the printing of additional copies, and request its present consideration. If we do it in this way some money will be saved.

The PRESIDING OFFICER. The resolution will be read for the information of the Senate.

The resolution (S. Res. 346) was read, as follows:

Resolved, That there be printed for the use of the Senate Committee on the Judiciary 5,000 additional copies of Senate Report No. 2050, entitled "Institute of Pacific Relations."

Mr. McCARRAN. I may say in that regard my recollection is that approximately 7,500 applications have been received for the hearings of the subcommittee on this subject. Therefore, I am justified in saying that additional requests will be made for the report. I hope the resolution will be agreed to.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 346) was considered and agreed to.

TRIBUTE TO SENATOR McFARLAND

Mr. CHAVEZ. Mr. President, the last session of the Eighty-second Congress is about over. I find it fit and proper to say a few words on behalf of a great Senator. I have served in this body under the leadership of the late Joe Robinson, the Vice President, the late Senator Kenneth Wherry, Senator Lucas; and last session and this session under the able leadership of the junior Senator from Arizona, ERNEST MCFARLAND.

I enjoyed serving under the grand persons who preceded him, but I believe I can voice the sentiments of the entire body when I say that Senator MCFARLAND has given a fine account of his stewardship. Never have I seen such patience, fair play, and the exemplification of all that leadership requires as have marked the service of the junior Senator from Arizona as majority leader.

I believe I can also express the opinion that even the minority Members, down in their hearts, hope and wish that he will continue to lead the majority in the Eighty-third Congress. I know that I express the opinion of the entire membership by wishing Senator MCFARLAND and his lovely family well.

Mr. BENTON. Mr. President, I congratulate the Senator from New Mexico on his moving tribute which is so well deserved by our distinguished majority leader.

Mr. MCFARLAND. Mr. President, will the Senator from Connecticut yield to me?

Mr. BENTON. I yield.

Mr. MCFARLAND. I wish to thank both the Senator from New Mexico and the Senator from Connecticut for their kind remarks.

THE KATYN FOREST MASSACRE—REPORT BY HOUSE OF REPRESENTATIVES COMMITTEE

Mr. BENTON. Mr. President, before I address myself to the fair-trade bill which has been under discussion since yesterday at 6 p. m., I should like to call the attention of the Senate to one of the most significant reports to be filed at this session of Congress. I am referring to the unprecedented and carefully documented interim report on the Katyn Forest massacre, filed today in the House of Representatives by the select committee headed by Representative RAY J. MADDEN, of Indiana.

The findings of Representative MADDEN's committee, which was authorized to investigate the mass murder of Polish officers in the Katyn Forest of Russia, are unanimous that the massacre in the late spring of 1940 was the terrible handiwork of the Russian secret police.

The committee has also concluded, on the basis of the evidence, that the Soviets had plotted this criminal extermination of Poland's intellectual leadership as early as the fall of 1939—shortly after the invasion of Poland by Russia. The committee finds, in short, that it was a monstrous and calculated plot—a fantastic crime of immense proportions that will rank with the worst of history's infamies. I do not believe there has been anything like the Katyn Forest massacre since Genghis Kahn and Tamerlane.

At this point I wish to pay a sincere tribute to Representative MADDEN and the members of his committee and its staff for the painstaking work that has gone into this interim report, for the careful and detailed manner in which they have sought out and sifted the evidence available, and for their judicial assessment of this evidence. I urge my colleagues to study the report.

It is not my purpose, in this brief statement, to review that evidence because the report will be available to all Members of the Congress today for them to read themselves. I do wish to comment, however, on some of the significant ramifications of the report.

For the the first time in history, so far as I can determine, a committee of Congress and its staff have gone abroad in the sole pursuit of evidence from foreign nationals and to hold open hearings on foreign soil on an international question. This unprecedented and painstaking procedure, quite aside from the necessity of such procedure, has a tremendous long-range significance because of its effect on possible future adjudications of this international crime.

With rare foresight, the committee has not only taken such verbal foreign evidence under oath, but has also then recast the evidence in the form of individual written depositions sworn to before American consular officials in each of the countries where the evidence was taken. I have questioned the committee counsel, Mr. John J. Mitchell, as to the validity of such procedure. He has assured me that while this is pioneering and unique in the procedures of a congressional committee, it conforms wholly with the requirements of international law.

The significance of this procedure will be immediately apparent to the Congress, I am sure.

The committee has also unanimously recommended that this testimony, these depositions, this evidence, and these findings should be presented to the General Assembly of the United Nations, with the end in view of seeking action before the International World Court of Justice against the Soviet Union for a crime in violation of the great general principles of law recognized by all civilized nations.

The committee further urges that the President of the United States instruct the American U. N. delegation to press for the establishment of an international commission which would investigate other mass murders and crimes against humanity. I wholeheartedly, and with all the energy at my command, join the committee in its recommendation to President Truman.

This is a course which millions of Americans of Polish descent, as well as of others with recent European nationality origins, have long urged and recognized as a necessary step in the hoped-for prevention of future mass crimes by outlaw nations.

As the committee has pointed out, it has only scratched the surface as far as the numerous horrible crimes against humanity are concerned. The committee believes the United Nations will have failed in its obligations until it exposes to the world that the Katyn Forest massacre is a definite and diabolical part of the totalitarian plan for world conquest through ruthless mass extermination of peoples or of their intellectual leaders.

As all of us know, the first thing the Communists do when they seize any country is to suppress its universities and the vehicles of education and exterminate its intellectual leadership.

Thus the legal and judicial procedures pioneered by this committee here, as well as in Europe, may well be of the utmost significance in the months and years ahead.

One other aspect of today's findings has an immediate significance that could transcend the importance of the specific crime under examination. As the committee itself has recognized, there is a striking similarity between what happened to the Polish officers in the Katyn Forest and the events now taking place in Korea. Let me quote directly here from the committee's findings:

> We unanimously agree that this committee would be remiss in its duties to the American people and the free people of the world if it failed to point out that the identical evasions by the Soviets to the Polish Government while the Poles were searching for their 15,000 missing officers in 1941, appear again in the delaying tactics now being used by the Communists in Korea.

The conclusion is fearsomely evident that the Katyn Forest atrocities could prove to be a blueprint for Korea. Just as the Soviets failed for almost 2 years to account for the missing Polish officers, so to this day the Communists in Korea have failed to account for many thousands of captured United Nations soldiers, including 8,000 Americans listed last July by General Ridgway as atrocity victims. This is a sad and awful thought for us Americans, on the eve of our Fourth of July.

I quote further from the report:

> The Communists' delaying tactics in the Korean peace talks may be from the same cloth as the nebulous replies received from the Soviets by the Poles in 1941 and 1942 while they searched for their missing officers.

Manifestly, Mr. President, the facts and findings of this committee cannot be ignored by the free peoples of the world. Manifestly, the free peoples of the world must begin at once to do everything they constructively can do about these findings. They represent a great milestone in the long and tortured path toward the establishment of international law and order on a world scale, and under which, some day, we may hope that the barbarous practices

brought to light in this report may be forever eliminated by the combined moral power of the freedom-loving nations of the world.

It is a tribute to the organized groups of Americans of foreign origin that they have been among the first to recognize and to plead for the objectives which Representative MADDEN and his associates have now formally recommended to the Congress of the United States. Without the interest and activities of our Americans of Polish descent, this epoch-making report would never have been initiated. I am very happy to have this opportunity to salute them today.

FAIR-TRADE PRACTICES

The Senate resumed the consideration of the bill (H. R. 5767) 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.

Mr. BENTON. Mr. President, I am very pleased to see that the Senator from Minnesota [Mr. HUMPHREY] has returned to the floor. Indeed, my preceding comments on the remarkable report filed today in the House of Representatives were made at that point in the hope that the Senator from Minnesota might be able to return to the floor before I proceeded to discuss the bill now before us.

DISCUSSION OF FAIR-TRADE BILL

I wonder how many of our colleagues know how intimately the junior Senator from Minnesota knows whereof he speaks when he talks to us about fair-trade practices as applied to retail stores. The Senator from Minnesota is the only ex-pharmacist in the United States Senate. I remember once meeting him on his way to a druggists' convention, and later discovering the pride the druggists of America take in their ex-pharmacist in the Senate, as indeed they should as he is one of its most eminent and eloquent Members. Once when I was talking with him about his own background, he said to me, "Until I was 25 years old, I practically had never set foot outside a drug store." It was at the age of 25, and this is an interesting comment upon his background, that he left his father's drug store in Huron, South Dakota, to depart for academic studies at the University of Minnesota. This was his great decision, of course, which made him mayor of Minneapolis, and which later caused the people of Minnesota, in gratitude for his great public record as mayor of Minneapolis, to elect him, by a margin of a quarter of a million votes, to the United States Senate, as the first Democratic Senator to be elected in Minnesota since the Civil War.

Mr. President, without being unduly discursive, I wish to observe that I think I also know something about the field of business activities which this bill affects. For several year, as a young man, I spent more than 8 hours every day at a typewriter and in the field with people who worked in retail stores, developing material for writing advertisements for Drug Topics, Hardware Age, Progressive Grocer, and countless other journals of the trade press. The earliest of my 13 years in the advertising business began as a $25- and later $50- and $100-a-week copywriter, writing trade-paper advertisements; and one cannot write good trade-paper advertisements unless he spends a large part of his time in the field talking to the dealers whom he is trying to advise and persuade. This advertising experience of mine followed more than 2 years as a salesman selling cash registers and other articles, and spending all day, and frequently far into the evening, working with the retail trade, trying to learn its problems. So I feel I have a special background which qualifies me to speak on this bill. But, in addition to this background of my own, in addition to the fact I have spent a good part of my life in the business community and as a business man, I have had a further special interest in the bill. My distinguished colleague in the other House, Representative JOHN MCGUIRE, of Wallingford, Connecticut, is the original sponsor of this fair trade bill. Indeed, it is known as the McGuire bill. Representative MCGUIRE has achieved a national reputation among those interested in this subject as a result of the hard work he has done in developing his bill and bringing it to the point of being debated today in the United States Senate.

Mr. President, this bill is regarded as vital to the future of our independent retail merchants. In my opinion, however, it is not a bill to be urged upon economic grounds alone though it seems that most of the discussion about this bill thus far has fallen into the field of economics. I suggest, Mr. President, that the bill, in addition to interesting distinguished economists, should perhaps more appropriately, or with equal appropriateness, interest sociologists and political scientists, whose views have not found expression in the discussion of this bill. I might question only one aspect of the presentation of my distinguished colleague from Minnesota [Mr. HUMPHREY] last night and this morning. His eloquent words on this subject certainly moved all who heard them. However, I myself do not think—and I doubt whether the Senator from Minnesota would advance it as a prior argument—that the major justification for this is to protect the weak from the strong. The Senator from Minnesota used some very marvelous metaphors this morning. He spoke of protecting the canary from the eagles. He spoke of what Joe Louis would do to any Senator who got in the ring with him.

He referred to what would happen to a high school football team if it found itself opposing Notre Dame. Mr. President, I admit that I should be for killing the canary, annihilating the high school football team, and letting the poor Senator wish he had never gotten into the ring, and regret it on his death bed, if need be, if I thought those things were actually in the public interest. I believe this bill should be urged solely because it serves the public interest, not because it may seem to be in the interest of the certain grocers, druggists, hardware stores, or other retailers whose representatives have been before committees of the Congress, advancing their own case from the standpoint of their own problems as they see them.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. BENTON. I am glad to yield to the Senator from Minnesota.

Mr. HUMPHREY. I desire to concur in the thought expressed by the Senator, because the substance of my argument, which preceded the statements to which the Senator has referred, was that we are making basically a social and a policy or political decision; and certainly what we must consider is the total economy, and what is good for the total general welfare, rather than for any specific individual as such.

Mr. BENTON. I am very glad to have the Senator so express himself, and that is why I must say I was somewhat surprised when he ended his argument with the canary, the high school football team, and the Senator in the prize ring, because the gist of his argument last night and the gist of his argument this morning, up to that point, was that there must be considered first the interest of all the 155,000,000 American people.

(At this point Mr. BENTON yielded to Mr. SPARKMAN to ask questions of Mr. HUMPHREY. The colloquy which ensued, was, on request of Mr. BENTON, and by unanimous consent, ordered to be printed at the conclusion of his remarks.)

Mr. BENTON. Mr. President, I feel that the major mistake which is being made by many people who are discussing the bill and by its opponents is that they talk about it too much in economic terms. I agree that it must be talked about in economic terms. There may be a price which the economy should not pay even for important social and political benefits. However, in my judgment it is very doubtful whether, if we take a long-term instead of a short-term view, there is any price involved which the American people will ever pay for the benefits which accrue to them from this bill.

Incidentally, the figures quoted last night by my friend, whom I admire so greatly, the distinguished Senator from Illinois [Mr. DOUGLAS], on the profits of pharmaceutical houses, such as Lilly and Abbott Laboratories, have nothing to do with this bill at all as people who work in the drug trade will testify.

However, over and above the economic arguments there is the overriding fact that our independent retail businesses, usually family businesses, are a vital part of the fabric of our social and political life. They play a large part in determining our economic attitudes in this, our free American society.

Yes, Mr. President, it is the millions of independent owners and proprietors of small businesses who bring support and strength to our free institutions, our social, political, and economic attitudes.

They are the ones who will fight to the death against collectivism in all its terrifying forms. They should and must be preserved.

Mr. President, in October 1944, Fortune magazine published an article which I wrote, entitled "The Economics of a Free Society." I should like to hope that the distinguished Presiding Officer [Mr. BENNETT], in writing his book 2 or 3 years ago about our free economy, may have had this article called to his attention.

Fortune magazine stated:

The 12-point statement on the opposite page and the exposition of policy that follows were prepared by Mr. BENTON at the request of the Research Committee of the Committee for Economic Development. Though Mr. BENTON assumes responsibility for these documents, they have of course been approved in principle by top leaders of the CED and its economic advisers.

Mr. President, at that time I was the founding Vice Chairman of CED's Board of Trustees. Mr. Paul Hoffman was Chairman.

I deem certain sections of the policy statement relevant to our discussion today with reference to the pending bill. CED, as many Senators know, is dedicated to higher levels of productivity and employment. Yet CED recognizes that a healthy political and social environment is essential to sound economic progress. Indeed, Mr. President, Americans seek sound economic progress in order to create a sound and healthy political and social environment. The economic aspect is the servant of the social and political aspects, rather than the other way around.

In that CED statement—as I recall, it was the first of the CED papers printed for wide publication—I stated:

In the United States there are 4,000,000 or more farm enterprises, more than 1,000,000 self-employed who work as their own bosses, more than 2,000,000 private businesses with one or more employees. These provide enormous opportunities for innovation and experimentation. After the war—

That was written in 1944—

America must create an economic climate that will develop millions more. Can any centrally controlled economy hope to maintain the dynamic drive, the ingenuity, or the diversity of creative impulse of these millions of enterprises? Their persistent search for improvement results in progress: better products and services adapted more closely to the desires of the buyers at ever lower prices. The driving energy of private incentive thus serves the economic good of the Nation as a whole.

The effect of this drive for improvement is clearly visible in the history of the last 40 years. Since 1900 new and better machines and better methods have more than tripled manufacturing output per man-hour of work. For the economy as a whole, output per man-hour in recent decades has been increasing at the rate of 2½ percent per year.

Mr. President, most students of our economy agree that the welfare of the small independent businessman is essential to a healthy political and economic climate in the United States. A very high percentage of our innovations and discoveries originates in small independent business. On this count alone, independent businesses pay off and justify their existence. They do so by means of the new kinds of competition they develop against the larger, well-established firms. This develops our American standards of productivity.

A high percentage of the innovations in selling and merchandising in the retail trades in the last 25 years has come out of Texas, the Southwest, and California. Is that because in Texas, the Southwest, and California there are great concentrations of economic power in the chain stores? No, not at all, Mr. President; it is because in Texas, the Southwest, and California there have been more initiative, greater enterprise, a larger number of independent operators, and more enterprising and independent businessmen who have been using their ingenuity in new ways, in an effort to develop their own welfare; and in that way, of course, they have developed the American economy.

Our economy is not merely one of producing at the lowest possible cost; it is not merely one of getting the goods on the shelves of retail stores at the lowest possible cost. Our economy also consists of very important techniques of selling, of promotion, of so-called merchandising. The latter techniques, which have played such a large part in developing the high standard of living in the United States, owe much of their development to the independent businessmen who seek and find new, fresh, original angles by means of which they can compete with large businesses.

Mr. President, I do not favor pampering the small-business man, and I do not wish to subsidize him. I oppose many of the proposals made to Congress by the so-called small-business organizations who advocate certain forms of pampering and subsidization of small business.

On the other hand, certainly we must not permit the small-business man to be ruthlessly put out of business by practices which develop monopolies of a type which, as our history shows, often can readily learn how to exploit the public.

Mr. President, I ask the Senate whether it wishes to accelerate the trends toward monopoly and lack of widespread competition. I am sure the Senate will answer that it does not wish to accelerate those trends. However, if we fail to pass this bill, we gravely risk accelerating them, with consequent unfortunate and unhappy effects on the American economy and on the American people as a whole.

As suggested by the Senator from Minnesota, just as the family farm is regarded as a great and integral part of our American life, and just as we prefer it because it undergirds what we like to call our American way of life, as opposed to Soviet type of collective farms, or the large farms which have been developed in certain of our Western States, even though the latter may be more efficient and may produce more food at lower cost, so also do we Americans regard as a great national asset the million or so independent, family-owned retail businesses. Indeed, they are a far greater assets than any 10, 20, 50, or 100 chain-store systems, with a comparably large annual volume of sales, could possibly be.

So it is not only because of the economic importance of small independent business, which is the subject around which most of this debate has centered, but it is also because such business is the very warp and woof of our social and political fabric, that I have been proud to serve on the Senate Small Business Committee.

I instituted the clinics which the committee has carried all over the country, to aid and assist small business in its efforts to compete with large business. More recently, I have been active in tax hearings, aimed at the special problems of small business, in Bridgeport, Newark, and Los Angeles. Shortly I, as well as other members of the Senate Small Business Committee, expect to have major recommendations growing from these hearings. There are at present major injustices and inequities in our tax laws, as they are applied to small, independent business, and most particularly as they are applied to new business. These must be corrected in the next session of the Congress.

But to get back to my CED statement in Fortune, as Fortune said:

Mr. BENTON'S drafts, completed after criticism and advice from the research committee and its leading economists, will now go out to 2,000 CED community chairmen for local discussion and distribution to the 50,000 members.

In that statement I said:

Further, a free market open to the development of new, independent enterprises will continue to provide an economic basis for political freedom. Such a market breeds the millions of rival producers and sellers who do not need to cater to private or public overlords. They help keep the balance on the side of freedom and against the arbitrary exercise of economic power. They provide the competition that minimizes the need for Government regulation and operation. They provide an element of balance that counteracts potential dangers to our democratic institutions.

Lack of competition stifles the free market. So-called monopoly practices of business, labor, and Government, which remove the necessity of trying to undersell a competitor or to match or improve on his quality, induce complacency. Such practices have no place in a free-enterprise system designed to serve the common good. They require Government action either to remove their source or, where monopoly is essential to public service, to regulate them in the public interest.

Mr. President, I believe that the Members of this body who wish to encourage "the balance on the side of freedom and against the arbitrary exercise of economic power" should support this bill. Those who wish "to minimize the need of government regulation and operation" should favor this bill. Those who wish to prevent in the United States the development of monopoly power of the kind which inevitably leads to government regulation, should favor this bill.

Representative MCGUIRE has achieved a national reputation for his leadership in this area. I congratulate him.

Mr. President, we have been discussing some of the misinformation which has been spread abroad about this fair trade bill. It is my belief that many great

organizations have been led to oppose this bill when in my judgment they would be in favor of the bill if they understood better its long-range importance and its long-range effects. There is widespread misunderstanding of the economic impact of the bill, and there has been far too little discussion of the social and political significance of the bill.

As I have previously suggested, this bill does not permit a manufacturer under State law to regulate his retail prices, and it does not regulate competition among manufacturers, among wholesalers, or among retailers. Such price fixing is strictly illegal, and will continue to be a violation of the criminal statutes, for which violations men can go to jail and, indeed, should go to jail.

The figures submitted yesterday evening by the Senator from Illinois [Mr. DOUGLAS] are reflections of what I choose to think are in part short-run effects of fair trade practices. Under the impact of the new type of competition which would develop with the enactment of this bill, those figures would alter greatly and at an accelerating rate with each passing year.

Mr. President, I was active in business in the early thirties. At that time, as a young man in the advertising business, I was responsible for developing advertising for a large number of well-known national food and drug brands. As the depression deepened, many manufacturers made the mistake of trying to hold up their prices. Many thought that merely by more advertising they could obtain the volume required.

In part, because of this, the private brands developed enormously, starting with the depression in 1929, and accelerating in 1930, 1931, and 1932. The development of those private brands forced down the prices of the manufactured products. If the products on which at that time, 20 years or so ago, I was working, such as Palmolive soap and Maxwell House coffee, had not brought down their prices to meet the competition of the private brands, they would have slowly faded away. This illustration which we see as we look backward into the history of the grocery and drug trade shows what would happen under this bill if manufacturers tried to hold their retail prices at too high a level or at an exorbitant level. There is a big incentive to the manufacturer to get his retail prices down.

Mr. President, this bill, of course, specifically includes provisions which cannot be misunderstood, provisions requiring free and open competition with articles of similar class produced by others.

Before I conclude, Mr. President, I desire to comment very quickly on the substitute measure offered last night by the distinguished Senator from Illinois. To those of us who have had experience in retail merchandising, the amendment offered by him raises a great many complicated questions. A similar amendment, of course, was overwhelmingly rejected by the House, I assume, because it raised so many complicated questions. The bill offered by the Senator from Illinois as an amendment applies to all articles of commerce, not merely to the relatively small number of items, the trademarked and branded items, which would fall under the fair-trade bill.

Furthermore, its exclusions seem to me to be most ambiguous. The proposed substitute tells the retailer that he must charge his delivered cost, whatever that may mean, plus 6 percent; and it then excludes a long list of items, such as items damaged or deteriorated in quality—whatever that may mean. It excludes items sold exclusively for religious, charitable, scientific, literary, or educational purposes—which is a puzzling loophole to many retailers. It excludes perishable commodities, and also commodities if their further retention by the seller could reasonably be expected to result in a loss.

Mr. President, who is to determine what is reasonable? Who is going to determine whether the inventory of a commodity must be liquidated in order to avoid insolvency or bankruptcy?

It seems to me that the substitute bill, if placed on the statute books, would open up a veritable paradise of activity, not for the consumer to enable him to get better goods at lower prices but for the accountants and lawyers and others who add overhead to the cost of operating a retail establishment, and who by so doing keep the prices up.

A most interesting omission—and there may be many exclusions which should be written into the substitute, but have not been written into it—is a very manifest one. Suppose the price drops on what a merchant has bought. In this country we operate, or are supposed to operate, on a profit-and-loss system. I do not want to guarantee every retailer that he will get his cost plus 6 percent on every item. I do not propose to take the loss out of the profit-and-loss system. If a retailer goes to the Chicago merchandise fair and makes the mistake of buying chairs at $10 a chair, and when he gets back to his home town he finds that his competitor has been smart enough to go to Grand Rapids and buy the same chair for $5 a chair, is retailer No. 1 to be prohibited from cutting his price in order to compete with retailer No. 2? Or suppose the manufacturer from whom the first retailer bought his chair at $10 is then forced to lower the price to $5, since an identical chair can be bought for $5, must the retailer who earlier bought the chair at $10, under the proposed substitute still sell his chair for $10 plus 6 percent, even though he can replace it for $5?

Such a bill, in my judgment, Mr. President, could take the bargain basement out of every department store. It would radically change retailing methods. It would violate the whole principle of turn-over applied to retail merchandising, in which the smart, aggressive retailer, when his goods do not sell, wisely reduces them 10 percent a week, or 10 percent a day, let us say, until he moves them off his shelves.

To me the substitute bill goes further in fixing prices at the expense of the consumer and in eliminating the competition about which the Senator from Illinois spoke so eloquently last night, than anything proposed or suggested in the fair trade bill which is now pending before the Senate.

Mr. HUMPHREY. Mr. President, will the Senator yield to me at that point?

Mr. BENTON. I am glad to yield.

Mr. HUMPHREY. I am delighted that the Senator from Connecticut has made these pertinent comments on the so-called loss leader bill which the Senator from Illinois presented last night as a substitute, because surely that bill needs to be fully discussed. I must say, however, that that bill applies to all articles of commerce except those that are exempted, which are limited in number.

Mr. BENTON. And which are hard to identify.

Mr. HUMPHREY. And which are hard to identify. There really are no standards by which they could be identified.

Mr. BENTON. There are no standards.

Mr. HUMPHREY. That is, as compared to the pending fair-trade bill, which applies only to trade-marked articles and the brand-name articles, which articles may be fair-traded only when the manufacturer and the retailer wish them to be. In other words, it is not at all mandatory. There may be manufacturers who do not want to fair-trade every commodity they produce, who do not want to break their plant and machinery, in which event they are subject to all types of competition, and to all types of price fluctuation. But the Douglas proposal says that there shall be no loss leaders, that there must be 6 percent added. It appears to me that the fair-trade measure is much less inclusive and is much more exclusive than the one proposed by the Senator from Illinois.

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

Mr. BENTON. Yes, if I may first make a comment. In my opinion, there can be no doubt of the correctness of the position of the Senator from Minnesota. I will go even further. There are certain to be plenty of manufacturers who will not have anything to do with this fair-trade bill. The bill applies only to a limited number of trade-marked items. The great proportion of manufacturers will not operate under this bill, and their goods will in no way be restricted on prices.

Most assuredly, all smart merchants today often sell goods under cost.

Only the stupid merchant expects to get his cost back on each and every item. The proposed substitute bill would, in my opinion, penalize the small merchant and reward the stupid; which is exactly the kind of problem we are so often facing, when we are considering legislation in the Congress, and which we must be on guard against.

I am now glad to yield to the distinguished Senator from New York.

Mr. LEHMAN. Is it not a fact that the distinguished Senator from Minnesota, against whom I hate to argue on any question, and I have not done so very often since we have both been in the Senate, makes the statement that

the fixing of prices becomes effective only when the manufacturer and the retailer want them to be effective? I think that is not accurate. I believe it to be a source of weakness in the present system of State fair-trade laws that when the manufacturer of the trade-marked or branded article enters into a price agreement with one retailer, all the other retailers or distributors of that article are thereupon bound to maintain that price. They have no option; they must maintain the price, even though they were not parties to any agreement, and even though they objected to it. They are nonetheless completely bound by the provisions of the bill.

I do not believe the extent of the provision was fully appreciated at the time fair-trade acts were passed in many States. It certainly was not fully understood by this Senator who was Governor of the State and signed the bill setting up the fair-trade practice. It was my understanding at that time that the manufacturer of the branded article could make contracts with substantially all the distributors or retailers handling the article, and it was perfectly fair to expect them to live up to the terms of the contract. I do not understand, nor do I believe it was contemplated, that the signature of one retailer would bind all the other retailers in the State.

Mr. BENTON. Does the Senator have any knowledge of how often in the State of New York it actually happens that a manufacturer will make a deal with only one retailer which would have this effect on all other retailers?

I ask that question because any manufacturer who knows what he is doing does not make an open agreement with one retailer unless he is on the way to make such an agreement with other similar retail outlets he can reach and sign up. Otherwise, if he discriminates between similar types of outlets, he can ruin his distribution system.

Mr. LEHMAN. I have no record of the exact number, but I am quite certain that in very few instances have specific contracts been entered into between the manufacturer and all the retail outlets. If it be true, as the Senator from Connecticut alleges, that such contracts are entered into with all the retailers, then, of course, there is no need of this bill, because they would constitute binding contracts which would be enforceable. If the Senator and I agree to maintain a certain price, and we both affix our signatures to the agreement, I do not think any law is necessary. There is merely a contractual relationship.

Mr. BENTON. That may be true, but to the manufacturer the problem is serious. He would like to reach all his retail outlets. If, of the 50,000 drug stores which exist in this country—17 years ago, when I left the advertising business I knew how many drug stores there were, and there were approximately 50,000—if 500 of the 50,000 did not sign up, even though 49,500 did sign up, the 500 of the type described by the Senator from Minnesota last night can completely demoralize the 49,500. Further, there is the heavy cost of reaching and persuading the 49,500 to sign up.

Mr. WELKER. Mr. President, will the Senator from Connecticut yield?

Mr. BENTON. I yield.

Mr. WELKER. Once again, Mr. President, I invite the attention of the Senate to the fact that I shall insist on the regular order of business, in the interest of saving time.

Mr. BENTON. I do not object to that. As a matter of fact, I shall conclude my remarks in another 3 or 4 minutes, unless I am interrupted further with questions.

Mr. HUMPHREY. Mr. President, will the Senator from Connecticut yield?

Mr. BENTON. I yield.

Mr. HUMPHREY. Is the Senator familiar with the fact that the nonsigner clause was understood to have been included in the Miller-Tydings Act as passed in 1937, according to the interpretation of the then Attorney General of the United States, Mr. Thurman Arnold?

Mr. BENTON. I am glad to have that pointed out. Certainly there has never been in the Department of Justice a more vigorous and rigorous proponent of enforcing the antitrust laws than Mr. Thurman Arnold, one of our great public servants.

Mr. HUMPHREY. Is the Senator aware of the fact that there were two court cases in which a so-called nonsigner clause, under the terms of the Miller-Tydings Act and the State fair-trade acts were contested, and that in each of the two cases the court held they were legal and were in no way contrary to the Sherman Antitrust Act?

Mr. BENTON. I am glad to have that information placed in the RECORD.

Mr. HUMPHREY. Is the Senator aware of the fact that in the annual report of the Federal Trade Commission those two cases are fully discussed?

Mr. BENTON. Yes.

I wish I had, but I do not have, the figures to show the percentage of American manufacturers whose goods go into the hands of the ultimate consumer through direct sale or authorized dealers, and who are able to control their prices without any special legislation or fair-trade laws either at the State or Federal level, but the percentage must be large. All companies selling direct to the consumer control their prices and they are usually identical in every hamlet and city of the Nation.

The Encyclopaedia Britannica sells for exactly the same price everywhere because the company completely controls its distribution. Automobile companies control the distribution of automobiles through authorized dealers. All companies that own their own retail outlets or that deal with a small number of outlets or regularly franchised dealers, with which they can enter into the kind of contracts suggested by the Senator from New York, have found that it pays to have a fixed price that is identical; and no charge, to my knowledge, has been leveled against any such business that it is in any way harmful to the competitive factors we are seeking to encourage in American life.

If a lady customer does not like what the direct salesman of the Real Silk Co. charges for stockings, she can go to Macy's and buy her stockings. If she does not like Ford's prices, she can go to Plymouth.

All we are now trying to do apply that same principle, at the option of the manufacturer, to those relatively few lines of branded merchandise which have been found by practice to be subject to grave abuses which are not in the public interest.

Mr. HUMPHREY. Mr. President, will the Senator from Connecticut yield?

Mr. BENTON. I yield.

Mr. HUMPHREY. Is the Senator familiar with the fact that in 1936 the Supreme Court, in a unanimous decision, declared that fair-trade laws, including nonsigner clauses, were within the purview of the act?

Mr. BENTON. I know the Senator from Minnesota is a distinguished pharmacist, and I am beginning to welcome him as distinguished legal counsel.

The Senator from Minnesota has compiled an article on fair trade, containing arguments pro and con, in three very interesting pages which have come to me and which I presume were sent to other Members of the Senate.

Important as are the pro arguments, I do not regard them as being so important as are some of the arguments for the bill which the Senator and I have advanced in this floor debate and which I choose to call social and political arguments. In the Senator from Minnesota's statement, he lists 14 points which show the strong economic arguments for the bill from the standpoint of the public interest.

I ask unanimous consent to have this interesting statement printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See exhibit A.)

Mr. BENTON. Mr. President, based upon my own business background, as well as upon my many years as a student of the American economy, as vice chairman of the Committee for Economic Development and in other roles, I urge upon the Senate the passage of the bill now before us. I hope that not too much further debate will be indicated, and that passage of the bill will not be further delayed.

EXHIBIT A

ARGUMENTS, PRO AND CON, ON FAIR TRADE

1. The McGuire bill is said to be a blanket approval of State fair-trade laws. Any State can pass or amend a fair-trade law without the competition requirement of all present State fair-trade laws.

The McGuire bill is Federal enabling legislation only, to permit the States to realize the full effectiveness of laws which they consider necessary to their welfare. The McGuire bill specifically includes a provision requiring "free and open competition with articles of similar class produced by others." Should a State remove such a restriction from its fair-trade act, then the McGuire bill would no longer be enabling insofar as that particular State is concerned.

2. Fair-trade prices are alleged to be too high. Efficient retailers are said to be able

to sell fair-traded products below fair-trade prices and make a profit.

Popular national brand goods, which are fair-traded, are sold for less, on the average, in the fair-trade States than in the non-fair-trade area of the United States. Predatory pricing retailers like to shade the price on articles whose value is as familiar to the consumer as the worth of a dollar bill. Competitors, however, cannot permit these retailers to get a reputation for underselling them. This is what starts exhausting price wars so damaging to small business.

3. Fair trade, it is said, is bad for small business because it has encouraged supermarkets to stock fair-traded drugstore items which, so the charge goes, give the supermarket an invitingly high profit margin.

Supermarkets are now stocking drugstore items not only in the fair-trade States, but also in such non-fair-trade areas as Texas, Missouri, Vermont, and the District of Columbia. Furthermore, they are stocking such items as hosiery, housewares, and apparel, most of which are not fair-traded. Obviously this trend among supermarkets to expand the variety of their merchandise offerings has nothing to do with fair trade.

4. Efficiency in distribution must not be thwarted by fair trade in the mistaken notion, runs the observation, that it will help small business.

The revolution in retailing of the past decade shows clearly that efficiency in distribution has not been thwarted. During the 21 years of fair trade, small business has flourished side by side with the great growth of chains, supermarkets, and other giant retailers. And efficiency of operation has been vastly improved. Fair trade did not prevent these developments.

5. Vertical resale price maintenance provided by fair trade is bad for the economy, say theorists.

If that be so, Congress should prohibit vertical resale price maintenance based on other legal frameworks like consignment selling and exclusive franchises. There is plenty of evidence that vertical resale price maintenance is good for the economy because it assures the existence of plenty of competitors. The automobile industry, which pioneered mass production, has from the very beginning sold its cars on the basis of vertical resale price maintenance.

6. There is no public instrumentality, say opponents, to test the reasonableness of fair-trade prices.

If by public instrumentality is meant a Government bureau, the charge is correct. Of course, the consumer is herself the public instrumentality because she determines by her daily decisions to buy or not to buy this or that product whether its price is reasonable and its quality up to the standard she expects.

7. Henry Ford has shown retailers that consumer prices are lowered through efficiency.

He certainly has. Henry Ford also demonstrated that mass production depends upon mass distribution. He got mass distribution by requiring all his dealers to sell Ford cars at his suggested prices. With this protection against predatory price cutting assured, more and more men were willing to invest their savings in Ford dealerships.

8. High-priced lobbyists, it is alleged, are putting over fair trade through pressure tactics.

Not lobbyists but small business, earnestly convinced that its survival depends upon effective fair trade, are petitioning Congress. The number and vigor of their petitions reflects the scope of support for fair trade and the intensity of small business' convictions concerning it.

9. Consumers, opponents charge, would be against fair trade if they knew what is going on.

That's a matter of opinion. Friends of fair trade believe that consumers in purchasing fair-trade products in ever-increasing volume are voting "yes" on fair trade every time they step up to a retail counter. To say that consumers have permitted themselves to be hoodwinked for two decades is to underrate their intelligence.

10. Fair-trade prices do not allow for differences in operating costs, one professor notes.

Fair-trade prices reflect the average of operating efficiency. That's how all business works. The chain organization doesn't permit its more efficient outlet to sell the same goods for less than its outlets which are not so efficient. No retailer gives the quick-buying shopper lower prices than it gives the slow buyer, despite the lower cost of selling the speedy shopper.

11. Why worry about fair trade now that price wars have stopped, ask opponents of the McGuire bill.

Price wars haven't stopped; they break out all the time although, fortunately for small business, there has been no recurrence on the gigantic scale of the June 1951 price wars. Without effective fair trade, however, small business lives at the whim and mercy of irresponsible operators who will start price wars when it suits their purpose to do so.

12. Manufacturers, it is charged, go on fair trade not because they believe in it but because they are pressured into it by retailers.

This is untrue, as anyone who is closely identified with manufacturers who practice fair trade, can testify. Additional evidence is supplied by the fact that many manufacturers who do not use fair trade nevertheless voluntarily practice its guiding principle, resale price maintenance, through consignment selling and exclusive franchise arrangements. There was a total estimated of $158,000,000,000 in retail sales in 1951. Of these $36,000,000,000 in annual United States retail sales were made by some type of price maintenance, and fair trade accounts for but $6,000,000,000 while the remaining $30,000,000,000 is accounted for by other legal means of resale price maintenance.

13. The nonsigner clause dragoons unwilling retailers, it is said, into observing the provisions of a contract to which he is not a party.

Fair trade is a State-by-State system of fair competition. The fair-trade contract does not require any retailer to carry any manufacturer's goods. The retailer is bound by the terms of a fair-trade contract only when he buys goods in the knowledge of the fair-trade limitations upon them, as the Supreme Court noted in its 1936 unanimous decision upholding the State fair-trade acts.

14. The McGuire bill contains no sharp standards of definition of "free and open competition," it is noted.

This is true. It is also true that the plaintiff in every fair-trade case at bar must first prove to the court's satisfaction that his product is in free and open competition. The courts have traditionally defined competition, in respect of all statutes involving it, in the light of facts adduced in each specific case at bar. Insofar as fair trade is concerned, the courts have sometimes found that free and open competition did not exist and that, therefore, a specific product could not be fair traded.

The PRESIDING OFFICER. The question is on agreeing to the Douglas amendment in the nature of a substitute.

Mr. WELKER obtained the floor.

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

Mr. WELKER. I yield to the Senator from Kansas.

Mr. SCHOEPPEL. I may say to the distinguished acting minority leader that I desire to ask unanimous consent that the Senator from Idaho may yield to me for about 4 minutes, so that I may speak upon the pending measure.

Mr. WELKER. I yield to the Senator from Kansas.

Mr. SCHOEPPEL. Mr. President, at the outset I wish to say that I favor the legislation which is the order of business before the Senate at the present time. I have listened to the arguments, pro and con, and I wish to point out that the fair-trade laws of 45 States were seriously weakened not only by the Supreme Court's Schwegmann decision, but also by the Wentling decision of the Third United States Circuit Court of Appeals. This latter decision also bears the authority of the United States Supreme Court, since it was appealed to the high court and sent back to the third circuit court, with the Schwegmann decision cited as guidance.

The Wentling decision holds that the enforcement of a State fair-trade act in any other State having a fair-trade law constitutes an unlawful burden upon, and an interference with, interstate commerce. The Wentling decision's practical effect is to permit mail-order houses and other retailers who sell across State lines to disregard the fair-trade laws of 45 sovereign States.

Legally, the Wentling decision creates this anomaly: A merchant who is not permitted to commit an act of unfair competition under his own State's fair-trade law can nevertheless commit such an act in another State.

In short, he can defy another State's fair-trade law if Congress fails to remedy this anomalous and untenable situation.

Paragraph (4) of H. R. 5767 would overcome the Wentling decision in the following language:

> (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.

This provision does not establish a Federal fair-trade policy. Like H. R. 5767 in its entirety, paragraph (4) simply recognizes the rights of States to establish and carry out policies to restrain unfair competition as they define it, within their borders, including transactions in which goods have moved in interstate commerce. The provision reflects the intention of the Congress to make the State fair-trade laws fully effective with respect to interstate commerce.

In passing H. R. 5767 as enabling legislation designed to effectuate State policy in an area touching on interstate commerce, Congress will not be departing from precedent. Congress has already enacted a number of statutes to harmonize its power over interstate commerce with the rights of the States, under the Constitution. These statutes include the Webb-Kenyon Act, the Ashurst-Sumners Act, the United States Warehouse Act and the Miller-Tydings Act. This latter act is still constitutional and effective under the restricted

interpretation of the Supreme Court in the Schwegmann decision.

Two decisions of the United States Supreme Court are relevant to this problem of how much Congress may harmonize its power over interstate commerce with the rights of the States. In 1945, in International Shoe against Washington, the Court said:

> It is no longer debatable that Congress, in the exercise of the commerce power, may authorize the States, in specified ways, to regulate interstate commerce or impose burdens upon it.

In 1917, in Clark Distilling Co. against Western Maryland Railway Co., the Court said:

> Where the subject of commerce is one as to which the State may constitutionally restrict, prohibit, or regulate in order to prevent harmful consequences, and for the protection of property rights, Congress may, if it sees fit to put forth its power and aid, to so regulate interstate commerce, so as to prevent that commerce from being used to impede the carrying out of the State policy.

Amendments have been proposed to H. R. 5767 which seek to meet the Wentling decision by an approach which, it is believed, would establish a Federal fair trade policy and a Federal cause of action. It is significant that the House Interstate and Foreign Commerce Committee, the House of Representatives and the Senate Interstate and Foreign Commerce Committee did not find these amendments acceptable.

Mr. President, the simplest and soundest solution to the problem posed by the Wentling decision is provided in H. R. 5767. That is one of the reasons why I shall support the proposed legislation. It occurs to the Senator from Kansas that when 45 States in our great country have passed fair-trade laws, when 45 State legislatures have passed upon them, when 45 governors have signed such measures into law, this type of proposed legislation is in harmony and keeping with the great and preponderant majority of the commonwealths within our Republic.

During the delivery of Mr. BENTON'S speech,

Mr. SPARKMAN. Mr. President, I should like to ask the Senator from Minnesota one or two questions in order to be absolutely clear in my own mind, and in order that the RECORD may be absolutely clear. I propound these questions to the Senator from Minnesota, because I know of the great interest he has in this proposed legislation, the work he has done on it, and his understanding of the facts and the background. Therefore, I should like to ask his opinion on these two questions.

Mr. HUMPHREY. I shall be glad to answer the Senator's questions if I can.

Mr. SPARKMAN. I have always been much concerned about horizontal resale price-maintenance agreements which have been considered illegal. Do I correctly understand that this bill does not make that type of agreement lawful?

Mr. HUMPHREY. The Senator from Alabama is absolutely correct. This bill does not make lawful the type of agreement to which he refers. It is entirely clear from paragraph (5) of section 5 (a) of the Federal Trade Commission Act, as amended by this bill, that horizontal resale price-maintenance agreements such as between a wholesaler and a wholesaler, or between a retailer and a retailer, or a manufacturer and a manufacturer, are not made lawful. They are illegal and subject to prosecution. It is only vertical resale price-maintenance agreements which are exempt from the antitrust laws when they meet the requirements of paragraph (2).

Mr. SPARKMAN. It would dispel any misunderstanding concerning lawful vertical resale price-maintenance agreements and unlawful horizontal resale price-maintenance agreements if the Senator from Minnesota would explain further for the RECORD the differences between the types of agreements.

Mr. HUMPHREY. I talked with the Senator about this matter, and I want to be very accurate. I have gone into it very carefully. Under this bill, a lawful vertical price-maintenance agreement is one entered into by the producer of a trade-marked or branded commodity, and the immediate or subsequent resellers of such commodity in the chain of distribution from producer to ultimate consumer, whereby the minimum resale price at either the wholesale or retail level, or both, is prescribed. If, for example, when a producer, who sells to distributors, wholesalers, retailers, and consumers, makes a resale price-maintenance agreement relative to a commodity made by him and bearing a trade-mark or brand, with a distributor, wholesaler, or retailer who resells such commodity at either the wholesale, or retail level, there exists a vertical resale price-maintenance contract which would be lawful under the bill if the requirements of paragraph (2) are met.

On the other hand, if one wholesaler enters into a resale price-maintenance agreement with another wholesaler prescribing the price at which they both sell a trade-marked or branded commodity which they both buy from the producer, that agreement would be horizontal and would not be made lawful.

In other words, wholesalers getting together on a price are acting illegally. For a manufacturer to get together with other manufacturers to maintain prices is illegal, but for a manufacturer to say that a certain product will sell at a certain price from the manufacturer down to the retailer is legal under the limitations prescribed in paragraph (2) of section 5 (a) of the Federal Trade Commission Act.

In general, the test of whether a resale price-maintenance contract is vertical is if the contract is between a seller and buyers who resell the original seller's product; whereas, the test of whether a resale price-maintenance contract is horizontal as if it is between competing sellers between whom the relation of buyer and seller or reseller does not exist as to the product involved.

It is important to keep this distinction in mind, because many producers of trade-marked items sell them to consumers, retailers, and wholesalers alike.

Under the bill, such firms may make resale price-maintenance contracts with both wholesalers and retailers because such contracts are vertical, that is, between sellers and buyers. While in one sense firms in this position function not only as producers but also as wholesalers and retailers, they may still lawfully make contracts with other wholesalers and retailers, when in making such contracts they act as producers of a trade-marked or branded commodity, rather than as wholesalers and retailers entering into forbidden horizontal resale price-maintenance contracts with other wholesalers or other retailers.

This question has been discussed in many colloquies on the floor, and I am happy to have it formalized by interrogation. But it should be clearly noted that price fixing between producers, price fixing between wholesalers, and price fixing between retailers is unlawful and should be prosecuted.

Mr. SPARKMAN. And the bill does not propose anything which would change that illegality.

Mr. HUMPHREY. That is correct. My admonition to the Federal Trade Commission and to the Justice Department is to keep a careful weather eye open on the kind of horizontal price-maintenance agreements which are entered into, because those which are illegal should be prosecuted.

Mr. SPARKMAN. I thank the Senator for setting the record straight.

Mr. LONG. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. LONG. There is some doubt in my mind as to the parallel which has been described. When a large concern fixes a price and another concern fixes the same price, then, in pursuance of the resale price-maintenance agreement, the public has no choice in price competition between the commodities. From a table placed in the RECORD yesterday by the Senator from Illinois [Mr. DOUGLAS], I notice that as to hand lotions of well-known brands, such as Hinds', Jergen's, and others, 4 out of 7 of them were selling at 49 cents, the fair-trade price. I notice that with reference to deodorants 8 out of 18 of the better-known brands were selling at the same price.

Is there anything in the bill which would tend to outlaw or prevent producers of similar articles setting the same price in the absence of any proof that they had conspired to do so?

Mr. HUMPHREY. The burden of proof would rest with the prosecution. They would have to be able to prove that there was collusion or some type of conspiratorial activity. I would say that the items to which the Senator from Illinois referred sold for the same price before fair trade as they did after fair trade. Hinds' honey-and-almond cream sold for 50 cents before and after fair trade.

Mr. LONG. Is the Senator speaking of the situation in Washington?

Mr. HUMPHREY. I am speaking of the national price prescribed by the manufacturer.

Mr. LONG. That does not mean that the product sold for the same price at retail, does it?

Mr. HUMPHREY. No. But the retail price placed on the commodity by the manufacturer was the same prior to fair trade and after fair trade.

I think the Senator has pointed up a possible abuse, and I believe it is the job of the Federal Trade Commission and the law enforcement officials of the Government carefully to watch for any subrosa agreements or any collusive action. I would join with the Senator from Louisiana in attempting to expose any such violation.

Mr. LONG. The Senator knows that in the basing-point debate it was developed that with reference to the delivered-price system, it was very simple for those who had been found guilty of conspiracy and of monopolistic practices to make the same price without giving the public the benefit of competition. It would be fairly easy to determine whether they were in a conspiracy.

Mr. HUMPHREY. I think the Senator is correct about that. The more national advertising there is establishing a uniform market for a commodity, the more possible it is to get a uniform price. It is definitely one problem that has to be carefully watched. I do not minimize it. As one of the proponents of the bill, I say it is the responsibility of Congress and of the agencies of Government to see to it, by careful analysis and scrutiny, that there is no horizontal price-maintenance agreement. I want none of it. I want it to be carefully investigated and checked.

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

Mr. HUMPHREY. I yield.

Mr. MONRONEY. I should like to ask the Senator if it is not a fact that there is genuine major-league competition in nationally advertised products. Manufacturers are not going to gamble millions of dollars in advertising a product which is priced out of range of competitive markets. There will be more price variations in noncompetitive prices in unadvertised lines than in the major-league competition. The pending bill, as I understand—and I ask the distinguished Senator, who is an authority on the subject, if it is not true—makes it absolutely unlawful for any manufacturer to conspire or to arrange with another manufacturer to fix prices.

Mr. HUMPHREY. Absolutely.

Mr. MONRONEY. The pricing agreement affects one manufacturer's line.

Mr. HUMPHREY. That is correct.

Mr. MONRONEY. His line is in strong competition with another manufacturer's line, because there are two giant competitors in one industry, one striving to outdo the other on price, on value, and on attractiveness of package. It is the cream of the merchandising field that meets in the major-league competition.

I believe the distinguished Senator from Connecticut, who is one of the Nation's great advertising experts, will testify to the fact that no national advertiser could possibly think of advertising a product which was not competitive in price and quality.

Mr. BENTON. If I may comment on the Senator's statement, one of the points that seem to have been overlooked throughout most of the discussion, and certainly throughout most of the discussion by opponents of the bill, is the long-range certainty that competition will develop. If immediately under fair-trade laws price discrepancies seem to emerge as to certain established national brands, and they may—and in some cases they may emerge to a greater extent than we would approve—still there comes then the effect of the kind of competition between manufacturers outlined by the Senator from Oklahoma. Other products and other brands will then come into the market and will narrow the gap and narrow the margin, so that what might be true during the first year will be far less true during the second, and will be eliminated over a period of 3, 4, or 5 years.

The long-range development of new kinds of competition under the fair-trade laws was not emphasized last night by the distinguished Senator from Illinois in his very brilliant and moving presentation, and, to my knowledge, it has not been emphasized by any of the opponents of the bill. So I will agree with the comments just made by the Senator from Oklahoma.

Mr. HUMPHREY. I wish to say to the Senator from Connecticut, who has had years of experience in the advertising business and knows all the secrets of advertising, that one of its objectives is to promote competition, promote expanding markets, and to promote new enterpreneurs in the different fields. Fair trade has done just that.

One point should be made. So far as branded articles or trade-marked articles are concerned, we find that there are articles of equal quality made by the same company which are not fair-traded, not branded, but frequently are produced in some of the same factories with those which become trade-marked. So there is that kind of competition. For example, a refrigerator company may make a trade-marked refrigerator which carries the name, reputation, and background of the company. Yet it may make another refrigerator which can be sold to the lower-income market, which is a competitive article, but still provides refrigeration, good facilities, and thereby competition to the trade-marked commodity.

Mr. BENTON. If under fair trade the prices of some items go temporarily out of line, or if the margin goes out of line, a fear of which the Senator from Illinois indicated last night in his remarks, let me say, first, that new trade-marked proprietaries will develop advertising to compete at a lower price; and, secondly, private brands of a high quality will be promoted by dealers in competition with the advertised brand, and will pull prices down, or the manufacturer will lose his market.

Mr. MONRONEY. It is a fact that in today's market, in the case of most fair-trade articles I know about or have had experience with, the manufacturer puts a lower mark-up on an article or accepts a lower percentage of profit, because he must say to the retailer, "I am giving you this service to help you sell. You do not have to create a market; I have created a market for you by my national advertising. Therefore, you take a 5, 10, or 20 percent lower mark-up, because this product is easier to sell. You do not have markdowns to take."

Therefore, I believe the claim that this bill will raise the cost of living and make consumers pay more falls, because it simply is not in line with the facts with respect to fair-trade items that I know anything about.

Mr. BENTON. The Senator is profoundly right with respect to the fact that the narrowest margins are on the heavily advertised lines. This would be true even under fair trade. But as I pointed out yesterday, if one takes to a drug counter a prescription to be filled, the mysterious symbols on the prescription do not tell him anything about what is inside nor do they indicate that the mark-up might be many hundred percent—not a mere 30 or 40 percent. For something on which the ingredients may cost a penny or two, to make up as the prescription, the druggist may charge a couple of dollars. The same thing perhaps can be bought in a Vick's vapo-rub bottle for 15 cents. That is the way drug merchandising is done. When one goes into a department store, such as Macy's, one can perhaps buy Bayer aspirin for 6 percent less than the usual price. But when one goes upstairs to the furniture department, where he cannot turn over a chair and look at the trade mark on the bottom, and has no standard by which he can contrast the chair with other chairs—well, Macy's obviously has to get its profit margin. It may be 6 percent less or it may be 16 percent more. If they had not secured adequate profit margins how could they have become the largest, fastest expanding department store in the United States? Profits have to come from somewhere. If they are able to sell Bayer aspirin at a low price, their tremendous margin of profit is made elsewhere, in the furniture and jewelry departments, let us say, and on other unbranded merchandise, as to which the customers do not have a definite standard of comparison. Manifestly their efficiency in buying, selling, and operating also contribute.

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

Mr. BENTON. I yield.

Mr. LONG. One of the issues which gives me grave concern over the measure is that it is my understanding that if retailers get together and agree that they will sell, let us say, Jergen's lotion, for perhaps 35 cents, although it was not to be sold for a price less than 49 cents, that would be conspiracy in restraint of trade, it would be against the law, and those retailers would be subject to prosecution under the Sherman Anti-Trust Act.

Mr. BENTON. That is correct. That is my understanding.

Mr. LONG. On the other hand, if any of them singly signed a contract with Jergen's, agreeing with Jergen's rather than agreeing among themselves, they could accomplish exactly the same effect which Congress saw fit to outlaw as far

back as 1890 as being against the public interest. That is a question which seriously concerns me.

Mr. BENTON. If I may comment on that briefly, it was suggested last night that when the manufacturer, the wholesaler, and the retailer become accustomed along vertical lines to fixing the price at the level fixed by the manufacturer, this will further accelerate present tendencies in our economy for horizontal deals and fixing of prices among groups of retailers, groups of wholesalers, and groups of manufacturers.

I share the concern of the Senator from Louisiana. The Congress pays lip service to competition, but will then starve the Federal Trade Commission for funds, will refuse the Antitrust Division of the Department of Justice money it ought to have with which to hire lawyers to do the needed job and to foster competition on a horizontal basis.

I am the first to admit that with the passage of the pending bill, there may develop a greater danger that certain trends, which today are all too manifest in most areas of our economy, may be accelerated. It behooves the Federal Trade Commission and the Antitrust Division to raise their voices, to seek friends on Capitol Hill who can get them larger appropriations, to get improved personnel if they can, and to move in even more aggressively to enforce the antitrust laws.

I see the Senator from North Dakota [Mr. LANGER] on the floor. I was startled by his comment yesterday that nobody had ever gone to jail for violation of the antitrust laws. If that be true, it indicates the lack of aggressiveness with which those great laws have been enforced, laws which have been so essential to the development of our economy.

Mr. LONG. Of course, the criticism the Senator is making should not be aimed at the enforcement agencies as such. It should be aimed at Congress, because Congress has been the culprit in this instance, for not providing funds to enforce those laws.

For example, Congress finally passed a law to prohibit mergers that would have the effect of creating monopolistic conditions, but appropriated no money to enforce the law. So if there is no money to enforce the law, and if we do not hire a police force, how is the law to be enforced? Violations will go on in spite of the law.

Mr. BENTON. Congress is constantly debating, and frequently passing, legislation which saps at the vitality of these laws. I shared the fear just expressed by the Senator from Louisiana when I started to study this fair-trade bill. Many an evil, under the fair, euphemistic, and alluring phrase "fair trade," has been concealed in the laws of the States. I studied the bill in detail before I satisfied myself that the benefits which would accrue to the American people from the bill would considerably outweigh any danger which may be implicit in any acceleration of habits in the business community in the direction of violations of the antitrust laws.

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

Mr. BENTON. I yield.

Mr. HUMPHREY. I appreciate what the Senator from Connecticut has said. As he knows, both from my public statements and my private conversations with him, I recognize that the bill is not foolproof. I have said again and again that there are many apprehensions over some features of so-called fair-trade laws. However, I wish to make it crystal clear that the junior Senator from Minnesota has repeatedly voted to increase the funds and personnel of the Antitrust Division of the Department of Justice and the Federal Trade Commission, just as the Senator from Louisiana and the Senator from Connecticut and other Senators have done. I believe in the enforcement of the laws. I believe that they should be vigorously enforced. Furthermore, I wish to say to the Federal Trade Commission, which Commission opposes a fair-trade law, that it has yet to present a really positive, constructive alternative which is workable. I submit that it is its job to do so, and in the meantime to continue to keep a weather eye on the practices under fair-trade legislation. It is my intention in the next session to call upon Congress to appoint a type of watch dog joint committee to watch over the whole matter of the practices and usages under the fair-trade law, and at a later time to report back to the Congress in case there is need for any amendments. This is not to say that the pending bill would not be effective. I think it would be.

I wish to conclude my part by saying that what we are talking about is what has been on the books for 15 years. This bill proposes no change in the law which has been on the books for 15 years, up until the time of the Schwegmann case, when the Supreme Court said, in a split decision, with three great Justices—Frankfurter, Burton, and Black—dissenting, that the Court felt that the nonsigners clause in State contracts was not provided for in the Miller-Tydings Act.

Last night the Senator from New York [Mr. LEHMAN] suggested what he considered to be a weakness in the bill—and the Senator from Connecticut and the Senator from Louisiana referred to the same point—namely, that if one manufacturer signed with one retailer all the others would be bludgeoned into position.

The fact of the matter is that that is not the way the law would work. That is nothing but theory. It has no relevancy in practice. When a manufacturer signs with a retailer, he notifies every other retailer in the country. If he does not, the courts will not uphold fair-trade practices with respect to that particular commodity. That has already been prescribed by court decision. In other words, if a retailer does not have complete information presented to him by the manufacturer, he cannot be held accountable under a fair trade practice law.

Furthermore, the professional journals of all retail groups make it their business to inform every retailer as to the manufacturer's price and the resale price. There is nothing to compel the retailer to sell the commodity at all. If he does not like the price of Jergens lotion he does not have to sell it. There are other products to be sold. There is no compulsion whatsoever on him, and he is not subject to any prosecution if he cuts the price, unless he has been fully informed as to the contractual relationship between manufacturer and seller. Let that be a matter of record.

Mr. BENTON. Most certainly he does not have to put Jergens lotion in his window or on his counter.

Mr. HUMPHREY. That is correct.

Mr. BENTON. He may not sell 10 percent as much of it as he would if he put it in his window and on his counter, and instructed his clerks to push it.

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

Mr. BENTON. I yield.

Mr. LANGER. I ask the distinguished Senator if he knows of any other way to attain justice for the American people in this matter except by passing the pending bill?

Mr. BENTON. I like the way the Senator puts the question. Instead of stating it in terms of justice to the grocer, the druggist, and the hardware merchant, he speaks of it in terms of justice to the American people. I shall devote the remainder of my remarks largely to that point. I think the bill should be considered from the standpoint of the interest of all the American people, and on that basis should be passed by the Senate.

Mr. LANGER. When the Senator from North Dakota was chairman of the Committee on Post Office and Civil Service we considered the question of excess employees. As chairman of that committee I consulted the head of the Federal Trade Commission, Mr. Freer, to find out how many cases were pending before the Federal Trade Commission which had been before it for more than 3 years without any decision. Would the Senator be surprised to learn that there were more than 300 cases over 3 years old?

I learned something further, I will say to my distinguished friend from Connecticut. Take the case involving spark plugs. Twenty years ago there were 40 spark plug companies. One of them brought an action before the Federal Trade Commission, claiming that it was being discriminated against and that the antitrust law was being violated. Would the Senator be surprised to learn that that case has been pending before the Federal Trade Commission for 15 years without a decision? There has been no decision unless one has been handed down within the past few weeks.

Mr. BENTON. I am not in the least surprised. While I shall not now undertake to defend the Federal Trade Commission, because I am sure it may have been negligent in many ways—most human institutions have been—yet let me say that as a member of the Small Business Committee I have received evidence that the FTC has been starved for staff and starved for funds. The responsibility therefore rests to a large extent on

the Congress. Perhaps the situation is also due in part to certain practices within the Federal Trade Commission.

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

Mr. BENTON. I yield.

Mr. LANGER. I agree wholeheartedly with the Senator from Connecticut. The Federal Trade Commission has had an inadequate sum of money with which to do a big job. It has been starved for funds ever since I first came to the Senate. Time and time again, after the Bureau of the Budget had recommended more money, and after the Appropriations Committee had recommended more money, its appropriations have been cut down $1,500,000 or $2,000,000, in spite of everything we could do on the floor of the Senate.

Looking at my distinguished friend from Minnesota [Mr. HUMPHREY] I remember that 30 years ago we heard much about Frank B. Kellogg, the great trust buster from the State of Minnesota. I took occasion to look up the record, and I was astounded to find how very little had been done. As a matter of fact, 99 percent of it was newspaper notoriety. Apparently some experts had been employed to build him up. As a matter of fact, until a very short time ago the Department of Justice did not have sufficient funds to enforce the antitrust statutes. The situation was taken up with the former Attorney General, Tom Clark, now a distinguished Associate Justice of the Supreme Court. The amount of money which that agency had, up until the time he took office, was pitiful. Those who control monopoly have somehow or other gained control in the Government. The Federal Trade Commission and the Department of Justice have been hamstrung. That is why I am delighted to have this entire debate take place, and to have all the facts brought out.

Mr. BENTON. I am very glad also, and I hope that the result will be renewed vigor on the part of the Federal Trade Commission. I believe that this bill today is further warranty for more aggresive efforts on its part to move in and get the needed funds, leadership, and manpower to do the job which ought to be done.

I may say that Frank B. Kellogg was my maternal grandfather's pageboy when he was the Democratic leader of the Minnesota State Senate. I never have learned what made a Republican of Mr. Kellogg. When the Senator mentioned his name, that was the first time I had thought of him in many years.

Mr. HUMPHREY rose.

Mr. BENTON. Does the Senator from Minnesota wish to ask a further question?

Mr. HUMPHREY. I wish to ask the Senator one question along the line of the questions of the Senator from North Dakota [Mr. LANGER].

Mr. BENTON. Let me make one personal comment which occurred to me when I was listening to the Senator from North Dakota.

The first job I had after I secured a college degree was as a salesman for the National Cash Register Co., which enjoyed a world-wide monopoly, not only in the United States, but everywhere in the world.

My first day as a salesman was spent sitting in the office reading a pamphlet which every salesman had to read on his first day. The pamphlet was written about Mr. John H. Patterson, and his practices. Mr. Patterson, who developed this great company, is widely called "the father of scientific salesmanship."

The pamphlet contained the story of the antitrust suit against John H. Patterson around 1913. It described his famous knockout department, in which he had his so-called knockout men who were hired to go forth whenever a new competitor came out with a cash register. Mr. Patterson invited the competitor to come to Dayton and look at what was called the morgue. In the morgue were cash registers of every type, all of which had been knocked out. They had been made by approximately 40 companies which had vanished over the dim horizon.

If a competitor could not be prevailed upon to go into some other line of business the knockout men would open up stores alongside of his sales offices and sell cash registers at any price, perhaps for as little as a dollar, in order to put the competitor out of business. If that did not work, the men of the knockout department would seek to hire the competitor's agents at higher salaries and commissions. If that did not work they would bribe the freight agents of the railroad companies to see to it that the competitor's shipments never went through. If that did not work there were instances in which they would train their salesmen to go into stores and drop sand into the competitor's machines. If that did not work there were cases in which they would hire thugs to take the competing salesmen down a back alley and knock them out. At any rate, they knocked out all competitors.

Mr. President, that was my first day's reading as a salesman for the National Cash Register Co., which had just employed me. The reason I had to read the pamphlet was that John H. Patterson had been sentenced to 3 years in the penitentiary. Because of his work in the Dayton flood in 1913, in which I seem to remember that he turned out rowboats at the rate of one a minute for a day or two, his sentence was suspended. But in case any of the practices were resumed he could be put forthwith into jail. In other words, if I as a salesman made the mistake of dropping sand into a Remington Rand cash register the owner of my company might be put in jail.

Seemingly his fear of jail was such that every new salesman had to read the pamphlet on his first day of employment.

Mr. President, I tell that story because although persons have not gone to jail for such practices there has been the fear of jail and there has been the threat of jail. There is no doubt that the fear and the threat have had a tremendous effect on the attitude of American business.

If that fear and that threat had more teeth and if more people had actually gone to jail, we would have an even more vital competitive system. The reason we do not have it is in part due to the fact that Congress is subjected to pressure from forces which do not want the antitrust laws enforced.

Whenever we debate an adequate appropriation for the Federal Trade Commission and other agencies, men who are afraid of jail and afraid that their practices may be investigated, move in on Congress, and work in such a way as to have the budget figures cut so that the work of the agencies may be retarded.

Does the Senator from Minnesota have a final question?

Mr. HUMPHREY. Following the colloquy between the junior Senator from Connecticut and the senior Senator from North Dakota, I should like to invite attention to the fact that the coauthors of the Robinson-Patman Act were the distinguished late Senator Robinson and our colleague in the House, Representative PATMAN. WRIGHT PATMAN is known as one of the greatest defenders of the antitrust laws and the antimonopoly laws in this country. He has led the fight in session after session of Congress and has gained for himself a reputation second to none. Yet WRIGHT PATMAN of the House of Representatives, and cosponsor of the Robinson-Patman Act, is a valiant sponsor and proponent of the bill which the Senator from Connecticut is now discussing.

When I hear Senators on the floor tell of their fear as to what the bill would do if enacted into law, by killing competition and hurting consumers, I say this: Here are men like the Senator from North Dakota [Mr. LANGER] and Representative WRIGHT PATMAN, of Texas, with a lifetime of service to consumers, workers, and independent business people—and I have put in a few years on it myself—who rally to the support of the bill on the basis of equity and fair play.

I wanted to give that information to the Senator because we are not alone in this fight. They are the men who have spent a lifetime of service in the cause.

Mr. BENTON. I am glad to join in paying tribute to Representative PATMAN, with whom I have the honor of serving with the Senator from Wyoming [Mr. O'MAHONEY] on the Joint Committee on the Economic Report.

Mr. CAPEHART. Mr. President, I wish to say one word about the pending bill. I think it is a good bill. I think it ought to be passed; and I am hopeful that the Senate will pass it during the afternoon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. LEHMAN. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded and that further proceedings under the call be suspended.

The PRESIDING OFFICER (Mr. HENDRICKSON in the chair). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Snader, one of its assistant reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 103. An act to change the name of Medicine Creek Reservoir in Frontier County of the State of Nebraska to Harry Strunk Lake;

S. 556. An act authorizing the transfer of certain lands in Putnam County, Fla., to the State Board of Education of Florida for the use of the University of Florida for educational purposes;

S. 1020. An act to authorize a preliminary examination and survey for flood control and allied purposes of Las Vegas Wash and its tributaries, Las Vegas, Nev., and vicinity;

S. 1271. An act to permit employees of the Canal Zone government and the Panama Canal Company to appeal decisions under the Federal Employees' Compensation Act to the Employees' Compensation Appeals Board;

S. 1989. An act to designate the lake to be formed by the waters impounded by the Chief Joseph Dam in the State of Washington as Rufus Woods Lake;

S. 2042. An act to extend certain privileges to representatives of member states on the Council of the Organization of American States;

S. 2043. An act to authorize the transfer of certain property by the Administrator of the General Services Administration to the Secretary of the Interior;

S. 2149. An act to confer Federal jurisdiction to prosecute certain common-law crimes of violence when such crimes are committed on an American airplane in flight over the high seas or over waters within the admiralty and maritime jurisdiction of the United States;

S. 2199. An act to amend the Contract Settlement Act of 1944 and to abolish the Appeal Board of the Office of Contract Settlement;

S. 2646. An act to cancel irrigation maintenance and operation charges on the Shoshone Indian Mission School lands on the Wind River Indian Reservation;

S. 2690. An act to amend the Civil Aeronautics Act of 1938, as amended, to make unlawful certain practices of ticket agents engaged in selling air transportation, and for other purposes;

S. 2909. An act to amend the act entitled "An act to provide for the establishment of the Coronado International Memorial, in the State of Arizona," approved August 18, 1941 (55 Stat. 630);

S. 3051. An act to authorize the Administrator of General Services to transfer to the Department of the Navy, without reimbursement, certain property at Fort Worth, Tex.;

S. 3052. An act to authorize certain land and other property transactions, and for other purposes;

S. 3195. An act granting jurisdiction to the Court of Claims to hear, determine, and render judgment upon certain claims; and

S. 3276. An act to amend the act entitled "An act to assist Federal prisoners in their rehabilitation."

The message also announced that the House had passed the bill (S. 1310) 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, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 59) authorizing the printing of additional copies of the hearings entitled "Institute of Pacific Relations."

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 5198. An act authorizing and directing the Secretary of the Army to transfer certain property located in St. Thomas, V. I., to the control and administrative supervision of the Department of the Interior; and

H. R. 8272. An act to provide for the conveyance by the United States to Fulton County, a political subdivision of Georgia, of certain land in said county.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 54. An act for the relief of Stella Jean Stathopoulou;

S. 1037. An act for the relief of Wai Hsueh Tan, Mrs. May Jane Tan, Robert Tingsing Tan, and Ellen Tan;

S. 1324. An act for the relief of Dr. Nicola M. Melucci;

S. 1422. An act for the relief of Jerry J. Lencioni;

S. 1470. An act for the relief of Panagiotes Roumeliotis;

S. 1513. An act for the relief of Thorvald Nin;

S. 1580. An act for the relief of Alevtina Olson and Tatiana Snejina;

S. 1639. An act for the relief of Osvaldo Castro y Lopez;

S. 1724. An act for the relief of Elina Branlund;

S. 1731. An act for the relief of Rhee Song Wu;

S. 1846. An act for the relief of Misako Watanabe and her daughter, Irene Terumi;

S. 1863. An act to effect the entry into the United States of Yukio Niimura, a minor Japanese national;

S. 2066. An act for the relief of Heidi Geraldine Connelly;

S. 2067. An act for the relief of Maria Weiland;

S. 2084. An act for the relief of Mathilde Kohar Halebian;

S. 2232. An act for the relief of the Detroit Automotive Products Co.;

S. 2334. An act for the relief of Miguel Narciso Ossorio;

S. 2357. An act to provide that horticultural commodities shall be included within the term "agricultural commodities" for the purpose of the agricultural exemption for motor carriers in the Interstate Commerce Act;

S. 2360. An act to amend the Interstate Commerce Act to increase the amounts of securities issued by motor carriers without requiring approval by the Interstate Commerce Commission;

S. 2545. An act to amend section 1823 (a) of title 28, United States Code, to permit the advance or payment of expenses of travel and subsistence to Federal officers or employees by one agency and reimbursement by another agency;

S. 2582. An act to authorize and direct the Secretary of the Army to convey a certain tract of land in Russell County, Ala., to W. T. Heard;

S. 2630. An act for the relief of Mary Fox;

S. 2637. An act for the relief of Peter Rousetos, also known as Penagiotis Roussetos, also known as Panagiotis Roussetos Metritikas;

S. 3007. An act for the relief of Jimmy Lee Davis; and

S. 3008. An act for the relief of Karen Christene Eisen Murdock.

ADDITIONAL HOUSE BILL REFERRED

The bill (H. R. 5198) authorizing and directing the Secretary of the Army to transfer certain property located in St. Thomas, V. I., to the control and administrative supervision of the Department of the Interior was read twice by its title and referred to the Committee on Armed Services.

CONVEYANCE OF CERTAIN LAND TO FULTON COUNTY, GA.

The PRESIDING OFFICER laid before the Senate the bill (H. R. 8272) to provide for the conveyance by the United States to Fulton County, a political subdivision of Georgia, of certain land in said county, which was read twice by its title.

Mr. GEORGE. Mr. President, I ask unanimous consent for the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. GEORGE. Mr. President, the Committee on Interstate and Foreign Commerce has reported an identical bill, and it is on the calendar as No. 1764, Senate bill 3367.

We are concerned merely with the right-of-way for one of the trunk-line highways in the Georgia highway system. It is necessary for the county to purchase the land. I have assured the Senator from Oregon that Fulton County is paying full value for this property; not 50 percent, but 100 percent of the value.

Mr. MORSE. Mr. President, I wish to say to the Senator from Georgia that I am perfectly satisfied that the so-called Morse formula has no application whatever to this bill, and I urge its passage.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, Senate bill 3367 is indefinitely postponed.

AMENDMENT OF CERTAIN TAX LAWS APPLICABLE TO THE DISTRICT OF COLUMBIA

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2605) to amend certain tax laws applicable to the District of Columbia, which were, on page 12, strike out lines 1 to 14, inclusive, and insert:

SEC. 5. Section 2 of title IX of the District of Columbia Revenue Act of 1937, as added by the act of May 16, 1938, and as amended, is amended by striking out in the second paragraph thereof the numerals and words "$8,000 per annum" and inserting in lieu thereof the numerals and words "$13,000 per annum"; and is further amended by adding thereto the following new paragraphs:

On page 14, after line 8, insert:

SEC. 7. Notwithstanding the provisions of the Reorganization Act of 1949 and notwithstanding the provisions of Reorganization

Plan No. 5 of 1952, relating to the District of Columbia, the Board of Tax Appeals for the District of Columbia shall not be abolished, and, if prior to the enactment of this act it has been abolished, it is hereby reestablished. In either event, the functions of the said Board of Tax Appeals transferred to the Board of Commissioners of the District of Columbia by said Reorganization Plan No. 5 of 1952 are hereby retransferred to said Board of Tax Appeals or to said Board of Tax Appeals as hereby reestablished, to be exercised in the same manner, to the same extent, and under the same provisions of law as if said Reorganization Plan No. 5 had never gone into effect, except only as such provisions of law may be modified by this act.

All petitions, answers, or other pleadings, documents, or papers filed with, and all actions taken by, and all decisions rendered by, the person, persons, office, or agency to which said Board of Commissioners may have redelegated the functions of said Board of Tax Appeals, between the effective date of said Reorganization Plan No. 5 and the enactment of this act, shall have the same force and effect for all purposes as if filed with, taken by, or rendered by, said Board of Tax Appeals or said Board of Tax Appeals as hereby reestablished.

If, prior to the enactment of this act, the said Board of Tax Appeals shall have been abolished, the said Board of Commissioners shall appoint an individual to act as the member of the said Board of Tax Appeals as hereby reestablished, said appointment to be made in accordance with the provisions of section 2 of title IX of the District of Columbia Revenue Act of 1937, as added by the act of May 16, 1938, and as amended, including any amendments made by this act.

And on page 14, line 9, strike out "SEC. 7." and insert "SEC. 8."

Mr. HUNT. Mr. President, Senate bill 2605, heretofore passed by the Senate, has been passed by the House, with two amendments. I suggest that the Senate accept the House amendments; and I so move.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wyoming.

Mr. CASE. Mr. President, has the Senator conferred with ranking minority member of the committee?

Mr. HUNT. The staff has brought the matter to me. I thought they had conferred with the ranking minority member. I cannot say that they did.

Mr. CASE. Do the two House amendments relate to matters which were considered when the bill was before the Senate and which were before the Senate committee?

Mr. HUNT. They are not matters of great importance, but I should be very much pleased to have the clerk read the amendments and then have them discussed.

Mr. CASE. The amendment could be read, or the Senator could state their substance.

Mr. HUNT. The purpose of the first amendment is to reestablish the Board of Tax Appeals, which is a one-member Board, consisting of a judge. Reorganization Plan No. 5, which we have just approved and which went into effect night before last, at 12:01 o'clock, made such a change that this Board of Tax Appeals was definitely placed under the jurisdiction of the District Commissioners. It is the thought of all concerned, including the Commissioners, that this should be a separate and distinct board, not under the jurisdiction of any other department of government. The House has provided, therefore, that this particular Board, which as I say, consists of one man, a judge, not be under the jurisdiction of the Commissioners. That is one amendment.

The other amendment is that the present salary of $8,000, with certain increases which now make the salary of the judge $11,800, be amended by striking out "$8,000" and inserting "$13,000." Those are the two changes.

Mr. CASE. Does that salary correspond with others of the same rank?

Mr. HUNT. I understand that it does.

Mr. CASE. I have no objection.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wyoming that the Senate concur in the House amendments.

The motion was agreed to.

WELFARE OF COAL MINERS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1310) 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, which were to strike out all after the enacting clause and insert:

That the act entitled "An act relating to certain inspections and investigations in coal mines for the purposes of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes," approved May 7, 1941, is amended by adding at the end thereof the following new title:

"TITLE II—PREVENTION OF MAJOR DISASTERS IN MINES

"DEFINITIONS AND EXEMPTION

"SEC. 201. (a) For the purposes of this title—

"(1) The term 'Board' means the Federal Coal Mine Safety Board of Review created by section 205.

"(2) The term 'Bureau' means the Bureau of Mines.

"(3) The term 'certified person', when used to designate the kind of person to whom the performance of a duty in connection with the operation of a mine shall be assigned, means a person who is qualified under the laws of the State in which such mine is located to perform such duty, except that in a State the laws of which do not provide for such qualification, the term means a person deemed by the operator of such mine to be qualified to perform such duty.

"(4) The term 'commerce' means trade, traffic, commerce, transportation, or communications between any State, Territory, possession, or the District of Columbia and any other State, Territory, or possession, of the United States, or between any State, Territory, possession, or the District of Columbia and any foreign country, or wholly within any Territory, possession, or through any other State or through any Territory, possession, or the District of Columbia or through any foreign country.

"(5) The term 'Director' means the Director of the Bureau of Mines.

"(6) The term 'duly authorized representative of the Bureau' means a person appointed under section 109 of title I or under section 212 of this title, and authorized in writing by the Director to perform the duties of a duly authorized representative of the Bureau as provided in sections 202, 203, and 206 of this title.

"(7) The term 'mine' means an area of land including everything annexed to it by nature and all structures, machinery, tools, equipment and other property, real or personal, placed upon, under or above its surface by man, used in the work of extracting bituminous coal, lignite or anthracite, from its natural deposits in the earth in such area and in the work of processing the coal so extracted. The term 'mine' does not include any strip mine. The term 'work of processing the coal' as used in this paragraph means the sizing, cleaning, drying, mixing and crushing of bituminous coal, lignite or anthracite, and such other work of processing such coal as is usually done by the operator, and does not mean crushing, coking, or distillation of such coal or such other work of processing such coal as is usually done by a consumer or others in connection with the utilization of such coal.

"(8) The term 'operator' means the person, partnership, association or corporation operating a mine and owning the right to do so.

"(9) The term 'permissible', as applied to equipment used in the operation of a mine, means equipment to which an approval plate, label, or other device is attached as authorized by the Director under section 212 (a), and which meets specifications which (A) are prescribed by the Director for the construction and maintenance of such equipment, and (B) are designed to assure that such equipment will not cause a mine explosion or mine fire.

"(10) The term 'premises' when used in referring to the premises of a mine, means the land within the mine's area of land.

"(11) The term 'rock dust' means pulverized limestone, dolomite, gypsum, anhydrite, shale, talc, adobe, or other inert material, preferably light colored, (A) 100 percent of which will pass through a sieve having 20 meshes per linear inch and 70 percent or more of which will pass through a sieve having 200 meshes per linear inch; (B) the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and (C) which does not contain more than 5 percent of combustible matter, nor more than a total of 5 percent of free and combined silica (SiO).

"(b) This title shall not apply to any mine in which no more than 14 individuals are regularly employed underground.

"INSPECTIONS

"SEC. 202. (a) For the purpose of determining whether a danger described in section 203 (a) exists in any mine the products of which regularly enter commerce or the operations of which substantially affect commerce, or whether any provision of section 209 is being violated in any such mine, or whether any such mine is a gassy mine as prescribed in section 203 (d), the Director shall cause an inspection of each such mine to be made by a duly authorized representative of the Bureau at least annually. The Director shall also make, or cause duly authorized representatives of the Bureau to make, such special inspections of such mines as may be required by section 203 (c) and section 206, and such other inspections of such mines as he deems necessary for the proper administration of this title.

"(b) (1) In order to promote sound and effective coordination in Federal and State activities within the field covered by this title, the Director shall cooperate with the official mine inspection or safety agencies of the several States.

"(2) Any State desiring to cooperate in making the inspections required under this

title may submit, through its official mine inspection or safety agency, a State plan for carrying out the purposes of this subsection. Such State plan shall—

"(A) designate such State mine inspection or safety agency as the sole agency responsible for administering the plan throughout the State and contain satisfactory evidence that such agency will have the authority to carry out the plan,

"(B) give assurances that such agency has or will employ an adequate and competent staff of inspectors qualified under the laws of such State to make mine inspections within such State,

"(C) give assurances that upon request of the Director or upon request of an operator under section 203 (e) (1), the agency will assign inspectors employed by it to participate in inspections to be made in such State under this title, and

"(D) provide that the agency will make such reports to the Director, in such form and containing such information, as the Director may from time to time require.

"(3) The Director shall approve any State plan or any modification thereof which complies with the provisions of paragraph (2) of this subsection. He shall not finally disapprove any State plan or modification thereof without first affording the State agency reasonable notice and opportunity for hearing.

"(4) Whenever the Director, after reasonab'e notice and opportunity for hearing to the State agency, finds that in the administration of the State plan there is—

"(A) a failure to comply substantially with any provision of the State plan; or

"(B) a failure to afford reasonable cooperation in administering the provision of this title,

the Director shall notify such State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect.

"(5) No inspection of a mine shall be made by a representative of the Bureau under this title in any State in which a State plan is in effect unless a State inspector participates in such inspection in accordance with such plan, except where, in the Director's judgment, an inspection is urgently needed to determine whether a danger described in section 203 (a) exists in such mine, and participation by a State inspector would unreasonably delay such inspection.

"(c) The Director, any duly authorized representative of the Bureau, any State inspector assigned in accordance with a State plan, and any independent inspector appointed under section 203 (e) (3) shall be entitled to admission to any mine the products of which regularly enter commerce or the operations of which substantially affect commerce, for the purpose of making any inspection authorized under this title.

"FINDINGS AND ORDERS

"SEC. 203. (a) (1) If a duly authorized representative of the Bureau, upon making an inspection of a mine as authorized in section 202, finds danger that a mine explosion, mine fire, mine inundation, or mantrip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall also find the extent of the area of such mine throughout which such danger exists. Thereupon he shall immediately make an order requiring the operator of such mine to cause all persons, excepting persons referred to in paragraph (2) of this subsection, to be withdrawn from, and to be debarred from entering, such area. Such findings and order shall contain a detailed description of the conditions which such representative finds cause and constitute such danger, and a description of the area of such mine throughout which persons must be withdrawn and debarred.

"(2) No order issued under paragraph (1) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to eliminate the danger described in the order; (B) any public officials whose official duties require him to enter such area; or (C) any legal technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

"(b) If such representative of the Bureau finds that any provision of section 209 is being violated and that the conditions created by such violation do not cause danger that a mine explosion, mine fire, mine inundation, or man-trip or man-hoist accident will occur in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated. Such findings shall contain the provisions of section 209 which he finds are being violated and a detailed description of the conditions which cause and constitute such violation.

"(c) (1) The period of time so found by such representative to be a reasonable period of time may be extended by a duly authorized representative of the Bureau from time to time upon the making of a special inspection to ascertain whether or not such violation has been totally abated. The Director shall promptly cause a special inspection to be made: (A) Upon the expiration of such a period of time as originally fixed; (B) upon the expiration of such a period of time as extended; and (C) whenever an operator of a mine, prior to the expiration of any such period of time, requests him to cause such a special inspection to be made at such mine. Upon making such a special inspection, such representative of the Bureau shall find whether or not such violation has been totally abated. If he finds that such violation has not been totally abated, he shall find whether or not such period of time as originally fixed, or as so fixed and extended, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension would be. If he finds that such violation has not been totally abated, and if such period of time as originally fixed, or as so fixed and extended, has then expired, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area of such mine which is affected by such violation. Thereupon he shall promptly make an order requiring the operator of such mine to cause all persons in such area, excepting persons referred to in paragraph (2) of this subsection, to be withdrawn from, and to be debarred from entering, such area. Such finding and order shall contain the provisions of section 209 which are being violated and a detailed description of the conditions which such representative finds cause and constitute such violation, and a description of the area of such mine throughout which persons must be withdrawn and debarred.

"(2) No order issued under paragraph (1) of this subsection shall require any of the following persons to be withdrawn from, or to be debarred from entering, the area described in the order: (A) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order; (B) any public official whose official duties require him to enter such area; or (C) any legal or technical consultant or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

"(d) If a duly authorized representative of the Bureau, upon making an inspection of a mine, as authorized in section 202, finds that methane has been ignited in such mine or finds methane by use of a permissible flame safety lamp or by air analysis in an amount of 0.25 percent or more in any open workings of such mine when tested at a point not less than 12 inches from the roof, face, or rib, he shall make an order requiring the operator of such mine to comply with the provisions of section 209 of this title which pertain to gassy mines, in the operation of such mine.

"(e) (1) If an order is made pursuant to subsection (a) of this section with respect to a mine in a State in which a State plan approved under section 202 (b) is in effect, and a State inspector did not participate in the inspection on which such order is based, the operator of the mine may request the agency designated in the State plan to assign a State inspector to inspect the mine. The State inspector assigned in accordance with such request shall inspect such mine promptly after the request is made.

"(2) No order shall be made pursuant to subsection (c) of this section with respect to a mine in a State in which a State plan approved under section 202 (b) is in effect unless a State inspector participated in the inspection on which such order is based and concurs in such order, or an independent inspector appointed under paragraph (3) concurs in such order. If the State inspector does not concur in such order, the operator of the mine, the duly authorized representative of the Bureau who proposes to make such order, or the State inspector may apply, within 24 hours after the completion of the inspection involved, for the appointment of an independent inspector under paragraph (3). Within 5 days after the date of his appointment, the independent inspector shall inspect the mine. The representative of the Bureau and the State inspector shall be given the opportunity to accompany the independent inspector during such inspection. If, after such inspection is completed, either the independent inspector or the State inspector concurs in the order, it shall be issued.

"(3) Within 5 days after the date of receipt of an application under paragraph (2) of this subsection, the chief judge of the United States District Court for the district in which the mine involved is located (or in his absence, the clerk of such court) shall appoint a graduate engineer with experience in the coal-mining industry to serve as an independent inspector under this subsection. Each independent inspector so appointed shall be compensated at the rate of $50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding the Travel Expense Act of 1949, be fully reimbursed for traveling, subsistence, and related expenses.

"(4) An order made pursuant to subsection (a) or (c) of this section with respect to a mine in a State in which a State plan approved under section 202 (b) is in effect shall not be subject to review under section 206, but shall be subject to review under section 207.

"(f) Notice of each finding and order made under this section shall promptly be given to the operator of the mine to which it pertains, by the person making such finding or order.

"NOTICES

"SEC. 204. (a) All findings and orders made pursuant to section 203 or section 206, and all notices required to be given of the making of such findings and orders, shall be in writing. All such findings and orders shall be signed by the person making them, and all such notices shall be signed by the person charged with the duty of giving the notice. All such notices shall contain a copy of the findings and orders referred to therein.

"(b) Each operator of a mine shall maintain an office on or near the premises of such mine and shall maintain thereon a conspicuous sign designating it as the office of such mine. Each operator of a mine shall maintain a bulletin board at such office or at some conspicuous place near an entrance of such mine, in such manner that notices required by law to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. The operator shall maintain on such bulletin board a conspicuous sign designating it as the bulletin board of such mine. Notice of any finding or order required by section 203 or section 206 to be given to an operator shall be given by causing such notice, addressed to the operator of the mine to which it pertains, to be delivered to the office of such mine provided for in the first sentence of this subsection, and by causing a copy of such notice to be posted on the bulletin board of such mine provided for in the second sentence of this subsection. The requirement of the preceding sentence that a notice shall be 'addressed to the operator of the mine to which it pertains', shall not require that the name of the operator for whom it is intended shall be specifically set out in such address. Addressing such notice to 'Operator of mine', specifying the mine sufficiently to identify it, shall satisfy such requirement.

"(c) The Director shall cause a copy of each such notice to be mailed immediately to a duly designated representative of the employees of the mine to which it pertains, and to the public official or agency of the State or Territory charged with administering State or Territorial laws, if any, relating to mine safety in such mine.

"CREATION OF REVIEW BOARD

"SEC. 205. (a) An agency is hereby created to be known as the Federal Coal Mine Safety Board of Review, which shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The terms of office of members of the Board shall be 3 years, except that the terms of office of the members first appointed shall commence on the effective date of this section and shall expire one at the end of 1 year, one at the end of 2 years, and one at the end of 3 years, as designated by the President at the time of appointment. A member appointed to fill a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed, shall be appointed only for the remainder of such unexpired term. The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(c) Each member of the Board shall be compensated at the rate of $50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding the Travel Expense Act of 1949 be fully reimbursed for traveling, subsistence, and other related expenses. The Board, at all times, shall consist of one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal-mine operators, one person who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal-mine workers, and one person, who shall be chairman of the Board, who shall be a graduate engineer with experience in the coal-mining industry or shall have had at least 5 years' experience as a practical mining engineer in the coal-mining industry, and who shall not, within 1 year of his appointment as a member of the Board, have had a pecuniary interest in, or have been regularly employed or engaged in, the mining of coal, or have regularly represented either coal-mine operators or coal-mine workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau.

"(d) The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board.

"(e) The Board shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Board and such legal counsel as it deems necessary. Subject to the civil-service laws, the Board shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Board shall be fixed in accordance with the Classification Act of 1949, as amended.

"(f) Two members of the Board shall constitute a quorum, and official actions of the Board can be taken only on the affirmative vote of at least two members; but any one member, or any two members, upon order of the Board, shall conduct any hearing provided for in section 207 and submit the transcript of such hearing to the entire Board for its action thereon. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public.

"(g) The Board shall hear and determine applications filed pursuant to section 207 for annulment or revision of orders made pursuant to section 203 or section 206. The Board shall not make or cause to be made any inspection of a mine for the purpose of determining any pending application.

"(h) The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall include requirements for adequate notice of hearings to all parties.

"(i) Any member of the Board may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(j) The Board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (i). Witnesses whose depositions are taken under this subsection, and the persons taking such depositions shall be entitled to the same fees as are paid for like services in the courts of the United States.

"(k) In case of contumacy by, or refusal to obey a subpena served upon, any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Board or to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"REVIEW BY DIRECTOR

"SEC. 206. (a) Except as provided in section 203 (e) (4), an operator notified of an order made pursuant to section 203 (a) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of making such special inspection. If he finds that such danger did not then exist throughout such area of such mine, he shall make an order, consistent with his findings, revising or annulling the order under review. If he finds that such danger did then exist throughout such area of such mine, he shall make an order denying such application.

"(b) Except as provided in section 203 (e) (4), an operator notified of an order made pursuant to section 203 (c) may apply to the Director for annulment or revision of such order. Upon receipt of such application the Director shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Bureau, other than the representative who made such order, to make such inspection of such mine and report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Director shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If he finds there was no such violation he shall make an order annulling the order under review. If he finds there was such a violation he shall also find whether or not such violation was totally abated at the time of the making of such special inspection. If he finds that such violation was totally abated at such time, he shall make an order annulling the order under review. If he finds that such violation was not totally abated at such time, he shall find whether or not the period of time within which such violation should be totally abated, fixed under section 203, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension of such period of time would be. Thereupon he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and then he shall make an order, consistent with his findings, revising the order under review. If he finds that such violation was not totally abated at the time of such special inspection, and that such period of time should not be extended, he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and he shall then make an order, consistent with his findings, affirming or revising the order under review.

"(c) An operator notified of an order made pursuant to section 203 (d) may apply,

not later than 20 days after the receipt of notice of such order, to the Director for annulment of such order. Upon receipt of such application the Director shall make or cause to be made such investigation as he deems necessary. Upon concluding his investigation or upon receiving the report of such investigation made at his direction, the Director shall find whether or not methane has been ignited in such mine, or whether or not methane was found in such mine in an amount of 0.25 percent or more in any open workings of such mine, when tested at a point not less than 12 inches from the roof, face, or rib, at the time of the making of such order. If he finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, he shall make an order annulling the order under review. If he finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, he shall make an order denying such application.

"(d) The Director shall cause notice of each finding and order made under this section to be given promptly to the operator of the mine to which it pertains.

"(e) Except as provided in section 202 (e) (4), at any time while an order made pursuant to section 203 or this section is in effect, or at any time during the pendency of a proceeding under section 207 or section 208 seeking annulment or revision of such order, the operator of the mine affected by such order may apply to the Director for annulment or revision of such order. The Director shall thereupon proceed to act upon such application in the manner provided in subsection (a), (b), or (c) of this section.

"(f) In view of the urgent need for prompt decision of matters submitted to the Director under this section, all actions which the Director or his representatives are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

"REVIEW BY BOARD

"SEC. 207. (a) An operator notified of an order made pursuant to subsection (a), (c), or (d) of section 203 may apply to the Federal Coal Mine Safety Board of Review for annulment or revision of such order without seeking its annulment or revision under section 206. An operator notified of an order made pursuant to section 206 may apply to the Board for annulment or revision of such order: *Provided, however,* That an operator applying to the Board for annulment of an order made pursuant to subsection (d) of section 203 or pursuant to subsection (c) of section 206 shall file such application with the Board not later than 20 days after the receipt of notice of such order.

"(b) The operator shall be designated as the applicant in such proceeding and the application filed by him shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. He may allege in such application: That danger as set out in such order does not exist at the time of the filing of such application; that violation of section 209, as set out in such order, has not occurred; that such violation has been totally or partially abated; that the period of time within which such violation should be totally abated, as fixed in the findings upon which such order was based, was not reasonable; that the area of the mine described in such order as the area affected by the violation referred to in such order is not so affected at the time of the filing of such application; or that the mine described in such order is not a gassy mine. The Director shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail to the Director at Washington, D. C.

"(c) Immediately upon the filing of such an application the Board shall fix the time for a prompt hearing thereof.

"(d) Pending such hearing the applicant may file with the Board a written request that the Board grant such temporary relief from such order as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the applicant and the respondent were afforded an opportunity to be heard, and only if respondent was given ample notice of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

"(e) The Board shall not be bound by any previous findings of fact by the respondent or by any other representative of the Bureau. Evidence relating to the making of the order complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that danger or a violation of section 209, as set out in such order, existed at the time of the filing of the application, or that methane has been ignited or found in such mine as set out in the order under review, the burden of proving the then existence of such danger or violation, or that methane has been ignited or found in such mine as set out in the order under review, shall be upon the respondent, and the respondent shall present his evidence first to prove the then existence of such danger or violation. Following presentation of respondent's evidence the applicant may present his evidence, and thereupon respondent may present evidence to rebut the applicant's evidence.

"(f) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203 (a), the Board, upon conclusion of the hearing shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of the filing of the operator's application. If the Board finds that such danger did not then exist throughout such area of such mine, the Board shall make an order consistent with its findings, revising or annulling the order under review. If the Board finds that such danger did then exist throughout such area of such mine, the Board shall make an order denying such application.

"(g) If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 203 (c), the Board, upon conclusion of the hearing, shall find whether or not there was a violation of section 209 as described in such order, at the time of the making of such order. If the Board finds there was no such violation, the Board shall make an order annulling the order under review. If the Board finds there was such a violation, the Board shall also find whether or not such violation was totally abated at the time of the filing of the operator's application. If the Board finds that such violation was totally abated at such time, the Board shall make an order annulling the order under review. If the Board finds that such violation was not totally abated at such time, the Board shall find whether or not the period of time within which such violation should be totally abated, fixed under section 203 or 206, should be extended. If the Board finds that such period of time should be extended, the Board shall also find what a reasonable extension of such period of time would be, and shall immediately also find the extent of the area of such mine which was affected by such violation at the time of the filing of such application and the Board shall then make an order, consistent with its findings, revising the order under review. If the Board finds that such violation was not totally abated at the time of the filing of the operator's application, and that such period of time should not be extended, the Board shall find the extent of the area of such mine which was affected by such violation at such time, and shall make an order, consistent with its findings, affirming or revising the order under review.

"(h) If the proceeding is one in which an operator seeks annulment of an order made pursuant to section 203 (d) or 206 (c), the Board, upon conclusion of the hearing, shall find whether or not methane has been ignited in such mine or was found in such mine in an amount of 0.25 percent or more in any open workings of such mine when tested at a point not less than 12 inches from the roof, face, or rib, as set out in such order. If the Board finds that methane has not been ignited in such mine and was not found in such mine as set out in such order, the Board shall make an order annulling the order under review. If the Board finds that methane has been ignited in such mine or was found in such mine as set out in the order under review, the Board shall make an order denying such application.

"(i) Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail to all parties or their attorneys of record. The Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any member in support of, or dissenting from, any such finding or order.

"(j) In view of the urgent need for prompt decision of matters submitted to the Board under this section, all actions which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

"JUDICIAL REVIEW

"SEC. 208. (a) Any final order issued by the Board under section 207 shall be subject to judicial review by the United States court of appeals for the circuit in which the mine affected is located, upon the filing in such court of a notice of appeal by the Director or the operator aggrieved by such final order within 30 days from the date of the making of such final order.

"(b) The party making such appeal shall forthwith send a copy of such notice of appeal, by registered mail, to the other party and to the Board. Upon receipt of such copy of a notice of appeal the Board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcript shall be paid by the party making the appeal.

"(c) The court shall hear such appeal on the record made before the Board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in addition to the pleadings before the Board, as it deems to be required or as provided for in the Rules of Civil Procedure governing appeals in such court.

"(d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, the United States court of appeals may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the Board or to grant such other relief as may be appropriate pending final determination of the appeal.

"(e) The United States court of appeals may affirm, annul, or revise the final order of the Board, or it may remand the proceeding to the Board for such further action as it directs. The findings of the Board as to facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(f) The decision of a United States court of appeals on an appeal from the Board shall be final, subject only to review by

the Supreme Court as provided in section 1254 of title 28 of the United States Code.

"MINE-SAFETY PROVISIONS

"SEC. 209. (a) Duty to comply: Every operator of a mine, and every person who is on the premises of a mine for any reason whatsoever, shall comply with the provisions of this section, except those provisions which impose no duty, obligation, or responsibility upon such operator or such person.

"(b) Every operator of a mine which, on or after the effective date of this title, is, or which, immediately prior to the effective date of this title, was, defined, classed, classified as, or determined, deemed, judged, held, or found to be, a gassy or gaseous mine pursuant to and in accordance with the laws of the State in which it is located, and every operator of a mine which, immediately prior to the effective date of this title, was operated as a gassy mine, shall comply with the provisions of this section which pertain to gassy mines.

"(c) Roof support: The roof and ribs of all active underground roadways and tavelways in a mine shall be adequately supported to protect persons from falls of roof or ribs.

"(d) Ventilation: (1) All active underground working places in a mine shall be ventilated by a current of air containing not less than 19.5 percent of oxygen, not more than 0.5 percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases. The volume and velocity of the current of air shall be sufficient to dilute so as to render harmless, and to carry away, flammable or harmful gases. In bituminous-coal and lignite mines the quantity of air reaching the last open crosscut in any pair or set of entries shall not be less than 6,000 cubic feet a minute, except that the quantity of air reaching the last open crosscut in any pair or set of entries in pillar sections may be less than 6,000 cubic feet a minute if not less than 6,000 cubic feet of air a minute is being delivered to the intake end of the pillar line. In anthracite mines the quantity of air reaching the face of each working place shall be at least 200 cubic feet a minute for each man working in the place and as much more as may be required to dilute, render harmless, and sweep away noxious or dangerous gases, smoke, and fumes. In robbing areas where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

"(2) If the air at an underground working face in a mine, when tested at a point not less than 12 inches from the roof, face, or rib, contains more than 1.0 percent of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall not contain more than 1.0 percent of methane.

"(3) If a split of air returning from active underground working places in a mine contains more than 1.0 percent of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, changes or adjustments shall be made at once in the ventilation in such mine so that such returning air shall not contain more than 1.0 percent of methane.

"(4) If a split of air returning from active underground working places in a mine contains 1.5 percent of methane, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas, the employees shall be withdrawn from the portion of the mine endangered thereby, and all power shall be cut off from such portion of the mine, until the quantity of methane in such split shall be less than 1.5 percent. However, in virgin territory in mines ventilated by exhaust fans, where methane is liberated in large amounts, if the quantity of air in a split ventilating the workings in such territory equals or exceeds twice the minimum volume of air prescribed in paragraph (1) of this subsection and if only permissible electric equipment is used in such workings and the air in the split returning from such workings does not pass over trolley or other bare power wires, and if a certified person designated by the mine operator is continually testing the gas content of the air in such split during mining operations in such workings, it shall be necessary to withdraw the employees and cut off all power from the portion of the mine endangered by such methane only when the quantity thereof in the air returning from such workings exceeds 2 percent, as determined by a permissible methane detector, a permissible flame safety lamp, air analysis, or other recognized means of accurately detecting such gas.

"(5) In a gassy mine, air which has passed by an opening of any unsealed, abandoned area shall not be used to ventilate any active face area in such mine if such air contains 0.25 percent or more of methane; but if this sentence cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In no event shall such air be used to ventilate any area in such mine in which men work or travel if such air contains more than 1 percent of methane. For the purposes of this paragraph, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

"(6) In a gassy mine, air that has passed through an abandoned panel which is inaccessible for inspection, or air that has passed through a similar abandoned area which is inaccessible for inspection, or air which has been used to ventilate a pillar line, or air which has been used to ventilate an area from which the pillars have been removed, shall not be used to ventilate any active face area in such mine; but if this sentence cannot be complied with in such mine on the effective date of this section, such mine may continue to be operated after such date as it was operated immediately prior to such date, for a reasonable time until future mine development and ventilation of such mine can be changed to comply with this sentence. In any event shall such air be used to ventilate no area in such mine in which men work or travel if such air contains more than 1 percent of methane.

"(7) In a gassy mine, within 4 hours immediately preceding the beginning of a coal-producing shift, and before any workmen in such shift other than those who may be designated to make the examinations prescribed in this paragraph enter the underground areas of such mine, certified persons designated by the operator of such mine to do so shall make an examination, as prescribed in this paragraph, of such areas. Each person designated to act as such a mine examiner shall be directed to examine a definite underground area of such mine, and, in making his examination, such examiner shall inspect every active working place in such area and make tests therein with a permissible flame safety lamp for accumulations of methane and oxygen deficiency in the air therein; examine seals and doors to determine whether they are functioning properly; inspect and test the roof, face, and rib conditions in the working places and on active roadways and travel ways; inspect active roadways, travel ways, approaches to abandoned workings and accessible falls in active sections for explosive gas and other hazards; and inspect to determine whether the air in each split is traveling in its proper course and in normal volume. Such mine examiner shall place his initials and the date at or near the face of each place he examines. If such mine examiner, in making his examination, finds a condition which he considers to be dangerous to persons who may enter or be in such area, he shall indicate such dangerous place by posting a danger sign conspicuously at a point which persons entering such dangerous place would be required to pass. No person, other than Federal or State mine inspectors or persons authorized by the mine operator to enter such place for the purpose of eliminating the dangerous condition therein, shall enter such place while such sign is so posted. Upon completing his examination such mine examiner shall report the result of his examination to a person designated by the mine operator to receive such reports, at a designated station on the surface of the premises of the mine or underground, before other persons enter the underground areas of such mine to work in such coal-producing shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book kept for such purpose at a place on the surface of the mine designated by the mine operator. No person (other than a certified person designated under this paragraph) shall enter any underground area in a gassy mine, except during a coal-producing shift, unless an examination of such area as prescribed in this paragraph has been made within 12 hours immediately preceding his entrance into such area.

"(8) In nongassy mines, an examination as prescribed in paragraph (7) shall be made at least once in each calendar day during which coal is produced. Such examination shall be made within 4 hours immediately preceding the beginning of the first coal-producing shift on such day.

"(9) The underground working places in all mines shall be examined for hazards by certified persons designated by the mine operator to do so, at least once during each coal-producing shift, or oftener if necessary for safety. In a gassy mine, such examinations shall include tests with a permissible flame safety lamp for methane, and oxygen deficiency. In all underground face workings in a gassy mine where electrically driven equipment is operated, examinations for methane shall be made with a permissible flame safety lamp by a person trained in the use of such lamp before such equipment is taken into or operated in face regions, and frequent examinations for methane shall be made during such operations.

"(10) In a gassy mine, immediately before a roof fall is made in pillar workings, such workings shall be examined to ascertain whether methane is present. If in such examination methane is found in amounts that can be detected with a permissible flame safety lamp, a roof fall shall not be made until such gas is removed.

"(11) In a gassy mine, all workings which are abandoned after the effective date of this section or the date such mine became a gassy mine, whichever is later, shall be sealed or ventilated. If such workings are sealed, the sealing shall be done in a substantial manner with incombustible material. One or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and the measuring of hydrostatic pressure behind such seals. For the purposes of this paragraph, workings within a panel shall not be deemed to be abandoned until such panel is abandoned.

"(e) Coal dust and rock dust: (1) Coal dust, loose coal, and other combustile materials shall not be permitted to accumulate in dangerous quantities in active underground workings of a mine.

"(2) Where underground mining operations raise an excessive amount of dust into the air, water, or water with a wetting agent added to it, or other effective method shall be used to allay such dust at its source.

"(3) All underground mines, except those mines or areas of mines in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock-dusted to within 40 feet of all faces, and, if open crosscuts near such faces are less than 40 feet therefrom, such crosscuts shall be rock-dusted.

"(4) In mines partially rock-dusted or in mines that are required to start rock-dusting, haulageways and parallel entries connected thereto by open crosscuts shall be rock-dusted. Back entries shall be rock-dusted for at least 1,000 feet outby the junction with the first active entry. Inby this junction, the rooms, entries, and crosscuts shall be rock-dusted.

"(5) Where rock dust is applied, it shall be distributed upon the top, floor, and sides of all open places and maintained in such quantity that the incombustible content of the combined coal dust, rock dust and other dust will not be less than 65 percent. Where methane is present in any ventilating current, the 65 percent of incombustible content of such combined dust shall be increased 1 percent for each 0.1 percent of methane.

"(6) Paragraphs (2), (3), (4), and (5) of this subsection shall not apply to anthracite mines.

"(f) Electrical equipment: (1) All electric face equipment used in a gassy mine shall be permissible, except that electric face equipment may be used in a gassy mine even though such equipment is not permissible if, before the effective date of this section or the date such mine became a gassy mine, whichever is later, the operator of such mine owned such equipment, or owned the right to use such equipment, or had ordered such equipment. Permissible electric face equipment in use in a gassy mine shall not be replaced by electric face equipment which is not permissible except that (A) permissible and nonpermissible electric face equipment in use in a mine may be interchanged within such mine, and (B) explosion-tested cable-reel locomotives and shuttle cars purchased before permissible cable-reel locomotives and shuttle cars became available, may be used to replace permissible cable-reel locomotives and shuttle cars.

"(2) In a gassy mine, permissible junction or distribution boxes shall be used for making multiple-power connections in working places or other places where dangerous quantities of methane may be present or may enter the air current, except that where nonpermissible junction or distribution boxes are in use, or on order, on the effective date of this section or the date such mine became a gassy mine, whichever is later, their use may be continued until such time as replacements are made.

"(3) In a gassy mine, explosion-tested cable-reel locomotives shall be equipped with two-conductor trailing cables.

"(4) In a gassy mine, trolley and feeder wires shall not extend beyond the last open crosscut and shall be kept at least 150 feet from pillar workings.

"(g) Fire protection: (1) Each mine shall be provided with suitable fire-fighting equipment, adequate for the size of the mine.

"(2) After every blasting operation performed on shift, an examination shall be made to determine whether fires have been started.

"(3) Underground storage places for lubricating oil and grease in excess of 2 days' supply shall be of fireproof construction.

"(4) Lubricating oil and grease kept in face regions or other underground working places in a mine shall be in portable, closed, metal containers.

"(5) Underground structures (transformer stations, battery-charging stations, substations, permanent pump rooms, etc.) installed in a mine after the effective date of this section shall be of fireproof construction.

"(6) Welding, cutting, or soldering with arc or flame in underground face regions in other than a fireproof enclosure shall be done under the direct supervision of a certified person who shall test for methane before and during such operations in gassy mines and shall make a diligent search for fire after such operations in all mines. Rock dust or suitable fire extinguishers shall be immediately available during such welding, cutting, or soldering.

"(h) Miscellaneous: (1) The drilling and sealing of oil and gas wells penetrating coal beds or underground workings of mines shall be done in compliance with State statutes.

"(2) Whenever any working place in an underground mine approaches within 50 feet of abandoned workings in such mine as shown by surveys made and certified by a competent engineer or surveyor, or within 200 feet of any other abandoned workings of such mine, which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least 20 feet in advance of the face of such working place. Such boreholes shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into such workings. Boreholes shall also be drilled not more than 8 feet apart in the rib of such working place to a distance of at least 20 feet and at an angle of 45 degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of persons working in such place.

"(3) In a gassy mine, smoking shall not be permitted underground, nor shall any person be permitted to carry smoking materials, matches, or lighters underground.

"(4) In a gassy mine, persons underground shall use only permissible electric lamps for portable illumination.

"(5) Black blasting powder shall not be stored, handled, or used underground in a mine; but for a period of 6 months after the effective date of this section, this paragraph shall not apply to any mine in which the storage, handling, or use of such powder is expressly permitted by a statute of the State in which such mine is located.

"(6) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine. However, in anthracite mines mudcaps or other open, unconfined shots may be fired, if restricted to battery starting when no gas or fire hazard is present, and if it is otherwise impracticable to start the battery; likewise, in anthracite mines open, unconfined 'shake' shots in working places and other places in pitching veins may be fired, when no gas or fire hazard is present, if the taking down of loose, hanging coal by other means is too hazardous for men working in such places. Only permissible explosives shall be used for such open, unconfined shots in anthracite mines.

"(7) Every hoist used to transport persons at a mine, other than hoists used in excavating shafts or slopes, shall be equipped with overspeed, overwind, and automatic stop controls unless a second engineer is on duty. Every hoist used to transport such persons shall be equipped with brakes capable of stopping the platform, cage, or other device for transporting persons when fully loaded; and with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device for transporting persons, and have a proper margin of safety. Cages or platforms which are used to transport persons in vertical shafts, except cages or platforms which are also used to transport coal, shall be equipped with safety catches that act quickly and effectively in an emergency, and the safety catches shall be tested at least once every 2 months. Every hoist that is used to transport persons at a mine shall be inspected daily. No engineer shall be required for automatically operated cages or platforms.

"PENALTIES

"SEC. 210. (a) Any operator of a mine notified of an order made pursuant to section 203 or section 206, requiring him to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who willfully fails to comply with such order shall be fined not more than $2,000.

"(b) Any agent of an operator of a mine, knowing of the making of an order requiring such operator to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who willfully directs, authorizes or causes any person, other than one who is lawfully authorized to enter or be in such area, to enter or be in such area while such order is in effect, shall be fined not more than $2,000.

"(c) Any person, knowing of the making of an order requiring an operator of a mine to cause persons to be withdrawn from, and to be debarred from entering, any area of such mine, who enters such area or remains therein while such order is in effect, shall, unless he is a person who is lawfully authorized to enter or be in such area, be fined not more than $2,000.

"(d) Any owner, lessee, agent, manager, superintendent, or other person having control or supervision of any coal mine subject to section 202 who refuses to admit the Director, any duly authorized representative of the Bureau, any State inspector assigned in accordance with a State plan, or any independent inspector appointed under section 203 (e) (3) to such mine, pursuant to section 202 (c), shall be fined not more than $500.

"EFFECT ON STATE LAWS

"SEC. 211. (a) No State or Territorial law in effect upon the effective date of this title or which may become effective thereafter, shall be superseded by any provision of this title, except insofar as such State or Territorial law is in conflict with this title, or with orders issued pursuant to this title.

"(b) Provisions in any State or Territorial law in effect upon the effective date of this title, or which may become effective thereafter, which provide for greater safety of persons on coal-mine premises, in connection with a particular phase of coal-mining operations, than do provisions of this title, which relate to the same phase of such operations, shall not be construed or held to be in conflict with this title. Provisions in any State or Territorial law in effect upon the effective date of this title, or which may become effective thereafter, which provide for the safety of persons on coal-mine premises in connection with phases of coal-mining operations concerning which no provision is contained in this title, shall not be construed or held to be superseded by this title.

"(c) Nothing in this title shall be construed or held to supersede or in any manner affect the workmen's compensation laws of any State or Territory, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties or liabilities of employers and employees under State or Territorial laws in respect of injuries, occupational or other diseases or death of employees arising out of or in the course of employment.

"ADMINISTRATIVE PROVISIONS

"SEC. 212. (a) Whenever the Director determines that the construction of any equipment conforms to specifications prescribed by the Director which are designed to assure that such equipment will not cause a mine

explosion or mine fire, he shall issue a certificate to the manufacturer of such equipment (1) stating that such equipment has met such specifications, (2) authorizing such manufacturer to attach an approval plate, label, or other device approved by the Director which indicates that such equipment conforms to such specifications, and (3) authorizing such manufacturer to attach an identical approval plate, label, or other device to all identical equipment.

"(b) The Secretary of the Interior shall have authority to appoint, subject to the civil-service laws, such officers and employees as he may deem requisite for the administration of this title; and to fix, subject to the Classification Act of 1949, as amended, the compensation of officers and employees so appointed. No person shall be assigned or appointed to perform the duties of a duly authorized representative of the Bureau unless he has the basic qualifications of at least 5 years' practical experience in the mining of coal and is recognized by the Bureau as having the training or experience of a practical mining engineer in those essentials necessary for competent coal mine inspection.

"(c) The Director shall submit annually to the Congress, as soon as practicable after the beginning of each regular session, a full report of the administration of his functions under this title during the preceding calendar year. Such report shall include, either in summary or detailed form, the information obtained by him under this title, together with such findings and comments thereon and such recommendations for legislative action as he may deem proper.

"EXCLUSION FROM ADMINISTRATIVE PROCEDURE ACT

"SEC. 213. The Administrative Procedure Act shall not apply to the making of any order pursuant to this title, or to any proceeding for the annulment or revision of any such order.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 214. There are hereby authorized to be appropriated such sums, not exceeding $3,000,000 in any fiscal year, as may be necessary for the due execution of this title.

"SEVERABILITY

"SEC. 215. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this title, and the application of such provision to other persons or circumstances, shall not be affected thereby."

SEC. 2. Section 4 of the act entitled "An act relating to certain inspections and investigations in coal mines for the purpose of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes", approved May 7, 1941, is amended by striking out "or by imprisonment not exceeding 60 days, or by both".

SEC. 3. Section 5 of the act entitled "An act relating to certain inspections and investigations in coal mines for the purpose of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes", approved May 7, 1941, is amended—

(1) By striking out "during the calendar year in which the request is made or during the preceding calendar year" and inserting in lieu thereof "during the 6-month period immediately preceding the date on which the request is made".

(2) By adding at the end of such section the following new sentence: "Whoever willfully violates this section shall be fined not more than $500."

SEC. 4. The act entitled "An act relating to certain inspections and investigations in coal mines for the purpose of obtaining information relating to health and safety conditions, accidents, and occupational diseases therein, and for other purposes", approved May 7, 1941, is amended—

(1) By inserting immediately after the comma at the end of the enacting clause the following: "That this act may be cited as the 'Federal Coal Mine Safety Act'."

(2) By inserting immediately below the matter inserted by paragraph (1) the following:

"TITLE I—ADVISORY POWERS RELATING TO HEALTH AND SAFETY CONDITIONS IN MINES"

(3) By striking out "this act", wherever appearing therein, and inserting in lieu thereof "this title."

(4) By striking out "That the" at the beginning of the present first section and inserting in lieu thereof "SEC. 101. The."

(5) By redesignating the presently designated sections 2 to 12, inclusive, as sections 102 to 112, respectively.

(6) By striking out "section 1" in the presently designated section 2 and inserting in lieu thereof "section 101."

(7) By striking out "section 1 or section 2" in the presently designated sections 3 and 4, and inserting in lieu thereof "section 101 or section 102."

(8) By striking out "section 3" in the presently designated section 4 and inserting in lieu thereof "section 103."

(9) By striking out "section 6" in the presently designated section 7 and inserting in lieu thereof "section 106."

Amend the title so as to read: "An act to amend Public Law 49, Seventy-seventh Congress, so as to provide for the prevention of major disasters in coal mines."

Mr. NEELY. I move that the Senate agree to the House amendment.

Mr. CASE. Mr. President, reserving the right to object, would the Senator state what the House amendment does to the Senate bill?

Mr. NEELY. Mr. President, to my sincere regret, it substantially impairs certain safety provisions and diminishes the general efficacy of the Senate bill. The measure, as amended, provides much less than the miners deserve and much less than the author of the Senate bill desires. But we are unfortunately confronted with the necessity of accepting the House amendment as a condition precedent to the enactment of any remedial mining legislation by the present Congress.

Mr. CASE. Would the Senator state whether this is the so-called McConnell bill?

Mr. NEELY. The amendment embraces the McConnell bill.

Mr. CASE. And it was passed by the House today, as I understand, by a two-thirds vote.

Mr. NEELY. That is correct.

Mr. CASE. I have no objection.

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia that the Senate concur in the House amendment.

The motion was agreed to.

FAIR-TRADE PRACTICES

The Senate resumed the consideration of the bill (H. R. 5767) 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.

NEED IS TO STOP LOSS LEADERS; NOT TO PERMIT PRICE FIXING

Mr. DOUGLAS. Mr. President, my amendment is on the desks of the Members of this body, and I ask the Members in the Chamber to read it. It would meet the assigned reason which is advanced in support of the private price-fixing bill, which is now the unfinished business before this body. The one argument which the advocates of the resale-price-maintenance or private price-fixing bill have made is the need for stopping the so-called loss leaders; namely, that unless action is taken, it is possible for large druggists and chain stores to sell nationally advertised branded goods for less than wholesale prices. Loss leaders draw into the large chain stores customers who seek a bargain, and who, when they are in the store, are then charged higher prices for other goods.

In other words, the argument is made that the loss leader is used as a "come on" to draw in the sucker. It is said that it is necessary to have private price-fixing on goods, or resale-price maintenance, in order to check these loss leaders.

That is the one argument which is advanced in support of this extraordinary bill, whose Senate paternity is unknown, whose record is obscure, and which comes to us with doubtful credentials.

AMENDMENT AFFECTS SAME PRODUCTS AS M'GUIRE BILL

Mr. President, if that is the real reason, my amendment meets the situation, because it outlaws the loss leader. It says that it is illegal—and I call this point to the attention of the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Connecticut [Mr. BENTON]—for branded goods or articles to be sold for less than the wholesale price plus 6 percent.

I invite the attention of the sponsors of the pending bill to the fact that the amendment would really prohibit loss leaders.

The amendment applies to the identical groups of goods which the private price fixers would put into effect for their commodities as well. The amendment is confined to trade-marked and branded goods. I ask my good friends in the Senate to look at page 2, lines 7 to 10 of my amendment, where the term "loss leader" is defined as being a commodity "which bears, or the label or container of which bears, the trademark, 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."

Mr. CASE. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I should like to finish this portion of my statement.

In other words, the precise commodities covered by the pending bill of unknown Senate paternity before us are those covered by my amendment.

Now I yield for a question.

Mr. CASE. Would the Senator also ask the Senators to read the exceptions created, particularly E, F, and G on page 3?

After reading those exceptions, the value of the amendment offered by the Senator from Illinois would seem to be wholly nebulous.

Mr. DOUGLAS. The amendment exempts perishable commodities if further retention would cause loss to the seller. This is reasonable.

On this floor we recently exempted perishables from OPS regulation. I believe my good friend from South Dakota voted for the exemption on fresh fruits and vegetables. Is the Senator from South Dakota saying that his vote was wrong?

Mr. CASE. I believe the Senator provides so many loopholes in the exceptions that no effective remedy would be provided.

Mr. DOUGLAS. The amendment contains a workable definition which exempts perishables if holding them would cause a loss. It also exempts sales where inventories are liquidated to avoid insolvency or bankruptcy. In such cases, selling below cost is justifiable and not really a loss leader. It also exempts seasonal sales and clearance sales which are in accordance with normal business practices, such as selling winter clothing in the summer. In all other transactions sales may not be made for less than the wholesale price, plus 6 percent.

Mr. President, this amendment will furnish the acid test as to whether the assigned reasons behind the bill are in fact the real reasons. If the assigned reasons are the real reasons, then I hope the sponsors of the bill will vote for my amendment, because it will give them protection.

A SENATOR. Vote!

Mr. DOUGLAS. It does not provide for private price fixing. Mr. President, did I hear "vote" from the other side of the aisle? I hope we will not debate under the shadow of the guillotine.

M'GUIRE BILL AFFECTS NONSIGNERS AS WELL AS SIGNERS

My amendment does not provide for private price fixing. That is the real purpose of the bill before us. The real purpose of the bill, which nearly passed last night, is to give to manufacturers of trade-marked and branded commodities the power to fix the prices of all goods which they sell. Those manufacturers control those prices, not merely for those who sign contracts with them but for all those who do not sign the contracts as well.

In other words if in one of the 45 resale-price-maintenance States one retail dealer of a given branded line signs a contract with a manufacturer to charge a minimum price or a stipulated price, then all the retail outlets in that State must charge that minimum or stipulated price, which may be either a floor price or a dictated price. The Senator from Oregon [Mr. MORSE] earlier today hinted at what might be meant by the term "stipulated price." All that is necessary is to get the consent of 45 retailers, 45 men handling commodities, scattered in as many States. Then the power to fix the final price of the product is turned over to the private manufacturer. Mr. President, that is an extraordinary conferring of public power. In my judgment the bill is unconstitutional because it delegates legislative powers to private individuals. It turns over to private agencies the fixing of prices. This is contrary to the Supreme Court decision in the Schechter case.

It is also a direct repeal of the Sherman Antitrust Act and the Clayton Act. Therefore the bill is much more than a mere enabling act as has been asserted.

M'GUIRE BILL CAUSES CONSUMER TO PAY HIGHER PRICES

It, of course, results in higher prices to the consumers. I ask my colleagues to read the RECORD for yesterday and to go over the figures I then placed in the RECORD. This material will be found on page 8719 and subsequent pages. Those figures show that in the field of drugs, prices in the resale-price-maintenance States are from 15 to 20 percent higher than corresponding prices in the adjoining States which are not resale-maintenance States.

There are still four jurisdictions in this country, thank the Lord, which are not resale price maintenance States or jurisdictions. They are Vermont, Missouri, Texas, and the District of Columbia.

Here in the District of Columbia, drug prices are approximately 20 percent less, on the average, than drug prices in Virginia and in Maryland, which are resale price maintenance States.

In my own State of Illinois, drug prices are at least 12 percent higher in East St. Louis than they are in St. Louis, across the Mississippi River, in a nonresale price maintenance State.

In Oklahoma, a resale price maintenance State, prices are higher than prices in Texas, which is a nonresale price maintenance State. Everywhere in the drug business the comparisons are clear.

Although most of this discussion has been phrased in terms of the drug business, let me say that the drug industry is not the only one that is involved. The liquor industry is involved in this matter, because it wants high resale prices for its products. It knows that the demand for those products at any one time is relatively inelastic. The household appliance industry and the sporting goods industry and a whole series of other industries are involved in this matter.

Fortune magazine, which is a conservative magazine, has estimated that three-quarters of a billion dollars a year is at stake in connection with this proposed procedure.

THE STAKE OF THE MANUFACTURER IN STOPPING RETAIL COMPETITION

While the retail merchants have been doing most of the talking in support of the McGuire bill, the manufacturers of the trade-marked and branded products have been putting up the real money, why do they want this bill? They want to get a high manufacturers' price and then let the retail merchants in as junior partners. They are afraid that if we get competition in prices, that the reduction in retail prices to the consumer will force lower manufacturers' prices. They are, therefore, using the merchants as buffers to protect them from competition.

SCHWEGMANN CASE GAVE HOPE

Mr. President, last year the Supreme Court gave us some hope; it declared that although contracts between signers were still effective, and although a retail merchant who agreed, in a signed contract made with the manufacturer, not to sell a commodity for less than a given price, continued to be bound by that contract, such a contract did not bind the nonsigners. In the Schwegmann case the Supreme Court gave to the consumers an opportunity for the nonsigners to give lower prices to the consumers, and then allowed the manufacturers and the nonsigners to work out their own private arrangements, under the common law.

The pending bill would close that door of hope. The pending bill would reverse the decision of the Supreme Court. The pending bill would say that contracts are binding not only on signers, but also on nonsigners—a principle which seems to me to be thoroughly wrong.

The pending bill would result in a higher cost of living, not merely in the case of drugs, but in the case of all the other commodities I have mentioned.

M'GUIRE BILL A BLOW AT THE AMERICAN FAMILY

The pending bill is a blow at the American consumer and a blow at the American family.

Mr. President, I believe that all of us more or less realize that fact.

But who are the consumers? The consumers are the 155,000,000 American people, the 45,000,000 American families. Enactment of the bill would mean an additional annual cost of $5 a year for each person—or a total of $750,000,000 or $1,000,000,000. A man who loses $5 a year—or who loses 1½ cents a day—and a family that loses $20 a year, which is taken from it at the rate of 6 cents a day—do not know they are being hurt. They do not know that that money or their economic lifeblood is slowly being filched from them. But it is.

Enactment of the pending bill will mean that the consumers will have to pay higher prices for aspirin, for vitamins, and for the precious drugs which in some instances mean the difference between life or death, the difference between health or sickness. It will cause higher prices for liquor, for sporting goods, for certain types of advertised foods, for household appliances, and so on.

However, that money will be slowly taken away from the American people; and since it will be taken away in only small quantities from any one person, the consumer will not know about it, will not protest, will not be articulate, and will not be organized.

CONSUMER INTEREST UNORGANIZED; SPECIAL INTEREST IS STRONG

On the other hand. the groups who are going to make the $750,000,000 or $1,000,000,000 a year as a result of enactment of this bill are powerful and are

very well organized. The telegrams have been streaming into our offices and the lobbyists have been thronging the corridors.

I do not attack them for doing that, Mr. President. The United States Government maintains the right of petition for businessmen as well as for workers; for those who sell products, as well as for those who buy them. There is nothing wrong with what they are doing. But I ask my colleagues not to mistake the pressure of the lobbyists for the interests of the American people. I ask my colleagues to remember that over the United States the 45,000,000 families of Americans will lose by the enactment of this bill, even though a few thousand or possibly a few tens of thousands may gain by the bill. I ask my colleagues to remember the still, small voice of the American people.

Mr. President, without indulging in mock heroics, let me say that I know it is an extremely hazardous thing politically for one to take the floor of the Senate and oppose this bill. In a given State, only a few consumers will know the issues involved, or will particularly care. There are no votes and no political prestige in opposing the bill or in voting for my amendment. But the special interests supporting the bill will be deeply concerned and will resent our action. We can expect to lose ground by defending the interests of the consumers.

So here is a very classic case of a diffused general interest coming into conflict with a powerful and concentrated special interest. All of us are sufficiently experienced in politics to know what generally happens when that occurs.

But, Mr. President, this body also has a sense of stewardship. We are not only politicians; we have the welfare of our Nation at heart.

AMENDMENT IS FAIR

Mr. President, we have had a chance to think over this measure and to weigh the alternatives.

My amendment would meet the legitimate case of those who are sponsoring the pending bill. My amendment would protect them from loss-leaders, as I believe they should be protected. My amendment is liberal in its definition of a loss-leader.

When this amendment was proposed in the House of Representatives, it merely provided protection against sales below wholesale prices. The pending amendment, however, provides protection against sales which affect commerce which are below wholesale prices, plus 6 percent. In other words, my amendment would permit a 6-percent mark-up for distribution costs.

In the House the amendment covered all commodities. The pending amendment is confined to branded or trade-marked commodities, or the very same group that is covered in the pending bill, and these only if they affect commerce.

AMENDMENT WOULD NOT PERMIT PRICE FIXING

The pending amendment meets the legitimate complaints of the retail merchants, but it heads off private price-fixing.

So, Mr. President, we have the choice between whether we wish to have a competitive society or whether we wish to have a monopolistic and controlled society.

The competitive society about which we speak so frequently and so eloquently has in it elements of roughness. In a competitive society the inefficient are eliminated. The efficient survive, but the very process of competition makes people more efficient than they otherwise would be. The very fact that they have to meet competition stimulates people to an added effort, and is an inducement to added ability.

So, Mr. President, on the whole, a competitive society is one in which the whole level of production and of efficiency is higher than in a protected and monopolistic society. Such is the society in which we say we believe; but we tend to believe in it for the other fellow. Competition is good for the other fellow; but most people want for themselves protection, security, high prices, price rings and combinations, which we disguise under such terms as "fair trade." We do not really believe in competition, if we favor a bill like this. What is destroying free society, is in part, this tendency for each and every special group to want protection for itself—and to get it—because they are interested in that particular piece of legislation and are willing to sacrifice the general interests of the community as a whole.

So, Mr. President, I am going to close. I think, as a result of today's and yesterday's debate, the issues are now fairly well known. The measure was not rushed through as it seemed at one time it would be. We have had a chance to consider it.

I appeal to my colleagues to remember the silent citizens, the people who have not had the money to come to Washington, to stay at the elaborate hotels, to send telegrams, or to throng the galleries and lobbies—the people who have not had the money to organize, but who will pay the piper. I ask that we consider the silent American citizens, 45,000,000 families, who will pay the price.

PRICE FIXING DOES NOT HELP SMALL MERCHANTS

I would like to point out that in the States of Vermont, Missouri, and Texas, and in the District of Columbia, no more druggists have failed proportionately than in any other State, and that my amendment would give them still more protection.

As a matter of fact, so far as druggists are concerned, their share of the consumers' dollar has shrunk from 4 cents to 3 cents during the operation of the Miller-Tydings Act, when it was thought that nonsigners must comply with prices fixed by the manufacturers involved in this bill.

Why has the druggists' proportionate share of the market declined? One of the main reasons is that high mark-ups on price-fixed drugstore items encourage the grocery chains such as A. & P. and Safeway to carry these items. Ten years ago only 10 percent of the supermarkets carried these items. Now over 85 percent carry them. The grocery chains like this price fixing. But it doesn't help the druggists.

LET US HAVE FAITH IN FREE AND FAIR COMPETITION

I would prevent private price fixing. Let us have faith in competition. We can protect small business from arbitrary financial power, as has been done under the Robinson-Patman Act. The Senator from Louisiana and I sought on the floor of this body to preserve the Robinson-Patman Act. Let us not, however, permit private price fixing which hurts the consumer. We can stop the evil, namely, loss leaders which serve no valid competitive purpose; but it is not necessary to permit price fixing in order to do it. There is no reason why we should burn the barn in order to roast the pig. There is no reason why, in order to cure a minor ailment, we should swallow a major dose of poison.

I hope my amendment in the nature of a substitute will be adopted and the bill itself will be defeated.

Mr. LEHMAN. Mr. President I have spoken previously on this question, but I want to express myself again, although briefly, in the light of the very fine debate that has taken place.

We have heard within the past 24 hours as fine a discussion of the issues as I have heard on any question that has come before the Senate. There was a tendency at first to try to drive this bill through by main force. Fortunately, however, that effort was abandoned.

I would be the last to pretend that all the virtue is on one side of this argument. Indeed, as I told the Senate last night, I have never approached a question in which I was in greater doubt as to the correct course to be followed. In order to take the position which I have finally decided on, namely, to oppose the fair-trade bill, I have had to reverse an established position I took while Governor of New York when I signed into law one of the first fair-trade laws adopted by any State.

Mr. President, I see very clearly the virtues in the fair-trade law now pending before us, and I can well understand and appreciate the arguments of my friends and colleagues, the junior Senator from Minnesota, the distinguished junior Senator from Alabama, the junior Senator from Michigan, and others. They are moved by deep concern for the welfare of the small-business men of America, the druggists, the grocers, and others.

I share their concern. I, too, am moved by the plight of the small-business man. I know the difficulties he confronts in the face of ruthless competition from large chains and huge merchandising organizations. I want to do everything in my power to protect the interests of these small-business men and to defend them against unprincipled and destructive competition where such competition is palpably unfair and where it is designed to drive these small-business men to the wall and to eliminate them as a competitive factor. I can understand that ruthless price competition by large organizations with huge resources can, in the end, reduce, but not enhance, free competitive enterprise.

But, Mr. President, there are other ways of getting at the problem than by means of fair-trade legislation. Indeed, there are better ways, more effective ways. We can, for instance, give the protection of the law to small-business men against the unprincipled use of the "loss leader." We can prohibit more effectively than we already do discriminatory selling by the manufacturer to the retailer and thus assure that every retail seller gets the same article at the same cost.

O Mr. President, there are many ways whereby we can protect the small-business man. And we should pursue those ways. As the junior Senator from Minnesota has said, the protection of the small-business man is a social obligation. I want to do everything in my power toward that end.

But, Mr. President, the way of fair-trade legislation is not the right way.

The effect of this legislation is to give big manufacturers—the manufacturers of brand-name products—the unqualified power to fix prices and to set aside the economic laws of the competitive system. These big manufacturers get the chief benefit from the fair trade laws. They are given the authority to fix with finality the price which the consumer must pay. This is an authority which, if it is to be removed from the market place at all, should be reposed only in public hands, never in private hands.

It is a well recognized economic principle that price fixing is the ultimate evil in the throttling of competition. It is one of the worst manifestations of monopoly. Our whole body of antitrust legislation is aimed at price fixing.

The Government should get into the the price fixing field only with the greatest reluctance and only where it is absolutely necessary. But the Government must never give the protection of law to price fixing by private agreement, by the fiat of manufacturers and big business. When we do that, we are attaching, as the distinguished senior Senator from Illinois said the other day, the last chains to the body of competitive enterprise.

And, Mr. President, it is not correct to say that only big chains and big stores are interested in selling at lower prices. There are many small stores with small overheads which can and do attract customers by taking a small margin of profit. Fair-trade laws cripple these small businesses and handicap them in their efforts to survive and to grow.

I have heard fair-trade legislation compared to minimum wage legislation and to farm parity legislation. That comparison is a false one. The minimum wage law sets a floor under wages, and permits free collective bargaining, and individual bargaining above that floor.

But the fair-trade law permits a single manufacturer to sign a contract with a single dealer and thus to establish the minimum price for that article wherever it is sold in that State. The Government is not setting the minimum price. It is authorizing the manufacturer to set that price. No bargaining is involved. No public determination is involved.

The same is true, in even greater measure, in regard to parity prices for farm products.

A general law aimed at helping a particular class is always dangerous; its effects may and usually do far overlap the group at whom the law is aimed and creates effects which are by no means helpful or desirable. It is obvious that the fair-trade laws are very costly indeed to the people of the country.

When I signed the New York fair-trade law, we were trying to work our way out of the depression. Goods were plentiful and dollars were scarce. It was an emergency measure and I said at the time I signed it—and that was in 1935—that it was not a perfect bill and was very much subject to improvement. I am now convinced that other measures should be taken to protect the small-businessman and to promote his interest. Fair-trade legislation is wrong in principle and at this time will do more harm than it will do good.

I hope the Congress will think today of the interest of that forgotten man and that forgotten woman of America, the consumer. He and she are the victims of this legislation. I know that the consumers are not organized and there is no such thing as a consumer's vote. Yet we dare not forget them. There are 155 million of them in America and they, too, must have their defenders among us.

I hope the substitute offered by the Senator from Illinois [Mr. DOUGLAS] will be adopted and that the fair-trade bill, as it is now presented, may be defeated.

Mr. CASE. Mr. President, whatever its merits may be, or whatever may be said about the bill which is before the Senate, the amendment which has been offered by the Senator from Illinois as a substitute ought not to be adopted. I question very much whether Senators, if they knew all that is in the amendment, would vote for it. It is bottomed on making over-the-counter sales interstate commerce, and it contains this sentence:

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

In other words, it is bottomed on the premise that over-the-counter sales are interstate commerce.

Mr. DOUGLAS. Mr. President, will the Senator from South Dakota yield?

Mr. CASE. I should prefer to finish my statement.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. CASE. The substitute provides for triple damages and for obtaining injunctive relief either in a court of the United States or in a State court.

There are several exceptions, however, which persons sued or against whom an injunction might be sought could offer as a defense. There are exceptions listed from (A) to (G). I particularly invite attention to paragraph (E) which provides as follows:

> 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.

When I mentioned this awhile ago in the colloquy with the Senator from Illinois [Mr. DOUGLAS], he pointed out that he had made an exception of perishable products in the Controls Act. Of course, the Controls Act rests upon the interpretation of an emergency and the effect upon the national defense of the policy of control. Whatever may be the merits or demerits of it, at least it rests upon a national-defense provision, and not at all upon the premise that over-the-counter sales are interstate commerce. Courts have generally acted on the theory that over-the-counter sales are intrastate business. If they are to become interstate business, and the concern of the Federal courts, with the exceptions as here proposed, the amendment, if adopted, would bring about a regular lawyers' field day.

Another exception is as follows:

> 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.

Mr. President, the judgment of all the many retail dealers may vary as to what would be necessary as a reasonable business practice to liquidate an inventory. Certainly that would suggest to any person the possibility of extended if not endless litigation.

Another exception is as follows:

> Any seasonal clearance sale made in accordance with customary business practices in order to dispose of excess inventory.

Mr. President, are we going to ask the Federal courts of the country to determine as to all the retailers in the country when it is proper and in good faith to have a sale in order to dispose of an excess inventory? Are we going to make every little-business man subject to suits in Federal courts, either for triple damages or for injunctions, when he determines that he has an excess inventory and wants to have a sale, in order to determine whether he has a valid defense against the action proposed?

Mr. President, it seems to me these illustrations point out the extreme confusion that would result, the endless litigation and the endless harassment of small business throughout the country, and the overturning of all the precedents which have held that over-the-counter sales are intrastate business rather than interstate business.

Therefore, Mr. President, I hope, whatever Senators may think about the basic bill which is before the Senate, they will not accept this substitute.

Mr. HUMPHREY. Mr. President, I should like to yield to the Senator from Wyoming.

Mr. HUNT. Mr. President, the McGuire bill, H. R. 5767, seeks to do just one simple thing, namely, to restore in a Federal enabling statute the meaning which I believe Congress intended the Miller-Tydings Act to have when it passed that act in 1937. It is significant that prevailing interpretations and court decisions during a 13-year period following passage of the Miller-Tydings Act enabled the State fair-trade laws to be effective.

The McGuire bill establishes no Federal fair-trade policy. It adds nothing

whatsoever to the fair-trade acts of 45 States. It takes nothing away from any of these State acts. It overcomes two court decisions so that it may be a truly enabling Federal statute.

In 1951 the United States Supreme Court, in the Schwegmann decision, weakened the State fair-trade structure by holding that nonsigners, so-called, could not be bound by fair-trade contracts when interstate commerce was concerned because the Miller-Tydings Act did not contain a specific nonsigner clause. The McGuire bill does contain a specific nonsigner clause.

Late in 1950 the Third Circuit Court of Appeals, in the Wentling decision, weakened the State fair-trade structure by holding that enforcement of a State fair-trade act in any other State having a fair-trade law constituted an unlawful burden upon and interference with interstate commerce. Under that decision mail-order houses and other retailers who sell across State lines are permitted to disregard the fair-trade laws of every State but their own. The McGuire bill contains a specific provision, in paragraph (4), which clearly overcomes the Wentling decision.

Much conflicting testimony has been adduced as to the merit or lack of merit of fair trade. This testimony can properly be weighed by every State legislature. We are not called upon to weigh it here, because we are here dealing not with Federal fair-trade policy, but with an enabling act which recognizes the rights of the States to regulate their own internal affairs in an area in which they are competent to do so.

Mr. HUMPHREY. Mr. President, I rise to join issue with the Senator from Illinois on his amendment. I have listened to his eloquent and persuasive argument, but I must say his argument is filled more with words of eloquence than with persuasive words of fact. Let us clear up a few points—and I do so with the best of friendship and understanding.

The Senator from Illinois has insistently asked, What about the paternity of the bill? The paternity of the bill is in the tradition of a great American-Irish name, or Irish-American name—McGUIRE—Representative McGUIRE, of Connecticut. Let there be no doubt as to its legitimacy. It is an honorable name, and the proposal is an honorable one from an honorable man.

The bill passed the House of Representatives, and the amendment which the Senator from Illinois now offers was, in substantially the same form, overwhelmingly defeated in the House of Representatives. That is point number one.

Point No. 2. I may go farther back into the paternity of this measure. The measure had as its grandfathers the late Senator Robinson, of Arkansas, and a present Representative from Texas, the Honorable WRIGHT PATMAN. Mr. PATMAN, of Texas, is known as a friend of the consumer, and is one of the most able proponents of antimonopoly and antitrust legislation in Congress.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. HUMPHREY. I point out——

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

Mr. HUMPHREY. I should like to continue for a moment. Well, all right, I yield.

Mr. DOUGLAS. Mr. President, the Senator has identified the paternity of the bill in the House, but would he tell us who left it at the doorstep of the Senate?

Mr. HUMPHREY. I should be delighted to do so. I am sure the Senator from Illinois is familiar with the legislative processes. When a bill has passed the House, it comes to the Senate. It was laid before the Senate by the Vice President, who for a long time has fought for fair trade and whose first assignment as a Representative in Congress was as chairman of a subcommittee where he heard a man who then was a lawyer, but later was a great liberal Justice of the Supreme Court, Brandeis, who came to Washington and pleaded with Representative BARKLEY for fair trade legislation.

I put myself on the side of Brandeis, on the side of Oliver Wendell Holmes, on the side of WRIGHT PATMAN, on the side of the Miller-Tydings Act.

I shall document for the distinguished Senator from Illinois what this is about, because the Senator from Illinois has argued today, in this year of our Lord 1952, about a bill which has been on the statute books since 1937. From 1937 until 1951, when the Schwegmann case was decided, there was not a bit of doubt about what the Miller-Tydings Act covered.

Mr. DOUGLAS. Mr. President, will the Senator from Minnesota yield? I know he wants to be fair.

Mr. HUMPHREY. I do.

Mr. DOUGLAS. Did the Miller-Tydings Act have a single thing to say about nonsigners?

Mr. HUMPHREY. Indeed it did. I would review for the Senator the decision of the Supreme Court in the Schwegmann case.

In my review, I shall cite from the record of Justice Frankfurter, with the assent and concurrence of Justice —— and Justice Burton.

Mr. DOUGLAS. Is this the minority opinion?

Mr. HUMPHREY. It is.

Mr. DOUGLAS. In other words, the Senator accepts the minority opinion when it suits his purpose——

Mr. HUMPHREY. I accept the minority opinion only as to facts, I may say to the Senator.

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

Mr. HUMPHREY. No, not now.

In hearings before the Temporary National Economic Committee, Assistant Attorney General Thurman Arnold called for repeal of the Miller-Tydings Act because it made legal the nonsigner provisions of the State fair-trade laws.

I cite to the Senator from Illinois pages 18162–18165 of the Temporary National Economic Committee hearings.

Assistant Attorney General Thurman Arnold had no doubt at that time about the nonsigner clause of the Miller-Tydings Act.

The Federal Trade Commission in its report repeatedly said the nonsigner clause was in the Miller-Tydings Act. The Department of Justice repeatedly said the nonsigner clause was in the Miller-Tydings Act. All the court cases said so. Here is the documentation: *Calamia* v. *Goldsmith Bros., Inc.* (299 N. Y., 636, 775; 87 N. E. (2d) 50, 687); *Pepsodent Co.* v. *Krauss Co.* (56 F. Supp. 922).

There are two court cases, one Supreme Court case and one Federal district court case, which are clearly identified with the nonsigner clause in the Miller-Tydings Act.

Justice Frankfurter, with Justice Black and Justice Burton, concurring, had this to say——

Mr. DOUGLAS. Was that the majority opinion?

Mr. HUMPHREY. Yes; minority or majority.

Mr. DOUGLAS. But there are nine Justices on the Supreme Court. The Senator from Minnesota has identified only three. What did the other Justices say?

Mr. HUMPHREY. The other Justices said it did not. There is no doubt about that. I am simply saying that the legislative history of the Miller-Tydings Act clearly points out that it did. No one has quoted the minority on the courts any more than has my distinguished friend. He has been a great follower of Brandeis, Oliver Wendell Holmes, and minority after minority. Those are the men who have spoken up in behalf of fair trade.

Listen to Justice Frankfurter:

As demonstrated by experience in California, the State acts would have been futile without the nonsigner clause.

That was demonstrated in the year 1931, and the act was amended in the year 1933.

In 1936, the Supreme Court, by unanimous decision, upheld the constitutionality of the nonsigner clause in the State fair-trade laws.

Continuing with the minority opinion:

The Court now holds that the Miller-Tydings amendment does not cover these nonsigner provisions.

This is the minority, speaking of the majority of the Court.

Not only is the view of the Court contrary to the words of the statute and to the legislative history, it is also in conflict with the interpretation given the Miller-Tydings amendment by the Federal Trade Commission, by the Department of Justice, and by practically all persons adversely affected by the fair-trade laws.

The minority of the Court continues:

Where both the words of a statute and its legislative history clearly indicate the purpose of Congress, it should be respected. We should not substitute our own notion of what Congress should have done.

I submit that there is a considerable amount of logic in the argument of the Senator from Minnesota, supported by a considerable amount of fact. The very premise upon which the Senator from Illinois bases his case is one Supreme

Court decision, a 5-to-3 split decision, after what? After 14 years of successful application of the Miller-Tydings Act and the 45 State fair-trade laws. I will rest my case upon what I consider to be valuable experience that was not at any time criticized. I have yet to hear a speech on the floor of the Senate, in the 4 years I have been here, against fair trade. In 3 of those 4 years the same supposedly vicious law which was supposedly going to wreck the consumer was on the statute books. It did not wreck the consumer.

There are other people who are interested in the consumer. We are all interested in the consumer. I submit that there is no body of factual evidence to prove that the consumer has been injured by fair-trade laws. I say that the evidence of the Federal Trade Commission in this instance is not evidence that is based upon normal trade practices, normal buying habits, normal merchandising practices, or normal purchasing habits of consumers. Why do I say that? Because the Federal Trade Commission, in its sampling, took samples at a particular hour of the day, on a particular day of the week, and in a particular store.

Let me give some fair samples, and let us see whether or not fair trade has increased prices.

Starting back before fair trade, the University of Minnesota School of Business Administration made a survey. I think it would have as much objectivity in this matter as most people would—surely as much as the Federal Trade Commission, surely as much as any private entrepreneur group. The University of Minnesota School of Business Administration made a survey in the matter of fair-trade practices. Prof. H. J. Ostlund, one of the most eminent men in the field of business administration, compared the prices of 50 leading drug-store products before fair trade, that is, during depression years, with prices under fair trade, in 1939, after normal prices had gone up.

He took prices in the depression years, when prices were abnormally low, before fair trade, and compared them with prices in 1939, which was the best prewar year in terms of the price structure. He and his associates did a job State by State. They found that consumers paid 1 percent less, on the average, for those products under fair trade than they paid in the prefair trade, depression days. That takes us up to 1939.

Let us see what has happened since 1939. A survey was made by A. C. Neilsen & Co. A. C. Nielsen & Co. are employed by hundreds of merchandising firms throughout the United States, to obtain nothing but factual data. Such a survey provides a method by which to check commodity sales, to see what the relationship is between price and volume of sales, and so forth. A. C. Nielsen & Co. is a reputable concern. Never has its honor or integrity been contested.

Upon request they put their 1949 and 1951 price figures back in the IBM machines in order to ascertain what consumers in the 45 fair-trade States, taken as a whole, paid for a list of the best known national brand drug products, as compared with the prices paid by consumers in the non-fair-trade States for the same products.

Over-all, in 1949 the consumer in the fair-trade States paid one-tenth of a cent less, on an average, per product than did her non-fair-trade sister. In 1951, during a 6 months' period, the fair-trade State consumer paid 1.4 cents less per product, on the average, than the non-fair-trade consumer did.

Whose figures are we to take? The Federal Trade Commission has been opposed, since the begining of fair trade, to a fair-trade law. It was opposed when the law was enacted. It has been obtaining figures in an effort to prove that the law did not work. The Nielsen Research Agency is neither for nor against fair trade. It has a job to do, and its job is to present economic data to producers, to manufacturers, to processors, and to wholesalers, so that they can understand what is happening in the market place. This is an objective business. If the Nielsen firm should become prejudiced one way or another, it would lose its clients.

There is no basic evidence to show that the consumer would be damaged. Let me tell the Senate one thing which would damage the consumer. The consumer is damaged when hundreds of outlets for products are lost. Let me give a good example. One of the best examples is Ingersoll watches.

We used to be able to buy an Ingersoll watch for a dollar. Let no one tell me that the price went up because of inflation, because the Ingersoll Watch Co. went out of business long before that. Ingersoll watches were nationally advertised to sell for a dollar. Some of the predatory boys wanted to sell them for 57 cents, which was exactly 13 cents less than the cost; and they sold them.

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

Mr. HUMPHREY. I yield.

Mr. DOUGLAS. Does not the Senator realize that this loss leader would be outlawed by my amendment, which is the pending business?

Mr. HUMPHREY. I am coming to that.

Mr. DOUGLAS. The Senator should realize that, rather than riding off in all directions.

Mr. HUMPHREY. I will say to the Senator from Illinois that while he is a good economist, he is a poor businessman. No businessman in the world could live on 6 percent.

Mr. DOUGLAS. Does the Senator from Minnesota want to guarantee a profit?

Mr. HUMPHREY. No; the Senator from Minnesota does not want to guarantee a profit, but he would like to see the kind of economic system under which someone could possibly make a profit.

What happened to the Ingersoll watch? Let us see how good it was for the consumer. The Ingersoll Watch Co. products were taken up by people who used them for loss leaders. The Ingersoll Watch Co. lost every little outlet it had around the country, and pretty soon it had to lay off its employees. It could not pay its bonds. It could not take care of its overhead. It had to quit producing that item entirely.

During the price wars Macy's sent out their buyers to retail establishments and bought materials from retail establishments, brought them to Macy's, and practically gave them away, in a nonsensical, idiotic price war between Gimbel's and Macy's which threatened the lives of hundreds of outlets in New York. When did the price war stop? When Mr. McGUIRE introduced his bill. Knock this bill out, and see what will happen. Mr. McGUIRE introduced his bill in September last year. It was then that the price war stopped. Macy's and Gimbel's will start the price war again the minute this measure is defeated, if that should unfortunately happen.

Mr. President, the Senator from Illinois says that his amendment would take care of the brand names and outlaw loss leaders. I say to the Senator from Illinois that his amendment is mandatory. According to his amendment, he is going to see to it that on every item there is a profit of at least 6 percent.

Speaking of the consumers' interest, the fair-trade bill is voluntary. There is no compulsion.

Mr. DOUGLAS. There is a compulsion on the nonsigner.

Mr. HUMPHREY. Wait a minute. I will come to that. I merely say that when a manufacturer manufactures a product he has a right to place a minimum resale price on it. If someone is to sell that product, he must sell it for that minimum resale price. There is no compulsion upon the manufacturer to establish a minimum resale price. If he thinks he can obtain better volume, make more money, and get more customers with no fair-trade price, he does not have to establish it; but he establishes it because it is good for him; it is good for the outlet; and it is good for the consumer.

Let us come to the nonsigner clause. The same argument to which we have listened was made in 45 States. The situation which I have described has been true since 1933 in California. It was true in 42 States before the Miller-Tydings Act in '37, and it has been true every day of a year up until 1951. I may say again that the New York law contains one of the best nonsigner clauses in the United States. In other words, if a manufacturer signs with one outlet at a set price, the protective clauses in the law protect a retailer who has goods in his store before the agreement is signed. If he has such goods on his shelves, he is not held to the fair-trade price with respect to those goods.

In the second place, all sellers of fair-trade items must be notified when a contract is signed. The standard-trade practice is for a producer to send out contracts to every seller.

Thirdly, Mr. President, the trade journals publicize the fact of these contracts.

Mr. President, I would say that the most conclusive argument is the one which the Senator from Connecticut provided earlier today. What kind of United States do we want? What kind of country do we want? I go right back

to the 15 years of history which is on my side, rather than 15 hours of talk. I have 15 years of history on my side. I say, without fear of successful contradiction, that the trade practices since 1937 have been better than they were before. I say that since 1937 the prices on the fair trade items have gone up less than the prices on non-fair trade items. It does not do any good to say, "Oh, but they were all padded ahead of time." That is no argument at all. As a matter of fact, since 1937 there has been less increase in the prices of fair trade items than in the prices of non-fair trade items. The cost of living index has shot up 85 percent since 1939, and the price on fair trade items has gone up only 16 percent.

Mr. President, how does one justify the talk about the harmful effect which a fair trade law would have on the consumer? I say that the fair trade law is good for the consumer. The fair trade law reduces prices. The fair trade law regularizes market practices. The fair trade law promotes production. Increased production reduces prices, and reduced prices work for the benefit of the consumer.

Mr. President, those are my arguments. They may be only assertions, but they can be backed up with many more facts than the assertions which were made on the other side.

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

Mr. HUMPHREY. I yield.

Mr. AIKEN. Mr. President, will the Senator tell us how the bill which he is advocating would affect consumer cooperatives, which put out their own brands of items which are virtually identical with the advertised brands, except for the label? Would the bill have any effect at all on such cooperatives?

Mr. HUMPHREY. It would have no effect at all on cooperatives.

Mr. AIKEN. Perhaps the practice on the part of the consumer cooperatives had a great deal to do with holding down the price of fair-trade items in the last 15 years.

Mr. HUMPHREY. I want to say that I am in favor of consumer cooperatives. For every brand under fair trade there are 100 other items.

Mr. AIKEN. Which are virtually identical.

Mr. HUMPHREY. That is correct. We have a choice. In other words, it is not as if there was only one car to buy, only one tooth paste to buy, or only one piece of candy to buy. The choice is almost unlimited. There are many types of face powder that can be bought, and the competitive brands are not limited to one outlet, either. I dare say that there are a great many more manufacturers of cosmetics than there are women in the country who use them. The country is loaded with cosmetic manufacturers. They come and go. There is certainly a great deal of competition in that line.

What amuses me very much is to hear people talk about stifling competition. Mr. President, there is plenty of competition. Let us not worry about competition. Rather, let us look for customers. There is plenty of competition, and one must always figure every angle to get money in the cash register.

I hear a great deal of talk about fair trade squelching competition. Anyone who makes such a statement should spend 1 month in a retail store. Let him go into a drug store, grocery store, or a hardware store, with a great Western Auto Supply store, a Montgomery Ward store, or a Sears, Roebuck store facing him immediately across the street. There his store sits, the John Smith store, practically surrounded by that kind of competition. Mr. President, that is real competition. Let us not worry about competition. A man who is in that position does not have to worry about competition. All he must worry about is survival.

I think I am stating common sense. I do not know whether it is all written out in books, but it is common sense.

Mr. President, I am here to say that we do not have to worry about competition. No one in a general merchandising store need worry about competition. What he has to worry about is whether customers will come into the store and whether the price of cream goes up, or whether the price of wheat, cotton, or hogs goes up. That is competition, Mr. President. He will have to figure all the angles to get customers into his store and to try to keep his store open. He will give real service, Mr. President. He will deliver everything in order to get customers in and out of his store. That is what I mean by competition.

The fair-trade program has given an opportunity to these merchants to serve their communities.

It is very nice to talk about competition, but in order to have competition, we must have competitors.

Mr. President, what kind of competition is it if all one has is the competition of a big monstrous chain, which has driven everyone out of business or lets someone stay in business by sufferance?

The kind of economic situation which promotes competition is when there are dozens of people in a community all trying to sell the same products to the same customers, and all trying to give better service. That is competition. It is not something to be described; it is something to be felt and to be experienced. There is plenty of competition in the retail business. There is plenty of competition in the wholesale business. There is plenty of competition in the manufacture of consumer goods. I submit that there is no evidence that can be produced to the effect that in the retail business competition has been stifled since the passage of the fair-trade laws. I submit that when we have retail outlets by the hundreds we have better competition and lower prices; and I submit, likewise, that when we have predatory business practices we lose outlets, and ultimately it means less competition and higher prices.

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

Mr. HUMPHREY. I yield.

Mr. AIKEN. With respect to the competition which exists between the large mail-order houses and the local stores, would the price of the large mail-order houses be controlled, or would they be enabled to sell patented varieties of merchandise at less than that at which the local stores are required to sell? We know there is no law now, but in order to make sure of getting a supply of a certain product a local merchandiser does sell at what is called a suggested price. It pretty nearly has the force of law, even though it is not a law. In other words, a mail-order house comes along with a 2,000-page catalog, and an item which is being sold locally at the suggested price of $1.25 is listed in the catalog for 93 cents. What effect would the bill have on such a situation?

Mr. HUMPHREY. The bill will have this effect. It will require that where there are trade or branded names on which fair-trade prices have been established the mail-order house will sell them at those prices in any State, just as the local retail man is required to do. However, it is not inflexible. For example, a minimum resale price may be a little higher than the suggested retail price. The fair-trade price is a minimum retail price. There may be flexibility of 10 to 15 cents on a dollar item.

Mr. AIKEN. The fair-trade price may be less or more than the suggested price?

Mr. HUMPHREY. That is correct. Mr. President, I rest my case.

SEVERAL SENATORS. Vote! Vote!

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

Mr. CAPEHART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CAPEHART. The Senate is about to vote on the Douglas substitute to the pending bill; is it not?

The PRESIDING OFFICER. That is correct. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senator from New Mexico [Mr. ANDERSON] is absent by leave of the Senate because of illness.

The Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. KEFAUVER], and the Senator from Georgia [Mr. RUSSELL] are absent by leave of the Senate.

The Senator from Connecticut [Mr. MCMAHON] is absent because of illness.

Mr. SALTONSTALL. I announce that the Senator from Illinois [Mr. DIRKSEN], the Senator from Massachusetts [Mr. LODGE], the Senator from California [Mr. NIXON], and the Senator from Ohio [Mr. TAFT] are necessarily absent.

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from Colorado [Mr. MILLIKIN] is absent by leave of the Senate.

The Senator from New Hampshire [Mr. TOBEY] is absent because of illness in his family.

The Senator from Kansas [Mr. CARLSON], the Senator from Pennsylvania [Mr. DUFF], and the Senator from Nebraska [Mr. SEATON] are detained on official business.

If present and voting, the Senator from Pennsylvania [Mr. DUFF], the Senator from Illinois [Mr. DIRKSEN], the Senator from Massachusetts [Mr.

LODGE], the Senator from Nevada [Mr. MALONE], the Senator from California [Mr. NIXON], the Senator from Ohio [Mr. TAFT], and the Senator from New Hampshire [Mr. TOBEY] would each vote "nay."

The result was announced—yeas 12, nays 69, as follows:

YEAS—12

Aiken	Green	Murray
Connally	Lehman	Neely
Douglas	Long	Pastore
Frear	Morse	Smith, N. C.

NAYS—69

Bennett	Hendrickson	McClellan
Benton	Hennings	McFarland
Brewster	Hickenlooper	McKellar
Bricker	Hill	Monroney
Bridges	Hoey	Moody
Butler, Md.	Holland	Mundt
Butler, Nebr.	Humphrey	O'Conor
Byrd	Hunt	O'Mahoney
Cain	Ives	Robertson
Capehart	Jenner	Saltonstall
Case	Johnson, Colo.	Schoeppel
Chavez	Johnson, Tex.	Smathers
Clements	Johnston, S. C.	Smith, Maine
Cordon	Kem	Smith, N. J.
Dworshak	Kerr	Sparkman
Eastland	Kilgore	Stennis
Ecton	Knowland	Thye
Ellender	Langer	Underwood
Ferguson	Magnuson	Watkins
Flanders	Martin	Welker
George	Maybank	Wiley
Gillette	McCarran	Williams
Hayden	McCarthy	Young

NOT VOTING—15

Anderson	Kefauver	Nixon
Carlson	Lodge	Russell
Dirksen	Malone	Seaton
Duff	McMahon	Taft
Fulbright	Millikin	Tobey

So Mr. DOUGLAS' amendment in the nature of a substitute was rejected.

Mr. MOODY. Mr. President, earlier today the junior Senator from Oregon introduced into the RECORD evidence in support of his contention that distinguished economists and teachers of law in our universities are opposed to fair trade.

I can hardly let the opportunity pass without having inserted in the RECORD an article on the fair-trade question published in the November 1951 issue of the Detroit Law Journal. The article is written by Dr. Walter Adams, an associate professor of economics at Michigan State College, which has one of the leading economics departments in the country. I am proud to say that Dr. Adams, who holds a doctor of philosophy degree from Yale University and who enjoys a national reputation as an expert on small business, lends vigorous support to the arguments which I presented yesterday before the Senate on behalf of fair trade and the McGuire bill.

Mr. President, if the Senators will take time to read this short article, which is an economic analysis of the Schwegmann decision of the Supreme Court, I am confident that many objections raised against fair trade will be answered. Let me emphasize again that if we lived in the best of all possible worlds, fair-trade laws would probably not be necessary. If the antitrust laws had been enforced effectively prior to 1936, the Miller-Tydings Act probably would never have been enacted.

Mr. President, the sad fact is that the antitrust laws have not been enforced in such a way as to give the small merchant the protection he needs for his survival. Until we reach a stage in our national economic development when we can prove to the small-business man that he is effectively protected against unfair practices, unfair discriminations, and monopolistic exploitation, I think we should have the safeguards for the independent druggist, the independent petroleum dealer, the independent furniture dealer, and the neighborhood grocer which are embodied in the McGuire bill.

Mr. President, I ask unanimous consent that an article entitled "The Schwegmann Case: An Economic Comment," written by Dr. Walter Adams, and published in the November issue of the Detroit Law Journal, be printed in its entirety at this point in the RECORD.

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

THE SCHWEGMANN CASE; AN ECONOMIC COMMENT [1]

(By Walter Adams) [2]

Despite a threatened Presidential veto, Congress—on August 17, 1937—passed the Miller-Tydings amendment to the Sherman Antitrust Act.[3] The amendment legalized resale price maintenance with respect to trade-marked or otherwise identified goods sold in interstate commerce, provided that such goods were resold in a State which had a fair-trade law. The amendment further provided that the making of a resale price maintenance agreement was not to be considered an unfair method of competition within the meaning of section 5 of the Federal Trade Commission Act. While thus sanctioning vertical price fixing, the Miller-Tydings Act nevertheless specifically prohibited horizontal agreements concerning the price of goods sold in interstate commerce.[4]

Immediately upon passage of the act, the antitrust agencies—joined by such divergent groups as Business Week and Consumers Union, Fortune, and The Nation—began to urge upon Congress the repeal of the Miller-Tydings law. Thurman Arnold, speaking for the Antitrust Division, made the following recommendation to the temporary national economic committee (February 12, 1941):

"The Department recommends the repeal of the Miller-Tydings amendment to the Sherman Act which was passed in 1937 * * *. This amendment has been in effect a little more than 3 years. Already the record shows that it does not serve the purposes which were urged upon Congress as a reason for its passage, that it sanctions arrangements inconsistent with the purpose of the antitrust laws, and that it becomes a cloak for many conspiracies in restraint of trade which go far beyond the limits established in the amendment."

The Federal Trade Commission, after an exhaustive investigation of the problem, concurred with Mr. Arnold's recommendation on the grounds that "resale price maintenance, legalized to correct abuses of extreme price competition, is subject to use as a means of effecting enhancement of prices by secret agreements and restraint of competition by coercive action on the part of interested cooperating trade groups of manufacturers, wholesalers, and retailers in such ways and to such an extent as to make it economically unsound and undesirable in a competitive economy * * *. The Commission believes that the consumer is not only entitled to competition between rival products but to competition between dealers handling the same branded product." [5]

When it became apparent that little could be accomplished by way of pressing for legislative action, the opponents of fair trade turned to the courts and instituted a number of cases to test the legality of resale price maintenance. These efforts bore fruit when the Supreme Court, on May 21, 1951, announced its decision in the Schwegmann case. By declaring the so-called nonsigner clause to constitute a restraint of trade under the Federal antitrust law, the Court dealt a crippling blow to the Miller-Tydings Act and to the fair-trade laws of 45 States.

Speaking for the Court majority, Justice Douglas held that—

"If a distributor and one or more retailers want to agree, combine, or conspire to fix a minimum price (under the Miller-Tydings Act), they can do so if State law permits. * * * They can fix minimum prices pursuant to their contract or agreement with impunity. When they seek, however, to impose price fixing on persons who have not contracted or agreed to the scheme, the situation is vastly different. 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." [6]

The Court also ruled that when retailers are forced, as they are under the nonsigner clause, to abandon price competition, they are driven into a compact which violates the injunction of both the Sherman Act and the Miller-Tydings Act against horizontal price fixing. For these reasons the Court concluded that resale price maintenance arrangements are enforceable only when based on contracts freely entered into between manufacturers and retailers or between distributors and retailers.

The decision was jubilantly received, especially since 2 weeks after its announcement a price war of major proportions was touched off in New York City's department stores. And when the "massacre of Thirty-fourth Street" spread to San Francisco, Baltimore, Memphis, Newark, Harrisburg, and other cities, it appeared as if the removal of fair-trade regulations had indeed been the primary force in reestablishing price competition on the retail level. A new freedom had apparently been won by the merchant and renewed protection accorded to the consumer. In the absence of fair trade, it was argued, lower prices—or at least more

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[1] This case is also set forth in the U. S. Supreme Court summary section. Ed.

[2] Doctor of philosophy in economics, Yale University; economic consultant to the Small-Business Committee, U. S. House of Representatives, 81st Cong., 2d sess.; economic consultant, U. S. Senate, 82d Cong., 1st sess.; associate professor of economics, Michigan State College.

[3] The veto never materialized because the Miller-Tydings Act was attached as a rider to an appropriation bill for the District of Columbia. President Roosevelt reluctantly signed the measure into law (50 U. S. Stat. 693 (1937), 15 U. S. C., sec. 1 (1948)).

[4] Vertical price fixing is accomplished through agreements between manufacturers and wholesalers, wholesalers and retailers, or manufacturers and retailers. Horizontal price fixing, by contrast, is achieved through agreements among manufacturers, among wholesalers, or among retailers. Thus, a pricing contract between General Electric and its retail outlets would be a vertical agreement, while an understanding between General Electric and Westinghouse would constitute a horizontal agreement.

[5] Report of the Federal Trade Commission on Resale Price Maintenance, 1945, p. LXIV.

[6] *Schwegmann Bros. et al.* v. *Calvert Distillers Corp., Schwegmann Bros. et al.* v. *Seagram Distillers Corp.* (341 U. S. 384, 71 Sup. Ct. 491, 95 L. Ed. 684 (1951)); (rehearing denied June 4, 1951).

competitive prices—were in prospect for an inflation-weary buying public.

In spite of these optimistic predictions, it should be pointed out that the Schwegmann decision is of relatively minor economic significance; that resale price maintenance is not—and never has been—a primary factor in determining prices on the retail level; that, after the initial flurry of price competition is over, prices will return to their former level; and that, in retrospect, the Schwegmann opinion might turn out to be a Pyrrhic victory allowing the enemies of competition to reinstitute some of their former techniques for the lessening of competition and the elimination of smaller competitors. Briefly stated, the reasons for the above contentions are as follows:

First, it seems likely that the recent price war in New York is attributable primarily to the swollen inventories under which wholesalers and retailers had been suffering rather than to the removal of "fair-trade" regulations. While the latter might have been the immediate stimulus for releasing the supercharged inventory pressure, only a logician guilty of the post hoc ergo propter hoc fallacy could argue that the Schwegmann opinion was "cause" and the New York price war "effect." A more sober and unemotional estimate of the situation is perhaps to be found in the view of a department store official who commented:

As soon as the competition is sold out, we raise our prices. * * * This thing will simmer down to 300 or 400 items to be used as loss leaders." [1]

It seems reasonable to expect, therefore, that when some of the inventories accumulated during the scare buying period of last fall have been liquidated, the retail price situation will once again return to normal.

Second, it should be recognized that resale price maintenance never did affect more than 10 percent of the commodities sold at retail; that, after enactment of the Miller-Tydings law, manufacturers—as a matter of policy—tried primarily to limit price competition in leader advertising rather than to raise prices above the level at which their larger customers were selling normally; that the provisions of the Miller-Tydings Act have, by and large, been rather effectively circumvented by chains and department stores; that, therefore, the anti-social effects of resale price maintenance have been exaggerated out of all reasonable proportions.

Third, it is self-evident that if a manufacturer insists on continuing resale price maintenance on his product, he is at liberty to do so regardless of the nonsigner clause. As long as manufacturers are free to select their own customers—a right guaranteed under section 2 of the Clayton Act—they can impose "fair trade" covenants on their retail distributors. Already Goodall-Sanford, Eversharp, and Haspel Bros. have announced—in spite of the Schwegmann decision—that they will withhold goods from Macy's presumably because of the latter's uncooperativeness in enforcing the suggested minimum retail prices. Other manufacturers may follow suit in order to prevent the use of their products as loss leaders by large-scale distributors.

Fourth, it may reasonably be contended that the Miller-Tydings Act—being a depression-born measure—was aimed primarily at controlling excessive loss-leader merchandising and sales below cost by chains and department stores, a practice which threatened eventually to result in the evaporation of many independent retail outlets. The act was designed to check a practice which had all the earmarks of an unfair and deceptive trade method, especially when used by large concerns to eliminate weaker competitors; a practice which was often employed as a means of price discrimination for the express purpose of lessening competition. While it is unfortunate perhaps that competition in the retail field had to be protected by a law which does not distinguish too clearly between price competition which is in the public interest and price competition which is economically unsound and inimical to the survival of independent firms, nevertheless "fair trade" appeared as the only practicable means by which the desired goal could be accomplished. Had the Federal Trade Commission and the Antitrust Division done a better job in preventing predatory and sharpshooting practices the effect of which was to lessen competition, passage of the Miller-Tydings Act might never have been necessary and its retention today no longer reasonably justified.

Fifth, and most important, it may be contended that the trade restraints embodied in the fair-trade laws are petty, minor, and insignificant when compared to the influence of monopolistic organizations and monopolistic practices on other levels of industry. It may also be contended that the consumer interest can be protected more vigorously by prosecuting horizontal agreements (tacit or otherwise) on the manufacturing level than by cracking down on vertical price fixing between manufacturers and retailers. It may be suggested that the Department of Justice, the Federal Trade Commission, and all the organs of public opinion who denounce the not so fair fair-trade laws might devote greater attention to the dissipation of concentrated economic power in vital sectors of the economy instead of attacking a statute which affords the little fellow some measure of protection against price competition (of both the predatory and the socially desirable variety).

In conclusion, one may query why, in an economy where many strategic areas are infested by monopoly and oligopoly; in an economy where the concentration of economic power is no less today than it was when the first antitrust law was passed 60 years ago; in an economy where labor, agriculture, and a variety of industrial pressure groups have succeeded in insulating themselves against the rigors of competition through exemption from the antitrust laws; why, in such an economy, we attempt to reestablish competition first in an industry where the small, independent merchant is predominant. Without attempting to justify the Miller-Tydings Act, the State fair-trade laws, or any other restraint on competition; without criticizing the legal basis for the Schwegmann opinion; one may nevertheless conclude that, given an effective enforcement of the antitrust laws prior to 1937, the Miller-Tydings Act would probably not have been needed; that, once the act was passed, it exerted a relatively insignificant effect on retail prices; that the outlawing of the nonsigner clause is, therefore, not likely to bring substantial benefit to the consuming public, and finally, that, if our goal is the fostering of greater competition in the American economy, a more auspicious starting place than the retail trade might have been chosen.

Mr. MORSE. Mr. President, I have proposed two amendments. I ask to have amendment No. 1 read at this time.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 2, line 24, after the word "resale," it is proposed to insert: "*Provided, however*, That such minimum or stipulated prices as are prescribed in such contracts or agreements shall, after due consultation with representatives of persons substantially affected by such contracts or agreements, have been determined to be fair and reasonable by a duly constituted board or agency of the State in which such minimum or stipulated prices are to be charged."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon.

Mr. MORSE. Mr. President, I have only a few words to say on this amendment. I explained it this morning. In my opinion, one of the greatest weaknesses in the bill in its present form is that it permits the private manufacturer and the private retailer to do what I consider to be price-fixing, with no check whatever upon their judgment. I think that certainly a procedure should be provided which will permit of some review, to determine whether the prices they have fixed are fair and reasonable. I propose that it be done by the appropriate State agency within each State, having within its jurisdiction this whole matter of fair trade.

I shall not ask for the yeas and nays on this amendment. However, I should like the courtesy of a recorded vote on the amendment which is to follow.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Oregon [Mr. MORSE].

The amendment was rejected.

Mr. LONG. Mr. President, I desire to call up my amendment in the nature of a substitute.

The PRESIDING OFFICER. Does the Senator from Louisiana desire to have the amendment read in full by the clerk?

Mr. LONG. No. I shall explain the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD, without reading.

Mr. LONG'S amendment is as follows:

Strike out all after the enacting clause and insert the following:

"That section 2 of an act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended is hereby further amended to read as follows:

"'SEC. 2. (a) That it shall be unlawful for any person engaged in or affecting commerce, in or affecting the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in or affecting commerce, or to discriminate between or among different commodities or similar commodities of different grade and quality by reselling at retail in or affecting commerce any commodity at less than net cost of such commodity delivered to the retailer's place of business where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are

[1] Quoted in Business Week, June 9, 1951, p. 23.

to such purchasers sold or delivered: *Provided, however,* That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *Provided further,* That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further,* That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

"'(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That unless the effect of the discrimination or sale below cost may be substantially to lessen competition or tend to create a monopoly in any line of commerce it shall be a complete defense for a seller to show that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.'"

Amend the title so as to read: "An act to amend an act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U. S. C. A., sec. 13), as amended."

Mr. LONG. Mr. President, the junior Senator from Louisiana understands, he believes, the logic of the fair-trade bill, most of which is based on the theory that it is necessary to protect individuals against loss-leader items. It seems to the junior Senator from Louisiana that some protection is justified and is reasonable, and should be provided, if it can be done in a proper manner. When a merchant uses a loss leader, it amounts to a form of discrimination as against his other commodities. Some commodities he is selling at a very high price, and the loss leader is sold at a loss, in order to lure customers into the store, so that when they are there the proprietor can sell them some other article, or articles, at a high price. That merchant is discriminating as between commodities, in order to lure people into his store. We have the Robinson-Patman Act, which is designed to outlaw certain price discriminations. It outlaws price discriminations in the sale of a commodity when the result is to injure competition. The Federal Trade Commission is charged with the responsibility of enforcing that act. It is the position of the Federal Trade Commission that price discriminations in the form of loss leaders should also be outlawed, simply by outlawing discriminations between commodities.

The pending bill would change the Robinson-Patman Act by adding the additional language "or to discriminate between or among different commodities or similar commodities of different grade and quality, by reselling at retail in or affecting commerce any commodity at less than net cost of such commodity delivered to the retailer's place of business."

Of course, there would be exceptions in instances where in good faith a person is discriminating, and in which event he would, himself, have a defense. For example, if he were going into bankruptcy, or if he were proposing a seasonal inventory.

Mr. President, my amendment would do the independent retailer far more good than the McGuire bill, perhaps 50 times as much good, because trademarked items are not the only items which can be sold as loss leaders in order to lure people into a store. Let us consider sugar, for example. If granulated sugar is being sold at, let us say, 50 percent of the retail price, it can be used quite as much as a loss leader as a trade-marked article that is well known. There are many other items of that sort, ordinary standard commodities, items not subject in any way to a fair-trade law, which can be sold as loss leaders.

Let us consider, for example, the filling-station operator. In the city of Detroit it was found that the filling-station proprietors were seeking protection because gasoline was being sold to certain chains at a price far below what the ordinary filling station was being charged. This bill would not do anything to protect the filling-station operator. It would perhaps help a few retail druggists, but it would not substantially help the filling-station operator, because gasoline is not an article susceptible of fair-trade treatment.

The amendment I am offering would have the effect of reversing the Standard Oil of Indiana Co. decision, by providing that good faith would be a complete defense, except in cases where it could be shown that the effect of the discrimination was to injure competition as distinguished from the individual competitor. An individual competitor would be able to go into court, under my amendment, to protect himself, and to sue for treble damages, if someone were injuring him through the loss-leader practice.

It would then be possible for the defendant to plead as a defense that he was meeting competition in good faith, unless it could be shown that the discrimination was injuring not only him but competition in the entire market area.

For years the Federal Trade Commission has recommended this type legislation to meet the problem of loss leaders. This amendment, if adopted, would do far more good than would the proposed fair-trade bill. The reason why I say that is because the amendment I am offering would see to it that independent merchants would acquire their goods at substantially the same prices at which the large merchants acquired their goods.

My amendment would give the little fellow the same price which the big one gets. A small merchant selling Ipana and other brands of toothpaste would go out of business with a mark-up of 5 or 10 percent, if his large competitors were selling for the same price with a mark-up of perhaps 50 percent.

Mr. President, I cannot agree with the approach this fair trade makes to the problem, because it is diametrically opposed to the theory of our antitrust laws. The Sherman Antitrust Act says that a person cannot conspire with another to reduce competition or to create a monopoly. He cannot conspire where it would be in restraint of trade. Then we come to the Miller-Tydings amendment, under which, taking Ipana toothpaste again as an illustration, if two druggists get together and agree that they will not compete in connection with Ipana toothpaste, that is against the law, but, on the other hand, under a fair-trade law if the producers of Ipana toothpaste have an agreement with either one of the two druggists, that is lawful, but it is then unlawful for other merchants to sell at a different price.

Mr. President, it is my purpose to see that we have competition in this great country, and it is also my purpose to see that the little fellow has a chance to compete with the big fellow. My amendment proposes the same thing the independent merchants were supporting 2 years ago when the junior Senator from Louisiana was fighting the basing-point bill because it would legalize price discrimination. Merchants were writing Senators in support of the position I was taking. I hope they will support the position I am now taking. I understand they have been saying, "If the Senate adopts this amendment, the bill will be tied up in conference and we will not get a bill."

Without this amendment, this bill might have the effect of completely undermining the antitrust laws. If we apply one principle to the little fellow, we should be willing to apply the same principle to the large concern. I think this measure would result in inflicting more injury on the small retailers than it would furnish help to them. On the other hand, I think my amendment would be a far better approach and would give greater protection to the independent retailers in the long run.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

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

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Snader, its assistant reading clerk, announced that the House has passed, without amendment, the following bills of the Senate:

S. 2128. An act to provide for the merger of two or more national banking associations and for the merger of State banks with national banking associations, and for other purposes;

S. 2252. An act to clarify the act of August 17, 1950, providing for the conversion of national banks into and their merger and consolidation with State banks; and

S. 2938. An act to amend section 9 of the Federal Reserve Act, as amended, and section 5155 of the Revised Statutes, as amended, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the Vice President:

H. R. 3168. An act to amend section 113 (b) (1) (B) of the Internal Revenue Code with respect to the adjustment of the basis of property for depreciation, obsolescence, amortization, and depletion;

H. R. 3707. An act for the relief of Edgar L. Dimmick;

H. J. Res. 430. Joint resolution approving the Constitution of the Commonwealth of Puerto Rico which was adopted by the people of Puerto Rico on March 3, 1952; and

H. J. Res. 446. Joint resolution relating to the continuance on the payrolls of certain employees in cases of death or resignation of Members of the House of Representatives, Delegates, and Resident Commissioners.

FAIR-TRADE PRACTICES

The Senate resumed the consideration of the bill (H. R. 5767) 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.

Mr. MORSE. Mr. President, I ask that my amendment No. 2 may be stated.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Oregon.

The CHIEF CLERK. It is proposed, on page 1, line 7, to strike out the words "or stipulated"; page 1, line 8, to strike out the words "or stipulated"; page 2, line 12, to strike out the words "or stipulated"; page 2, line 14, to strike out the words "or stipulated"; page 3, lines 21 and 22, to strike out the words "or stipulated."

Mr. MORSE. Mr. President, in my argument this morning I endeavored to demonstrate that another serious weakness in the pending bill is the stipulated price which would permit entrepreneurs to enter into an agreement fixing prices, which I think constitutes a great evil. I made my argument against it this morning. If we really want to come somewhere near improving this bill so that it will carry out a reasonable public interest, we should eliminate the so-called stipulated prices and leave only minimum prices. I have not heard anything from any of the proponents of the bill which, in my opinion, justifies the word "stipulated" in the bill. I think they have made their case from the standpoint of their major premises, which I believe to be fallacious. I think the weakness is that the bill would permit prices to be fixed by businessmen, without any public check.

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

The PRESIDING OFFICER. There is not a sufficient number seconding the request.

The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. MORSE].

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. DOUGLAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOUGLAS. Mr. President, I withdraw my suggestion of the absence of a quorum, and ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCARRAN. Mr. President, on the pending bill I want to say only a word.

The bill should have gone to the Judiciary Committee of the Senate when it came from the House. It is an amendment to the Antitrust Act. The antitrust laws should be studied and reviewed by a committee having the proper jurisdiction. I sought at the time to have the bill referred to the Committee on the Judiciary. It was not referred to that committee.

The bill was reported to the Senate by the Committee on Interstate and Foreign Commerce, which had a perfect right to report the bill, since it had been referred to that committee. The bill was reported without recommendation.

If after the bill had been reported by the Committee on Interstate and Foreign Commerce, a motion had been made to refer it to the Committee on the Judiciary, time would not have been available to enable the latter committee make a proper study of the bill, and the Committee on the Judiciary would have been accused of burying the bill. For that reason, I have not made such a motion, nor has any other member of the committee.

The bill is now before the Senate for a vote. I say there should be a study made in all respects, of the antitrust laws, and it should be made by a proper committee having jurisdiction to do so. The time is not now available for a study; hence no motion has been made, and hence the vote on this amendment to the antitrust law must now be taken by the Senate.

The VICE PRESIDENT. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. Are we now about to vote on final passage of the bill?

The VICE PRESIDENT. On the final passage of the bill.

The Chief Clerk called the roll.

Mr. BUTLER of Maryland. On this vote I have a pair with the junior Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. JOHNSON of Texas. I announce that the Senator from New Mexico [Mr. ANDERSON] is absent by leave of the Senate because of illness.

The Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. KEFAUVER], and the Senator from Georgia [Mr. RUSSELL] are absent by leave of the Senate.

The Senator from Connecticut [Mr. MCMAHON] is absent because of illness.

Mr. SALTONSTALL. I announce that the Senator from Illinois [Mr. DIRKSEN], the Senator from Massachusetts [Mr. LODGE], the Senator from California [Mr. NIXON], and the Senator from Ohio [Mr. TAFT] are necessarily absent.

The Senator from Nevada [Mr. MALONE] is absent on official business.

The Senator from Colorado [Mr. MILLIKIN] is absent by leave of the Senate.

The Senator from New Hampshire [Mr. TOBEY] is absent because of illness in his family.

The Senator from Kansas [Mr. CARLSON], the Senator from Pennsylvania [Mr. DUFF], and the Senator from Nebraska [Mr. SEATON] are detained on official business.

If present and voting the Senator from Pennsylvania [Mr. DUFF], the Senator from Nevada [Mr. MALONE], the Senator from California [Mr. NIXON], and the Senator from Ohio [Mr. TAFT] would each vote "yea."

On this vote the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Maryland [Mr. BUTLER] and that pair has been previously announced by the Senator from Maryland.

On this vote the Senator from New Hampshire [Mr. TOBEY] is paired with the Senator from Massachusetts, [Mr. LODGE]. If present and voting, the Senator from New Hampshire would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 64, nays 16, as follows:

YEAS—64

Bennett	Hendrickson	Magnuson
Benton	Hennings	Martin
Brewster	Hickenlooper	Maybank
Bricker	Hill	McCarran
Bridges	Hoey	McCarthy
Butler, Nebr.	Holland	McClellan
Byrd	Humphrey	McFarland
Cain	Hunt	McKellar
Capehart	Ives	Monroney
Case	Jenner	Moody
Chavez	Johnson, Colo.	Mundt
Clements	Johnson, Tex.	Murray
Cordon	Johnston, S. C.	O'Conor
Dworshak	Kem	O'Mahoney
Eastland	Kerr	Pastore
Ecton	Kilgore	Robertson
George	Knowland	Schoeppel
Hayden	Langer	Smathers

Smith, Maine	Underwood	Williams
Sparkman	Watkins	Young
Stennis	Welker	
Thye	Wiley	

NAYS—16

Aiken	Frear	Neely
Connally	Gillette	Saltonstall
Douglas	Green	Smith, N. J.
Ellender	Lehman	Smith, N. C.
Ferguson	Long	
Flanders	Morse	

NOT VOTING—16

Anderson	Kefauver	Russell
Butler, Md.	Lodge	Seaton
Carlson	Malone	Taft
Dirksen	McMahon	Tobey
Duff	Millikin	
Fulbright	Nixon	

So the bill (H. R. 5767) was passed.

Mr. HUMPHREY. Mr. President, I submit a concurrent resolution to authorize the establishment of a Joint Committee on Fair Trade Practices, for the purposes of further study of the measure just passed; and I also submit a resolution directing the Select Committee on Small Business to make further and continuing studies in the same field.

The VICE PRESIDENT. The resolutions will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 87), submitted by Mr. HUMPHREY, was received and referred to the Committee on Interstate and Foreign Commerce, as follows:

Resolved by the Senate (the House of Representatives concurring), That (a) there is hereby established a Joint Committee on Fair Trade Practices to be composed of three Members of the Senate to be appointed by the President of the Senate and three Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Not more than two of the members from each House shall be members of the same political party. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selections. The joint committee shall select a chairman and a vice chairman from among its members.

(b) It shall be the duty of the joint committee to make continuing studies of all problems involved in fair-trade practices and matters related to fair-trade practices. The joint committee shall, from time to time, make such reports to the Senate and the House of Representatives with respect to its studies as it may deem appropriate and shall make a final report to the Senate and to the House of Representatives on June 30, 1954.

(c) The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

(d) The joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable. The committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

(e) The joint committee shall cease to exist on June 30, 1954. The expenses of the joint committee, which shall not exceed $50,000, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers approved by the chairman of the joint committee.

The resolution (S. Res. 348), submitted by Mr. HUMPHREY, was received and referred to the Committee on Interstate and Foreign Commerce, as follows:

Resolved, That (a) the Select Committee on Small Business is authorized and directed to establish a subcommittee thereof which shall make a comprehensive study of all problems involved in fair-trade practices and matters related to fair-trade practices.

(b) The subcommittee shall make such reports to the Senate with respect to its studies as it may deem appropriate, and shall make a final report to the Senate on June 30, 1954.

Sec. 2. (a) The subcommittee is authorized to hold such hearings, to sit and act at such places and times, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words.

(b) The subcommittee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable. The subcommittee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

(c) The subcommittee shall cease to exist on June 30, 1954. The expenses of the subcommittee, which shall not exceed $50,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman of the subcommittee.

COMPROMISED TAX CASES IN THE BUREAU OF INTERNAL REVENUE

Mr. WILLIAMS. Mr. President, every time a large tax case is settled through a compromise agreement the millions of other taxpayers are forced to make up the difference.

It has always been my contention that the American taxpayer, who is forced to bear this additional burden, has a right to know who is getting by without paying all his taxes.

Greater publicity of all compromise settlements plus an independent audit would be a major step toward breaking up the widespread corruption and political fixing which has been exposed as existing in the Treasury Department.

When the officials of the Bureau of Internal Revenue know that the American people are scrutinizing their decisions, we can be assured that they will be much more careful to see that the tax laws are administered on an equitable basis.

It was with this thought that for the past several months I have been endeavoring to reveal to the American people some of the inner operations of this Bureau; and I do not think I am exaggerating when I say that many of us have been greatly shocked by what we have found.

Recognizing that it would be impossible to examine all these cases, I have been trying to assemble a record of those cases in excess of $250,000 each, upon which a compromise had been made during the past 10 years.

I have made no attempt to check the merits or demerits of any of these proposed assessments. Nor shall I pass any opinion. I merely state the cases and suggest that each taxpayer compare these settlements with the manner in which his own tax case has been handled.

In each instance I am giving the date of the compromise agreement, the name and address of the taxpayer, the names of the officials representing the Government, the original amount of the proposed tax assessment—including penalties and interest—along with the amount for which it was settled, and the years involved.

At this point I ask unanimous consent to have incorporated in the RECORD as a part of my remarks a list of some of these cases.

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

Approval date	Name and address	Chief counsel, commissioner, secretary	Tax due	Compromise settlement	Years involved
May 1, 1950	Canal Loan & Jewelry Co., 914 Canal St., New Orleans, La.	Oliphant, Martin, Lynch	$569,712.88	$227,487.04	1941–45.
Do	Berger, Alex, 5529 South Tonti St., New Orleans, La.	do			1941–45.
		Alex Berger	384,018.64		
		Israel Berger	258,765.54		
		Samuel Berger	102,072.37		
		Meyer Berger	35,768.79		
		Abe Berger (deceased)	101,966.37		
		Mrs. Yetta Berger	102,072.37		
		Mrs. Sarah W. Berger	24,791.19		
		Total	1,009,455.27	422,512.96	
Aug. 23, 1943	Aberle, Alfred J. (liquor dealer), 207 West 106th St., New York, N. Y.	Leming (acting), Helvering, John L. Sullivan	436,830.82	7,500.00	1931.
Dec. 1, 1949	Associated Novelties Corp., 42-53 21st St., Long Island City, N. Y.	Oliphant, Schoeneman, Lynch	1,712,813.31	600,000.00	1941, 1942, 1943, and 1944.
May 5, 1944	Baltimore Mail Steamship Co., 1 Broadway, New York, N. Y.	Wenchel, Nunan, Sullivan	474,487.14	62,280.50	1940.
Nov. 23, 1951	Acme Summit Mills, Inc., 245 5th Ave., New York, N. Y.	Oliphant, Dunlap, Lynch	452,857.56	240,000.00	1944, 1945, 1946, and 1947.
June 19, 1944	Bucksbaum, William, Boxwood Farm, Spring Lake, N. J.	Wenchel	678,567.62	300,000.00	1929.

Approval date	Name and address	Chief counsel, commissioner, secretary	Tax due	Compromise settlement	Years involved
Mar. 24, 1947	Commercial Forgings Co., 3709 East 91 St., Cleveland, Ohio.	Wenchel, Nunan, John J. O'Connell, Jr.	$526,416.51	$150,526.36	1941 to 1944, inclusive.
Oct. 28, 1942	Consolidated Water Co., First National Bank Bldg., Utica, N. Y.	Wenchel, Helvering, Sullivan	786,793.08	25,000.00	1934 to 1938, inclusive.
Jan. 17, 1949	Hayes, T. Frank, 118 Prospect St., Waterbury, Conn.	Oliphant, Schoeneman, Lynch	509,185.04	5,000.00	1931 to 1937, inclusive.
Oct. 24, 1950	Hemp & Co., Inc., Macomb, Ill.	do	387,229.48	195,777.63	1943 to 1945, inclusive.
Sept. 14, 1943	Johnson, Walter W., transferee of Union Construction Co., 351 California St., San Francisco, Calif.	Wenchel, Helvering, Sullivan	1,377,635.40	12,000.00	1918–21.
May 26, 1950	Josselson Bros., Inc., Ashland, Ky. Transferees of Josselson Bros., Inc.: Alex Josselson, Sara Josselson, 2711 Seminole Ave., Ashland, Ky. Alex and Sara Josselson, address as above, transferees of Alex and Sara Josselson: Willard and Irma Patrick. Julius Josselson, 2711 Seminole Ave., Ashland, Ky. Annyce Baum, 511 South Serreno Ave., Los Angeles, Calif. Louis and Fern Solomon, 5636 Forbes St., Pittsburgh, Pa. I. A. Johnson, 1840 Winchester Ave., Ashland, Ky.	Oliphant, Schoeneman, Lynch	[1] 427,000.00	75,000.00	1943.
May 24, 1951	Kaplin, David J., 168 Keeline Ave., Council Bluffs, Iowa.	Oliphant, Martin, Lynch	335,271.82	282,078.05	1943–47.
June 23, 1949	Lowe, Walter J., 420 Par Ave., Orlando, Fla. (formerly of Gas City, Ind.).	Oliphant, Schoeneman, Lynch	535,406.50	64,000.00	1932–44.
Do	Lowe, Nola, 420 Par Ave., Orlando, Fla. (formerly of Gas City, Ind.).	do	888,021.76	1,000.00	1932–36, 1938–44.
Oct. 8, 1946	McCloskey Grant Corp., 20th St. and Indiana Ave., Philadelphia, Pa.	Wenchel, Nunan, O'Connell	549,182.07	100,000.00	1942–43.
Mar. 28, 1950	O'Sullivan Rubber Co. (predecessor), Winchester, Va., and/or O'Sullivan Rubber Corp. (successor), Post Office Box 603, Winchester, Va.	Oliphant, Schoeneman, Lynch	611,734.16	475,000.00	1943–46.
Sept. 22, 1944	Saven Corp., 3266 Penobscott Bldg., Detroit, Mich.	Wenchel, Nunan, Garth (acting)	2,072,233.52	75,000.00	1928–29.
Nov. 1, 1948	Wilkoff, David L., 2922 Grant Bldg., Pittsburgh, Pa.	Oliphant, Schoeneman, Lynch	376,133.05	267,551.85	1940–41 and 1943–45.
May 24, 1950	Buff, estate of Louis F., care of Calvin P. Bartlett, 53 State St., Boston, Mass.	do	478,186.92	99,718.10	1929–41.
May 10, 1949	Greenberg, Leo et ux., 165 Lafayette Ave., Passaic, N. J.	do	445,145.23	75,000.00	1943–46.
Sept. 28, 1950	Greenberg, Murray, 160 Irwin St., Brooklyn, N. Y.	Oliphant, Martin, Graham	455,756.04	75,000.00	1942–44.
Feb. 16, 1951	Jones, estate of Charles L. Jones, Ersie C., executrix 300 Park Ave., New York, N. Y.	Oliphant, Schoeneman, Lynch	597,788.39	87,828.87	1941–42.
Sept. 30, 1948	Kittay Bros., Inc., care of Sam Kittay, president, 43 West 23d St., New York, N. Y.	Oliphant, Schoeneman, Graham	527,923.09	260,000.00	1941–43.
May 4, 1944	Leebove, estate of Isaiah J. H. Graham, administrator, D B. N., care of Virgil W. McClintic, 500 South Main St., Mount Pleasant, Mich.	Wenchel, Nunan, Sullivan	579,213.01	24,500.00	1932–38.
June 2, 1947	The Robinson Foundation, Inc., as taxpayer and as transferee of 8 concerns, 14 Wall St., New York, N. Y.	Wenchel, Nunan, O'Connell	2,250,000.00 [2] 1,700,000.00 3,950,000.00	2,000,000.00	To 1946.
June 22, 1945	Steinreich, Kenneth P., 46 Bretton Rd., Scarsdale, N. Y.	do	909,813.17	25,000.00	1929–32 and 1935.
Nov. 29, 1950	Universal Camera Corp., 28 West 23d St., New York, N. Y.	Oliphant, Martin, Lynch	745,115.55 229,797.71	270,000.00 75,000.00	1950. 1942–45.
Apr. 4, 1950	Wadell Engineering Co., 19 Henry St., Passaic, N. J.	Oliphant, Schoeneman, Lynch	377,574.21	10,011.12	1944–46.
Dec. 14, 1945	Wallick, L. C., Broad and High Sts., Columbus, Ohio.	Wenchel, Sherwood, O'Connell	295,304.70	35,000.00	1937–43.
Dec. 4, 1950	White, Cleveland, J., 907 Lathrop Ave., River Forest, Ill.	Oliphant, Schoeneman, Lynch	385,042.54	197,549.25	1942–46.
July 8, 1947	Harry E. Jacoby, individually and as transferee of assets of Amazon Hose & Rubber Co., 130 North Jefferson St., Chicago, Ill.	Wenchel, Nunan, O'Connell	413,174.28	169,925.00	1941–44.
Jan. 4, 1949	Arch-Bilt Corrugated Products, 51-18 Grand Ave. (corporation), Maspeth, N. Y.	Oliphant, Schoeneman, Lynch	609,792.44	525,909.44	1936–37, 1940–42.
Jan. 15, 1943	Borg, John, Hackensack, N. J.	Wenchel, Helvering, Sullivan	395,066.69	125,000.00	1929–38.
July 18, 1945	Boyle, estate of William D., care of Roy W. Crimm, executor, 807 Midland Bldg., Kansas City, Mo.	Wenchel, Nunan, O'Connell	687,926.80	135,000.00	1932–38.
Nov. 17, 1948	United Importers & Distributors, Inc., 167 Columbus Ave., New Haven, Conn. Acceptance of this compromise was conditional upon acceptance of the following compromise settlements:	Oliphant, Schoeneman, Lynch	909,437.23	431,858.58	1943.
	Charles DiAntonio, 614 Ferry St., New Haven, Conn.		1,391,005.89	10,000.00	1920–43.
	Alice Gorby DiAntonio, transferee of Charles DiAntonio, 1291 State St., New Haven, Conn.		374,788.39	5,000.00	1920–40.
	Jennie DiAntonio, transferee of Charles DiAntonio, 614 Ferry St., New Haven, Conn.		374,788.39	5,000.00	1920–40.
	Anthony Germe, transferee of Charles DiAntonio, 614 Ferry St., New Haven, Conn.		374,788.39	5,000.00	1920–40.
	Michael F. O'Connor and Mary G. O'Connor, 180 Yale Ave., New Haven, Conn.		224,247.52	5,000.00	1920–43.
		Total tax	3,649,055.81		
		Less duplication	867,241.82		
May 3, 1951	Gay, Estate of Norman H., care of Harry Stebbins and Lawrence E. Irell, executor, 810 Roosevelt Bldg., Los Angeles, Calif.	Oliphant, Martin, Lynch	945,156.76	143,459.81	1942–45.
Sept. 9, 1942	Koch, William, 111 East 56th St., New York, N. Y.	Wenchel, Helvering, Sullivan	[2] 345,895.35	3,500.00	1928–31.
July 17, 1946	West, James W., MacCrellish & Quigley, Trenton, N. J., care of Humbert B. Powell, 2124 Lincoln-Liberty Bldg., Philadelphia, Pa.	Wenchel, Nunan, O'Connell	191,469.22 718,134.99 909,604.21	100,000.00	1926–41.
Jan. 15, 1951	Edge Moor Iron Works, Edge Moor, Del., Benard D. Beamish, New Rochelle, N. Y., sole owner.	Oliphant, Fred Martin, Thos. J. Lynch	947,266.83	300,000.00	1943 and 1945.
Dec. 8, 1948	Florence, W. L., Powder Springs, Ga.	Oliphant, Martin, Lynch	992,597.35	550,000.00	1941–44.
Do	General Desserts Corp., 425 West 13th St., New York, N. Y.	Oliphant, Schoeneman, Lynch	1,636,151.49	853,754.86	1942–44.
Oct. 9, 1950	Stadium Yacht Basin, Inc., foot of West 3d St., Cleveland, Ohio.	Oliphant, Schoeneman, John Graham	1,044,550.58	55,000.00	1941–46.
Jan. 16, 1951	Stein Bros. Paper Box Co., 2942 West Carroll Ave., Chicago, Ill.	Oliphant, Schoeneman, Lynch	585,905.03	375,000.00	1942–45.
Oct. 24, 1950	Stewart & Co., Inc., James, 230 Park Ave., New York, N. Y.	Oliphant, Martin, Lynch	622,074.48	178,567.43	1941–42.
May 3, 1948	Custer, Calvin, care of Griswold & Vargas, First National Bank Bldg., Reno, Nev.	Oliphant, Schoeneman, Foley	312,373.56	2,000.00	1929 and 1932–38.
June 28, 1949	Epstein, Anna, Epstein, estate of Joseph G., 3221 Milburn St., Houston, Tex.	Oliphant, Schoeneman, Lynch	1,172,086.32	15,762.78	1943–44.

[1] Approximately.
[2] Does not include penalties or interest.

AUTHORIZATION FOR THE COMMITTEE ON APPROPRIATIONS TO REPORT

Mr. McFARLAND. Mr. President, I ask unanimous consent that the Senate Committee on Appropriations be permitted to report H. R. 8370, the supplemental appropriations bill, after the recess today, if it is not reported before the recess is taken.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. McFARLAND. Mr. President, I am told that some conference reports will soon be ready. I told several Senators that we would probably not transact any more business today, but it is important to dispose of the conference reports. I have been informed that some Senators desire to address the Senate on other subjects, so if the conference reports are ready by the time the Senators have finished, we will consider some of them.

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

Mr. McFARLAND. I yield.

Mr. MAYBANK. I understand that the conference report on the housing bill, which the Senate passed some time ago, has been agreed to by the House and will be sent to the Senate shortly. It contains two amendments which I believe the Senate will accept. I have talked today with the distinguished minority leader of the Banking and Currency Committee with respect to the amendments.

One was in connection with the situation with which the Senator from New Mexico, was concerned, and another was in connection with FHA insurance for State housing built for veterans. The so-called Fulbright amendment which the House struck from the bill is one which I prefer to see in the bill. I shall discuss it further with the Senator from Arkansas and see what he desires me to do.

I also understand that the conference report on the Independent Offices bill will soon be ready.

Mr. President, I am leaving the Chamber to attend a meeting of the Appropriations Committee. As soon as any conference reports are ready, I trust that I will be immediately notified so that I may be present.

Mr. McFARLAND. Mr. President, in order that Senators may know what the order of business will be tomorrow, I should like to make an announcement. In the morning at 9:30 the calendar will be called from beginning. I am hopeful that an appropriation bill will be reported, and that there will be no objection to considering it, and at least trying to dispose of it tomorrow after the call of the calendar. If the appropriation bill is not taken up, I give notice that we may take up the treaties on the calendar, which will probably not require more than an hour.

Mr. SCHOEPPEL. Mr. President, will the distinguished majority leader yield for a question?

Mr. McFARLAND. I yield.

Mr. SCHOEPPEL. Do I correctly understand that the call of the calendar, under the unanimous-consent agreement, will proceed without interruption, or will it be broken into by reports which are privileged and other matters?

Mr. McFARLAND. I hope we may finish the call of the calendar. If any matter is of sufficient importance, the call of the calendar can be interrupted to consider it, but I think it is important to go through with the call of the calendar.

Mr. SCHOEPPEL. I am glad to hear the distinguished majority leader make that statement, because it would help considerably in covering as much ground as possible.

Mr. WELKER. Mr. President, will the Senator from Arizona yield to me?

Mr. McFARLAND. I yield.

Mr. WELKER. I think I should say to the majority leader that in my opinion it will be very difficult to obtain a quorum on Saturday afternoon. I know of many Senators on this side of the aisle who have arranged their passage to the convention.

Mr. McFARLAND. I wonder why they should be doing that. [Laughter.]

Mr. WELKER. We are going out there to mix a little paint, to end the rule of the Senator's party.

Mr. McFARLAND. The paint which the Senator's party has mixed in the past few years has not been very good. It has washed off.

Mr. WELKER. If the Senator wishes to see a good brand of paint, or if he wishes to enter into a political argument, let us take a couple of hours for it. However, I felt that in all fairness to the majority leader I should make the statement which I have made.

Mr. McFARLAND. We are going ahead as rapidly as possible and working as hard as possible. That is the reason why I think we should dispose of conference reports this evening, if possible.

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

Mr. McFARLAND. I yield.

Mr. AIKEN. Will the Senate be in session on Friday?

Mr. McFARLAND. There will be a session on Friday.

Mr. AIKEN. Is it planned that the Senate shall be in session all day Friday?

Mr. McFARLAND. The Senate will be in session Friday. How long the Senate will be in session on Friday will depend to a great extent upon what is accomplished tomorrow.

STEPS TO UNITY

Mr. CASE. Mr. President, history comes full circle. Eleven years ago tomorrow, on July 3, 1941, in one of my few formal speeches in the House of Representatives, I protested the attempts to have the United States link arms with communistic Russia, and I urged that we use our best efforts to have the war called off in Western Europe and let Hitler and Stalin wear each other out.

Yesterday I voted with an overwhelming majority of the Senate to establish peace with the Federal Republic of Germany after a tragic war which I did my best 11 years ago to warn against and to avoid. Today we are spending billions of dollars to restore a balance of power in the world which mistaken leadership did so much to destroy at a terrible and tragic cost to all humanity.

What I said 11 years ago seems now, in retrospect, to be almost prophetic. Because the things I said then do not read so badly today, I wish to read a few excerpts from my speech of 11 years ago.

At that time the President was laying great stress upon the need for national unity. Commenting thereon, I said:

Substantial unity supports production of defense articles for other democracies when they can be spared from what is needed to equip our outlying posts and to train our men in service. Substantial unity supports aid to Britain, but an attempt to link arms with communistic Russia does not appeal to the American people. Churchill's quick logic is natural for England. Britain is at war with Germany. Hard pressed, she must welcome aid from any quarter. This turn of events, however, changes the base on which our aid to Britain was pledged.

That turn of events was the declaration of war by Germany against Russia.

Our aid was to be given to encourage the survival of the Four Freedoms in the earth. Do they flourish more in Russia than in Germany?

Today—

This was the question of July 1941—

is there more freedom of religion in Russia, where communism denies the existence of God and abolishes Sunday, than in Germany, where churches are open, even though there may be an attempt to have the pulpits preach honor for the State and pray for the head of the State as almost the head of the church? Is no church better than a State church? Today, is the system of private property overthrown in Germany or in Russia? Today, is the institution of the family more protected in Russia or in Germany?

These questions suggest the difficulties of achieving a national unity based upon all-out aid for Russia. The truth is that between the Third Internationale of Russia and the Horst-Wessel, Germany's song of world conquest, the people of the United States approve neither one. For years we have been told that communism was not an ordinary political party but an international conspiracy, aiming at world revolution.

Our appropriations bills carry riders denying the use of funds to pay the salary of any Government workers who belong to a society advocating the overthrow of the Government by force or violence. Does anyone seriously think that national unity can be achieved on a proposal to send defense articles to go to Communist Russia, whose disciples are denied pay from the funds that furnish the defense articles?

Then I said, 11 years ago:

Personally, I think the march on Moscow will destroy Hitler as it did Napoleon. England will blast his bases. Peoples he has swallowed will torment him internally. Russia will exhaust his energies before he can use her oil and wheat. We will rejoice, of course, as free people always rejoice in the overthrow of bullies and tyrants, but, Mr. Speaker, any attempt to make heroes out of the "fellow travelers" who have been boring from positions of influence in this Government will produce neither enthusiasm nor unity.

Then I went on to deal with the subject of production and the organization of national defense.

If there is one thing on which the present war has convinced the people, it is that the nation that commands the air controls the tides of the war. Hardly less in firmness of conviction is the belief that modern war is a war of hard-hitting, fast-moving machines. And the public is not convinced that the full strength of our Armed Forces is properly organized to achieve the maximum results in these fields. The papers are full of demands for a separate Air Force which the recent shake-up in the Army does not meet. The people want a central direction of the Air Force, of Army, and Navy.

Unfortunately, Mr. President, it was not until after the war that we got a separate Air Force.

At that time I called attention to the waste and the lack of coordinated purchasing program, and said:

The public is certainly confused when it hears from one agency that we have enough aluminum and from another that we have not, from one source that we must save on gasoline and from another that there is an adequate supply.

Today, Mr. President, I may point out that the public is confused when it hears from one agency that we need steel, and another agency shows so much indifference about a 4-week shut-down in steel production.

I pointed out:

The confusion grows out of an uncoordinated approach. We need some agency to see the whole problem and to have at its command the full picture of need and supply.

The plan I have in mind calls, first, for a central department of defense, headed by one man, with Cabinet rank. The department of defense will have four subdivisions, a secretary for each. There would be a secretary for land forces—the Army; a secretary for sea forces—the Navy; a secretary for air force—a merger of all aviation units; a secretary for supply—a merger of all procurement and production activities connected with the defense program.

As this point I should like to call attention to the amendment offered by the Senator from Illinois [Mr. DOUGLAS] to the Defense Production bill, in which he sought to establish a new Under Secretary of Defense who would have charge of procurement. It seems to me that such a change is still very much overdue. I regret that the situation was such that the amendment could not be considered under the rules of the Senate because it proposed legislation on an appropriation bill.

In conclusion, in my remarks 11 years ago I said:

I do not like Hitler's persecutions and his pogroms. I do not like Stalin's conspiracies and his purges. I do not know what the future holds, but we have the lamp of the past. We know that the boundary lines in Europe have been rewritten every 20 years. We know that one war will be called a holy war, the next a crusade. We know that the last war—

This was said in 1941—

was waged to save the world for democracy, to get rid of the Kaiser and German imperialism, and that out of it we got Hitler, Stalin, and Mussolini, with nazism, communism, and fascism. That should have cured us of the idea that we could inscribe boundaries or prescribe forms of government. Washington warned us:

"There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard."

Then I said:

Repeated and insistent reports suggest that Germany has proposed terms which are not unacceptable to England.

They were terms on which the war could be ended.

Mr. President, it was on that basis that I urged that we exert our efforts to have the war called off in the West before we should be drawn into it. That was 5 months before Pearl Harbor. We failed to get the war called off in the West and we saw the continual drift toward war, and in December the events which brought us into it.

Yesterday we saw the picture come full circle, as I have suggested. We saw the ratification of a treaty to establish a peace, which was overdue, with the Federal Republic of Germany. The present occupant of the chair, the distinguished Senator from Michigan [Mr. MOODY] will recall that in the fall of 1947 he as a newspaper correspondent and I as a member of the Select Committee on Foreign Aid of the House traveled on the same ship to Europe.

The PRESIDING OFFICER. The Chair would comment that it was a most enjoyable trip to Europe.

Mr. CASE. It was a most enjoyable trip. During the trip, as the distinguished Senator from Michigan will recall, the junior Senator from South Dakota was chairman of the subcommittee of the Herter committee which went to Germany and Austria. We spent approximately 6 weeks in Europe, most of it in Germany and Austria, going from community to community, studying conditions.

On our return we made an informal report, which was later written into a formal report on Germany. Some of the passages of the report seem prophetic when they speak of what should have been done then. I should like to read one or two paragraphs from that report. Then I shall ask unanimous consent to have both the speech of 11 years ago and the report printed in the RECORD as a part of my remarks. In our report on Germany, we called attention to the fact that the burden of postwar Germany was upon the United States.

We said:

The extent to which we direct and determine the life of present-day Germany needs to be realized by every citizen of the United States, as well as the conditions under which we operate and the ways in which we proceed.

As former President Hoover has said, "The United States cannot be indifferent to nor escape responsibility for what happens under the American flag."

Then we said:

It is the conviction of this committee that there can be neither prosperity nor security in a world economy which feeds the German people but fails to win the constructive contribution to world society which they are capable of making.

We made certain recommendations. We recommended:

That the Government of the United States should not recognize as final the boundaries temporarily assigned at Potsdam for occupation purposes. As Secretary Byrnes has said, these agreements were merely provisional and depended upon the final peace treaty to reestablish Germany as an economic and political unit.

Unfortunately, Mr. President, by reason of the fact that we have been unable to secure the cooperation of the fourth power, we have established a peace with only a part of Germany, namely, Western Germany. So that, although we are taking steps, finally, at this late hour, to establish Germany as an economic and political unit, it is a fragment of old Germany and it is based, temporarily, at least, upon boundaries which ought not to be considered as final.

Another recommendation was:

That the states of Germany which are free to do so be encouraged to form a constitutional government at the earliest possible date—

That was late in 1946 or early in 1947, and accomplished only at this late date in 1952—

a government with powers prescribed by and derived from the member states—

That corresponds to the Federal Republic of Germany which has its powers derived from the states, rather than based on other states—

a government which other German states could join when free to do so, and free itself to join any federation of free states looking toward the economic stability of Europe and world peace.

Yesterday the Senate sought to make it possible for the Federal Republic of Western Germany to join the federation of free states—in other words, to join the defense community of Western Europe, looking toward the economic stability of Europe and world peace.

Mr. President, it is unfortunate that sometimes it takes so long to get some of these things done. But in order that we may measure the accomplishments which have taken place by the hopes which were expressed 11 years ago, and again 6 years ago, I ask unanimous consent that there may be printed in its entirety, at this point in the body of the RECORD, my speech in the House of Representatives on July 3, 1941. The speech was entitled "Four Steps to Unity."

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

FOUR STEPS TO UNITY

Mr. CASE of South Dakota. Mr. Speaker, I am aware that few formal speeches in the House of Representatives register, here or elsewhere, and nothing, perhaps, is more futile than an attempt to voice one's faith on the 3d day of July with so many Members away to join citizens in their home communities in the observance of the Nation's birthday anniversary tomorrow. For those of us, however, who are prevented by distance or other causes from returning home, it seems not inappropriate to give a few minutes thought today to the state of the Nation.

For those of us who are members of the minority party—though I speak wholly on my own initiative and only for myself—times like these lay a double responsibility. We have the responsibility of loyalty; we also have the responsibility of questioning.

The English have a word for it—"His Majesty's loyal opposition." This dual responsibility grows out of the fact that the only test of truth is its ability to stand. One of my old teachers was fond of this phrase: "The integrity of an idea." An idea that could survive examination and reexamination was a good idea, he told us.

The theme for the Nation's birthday, tomorrow, is national unity. It is my purpose to speak of national unity with respect to four fields of national endeavor today. They are: Aid to other nations, production of defense articles, organization of the national defense, and working for peace.

The common difficulty that people have when they talk of unity is that each of us thinks there would be unity if everyone else would only agree with me. The unity most of us have in mind, I presume, is that expressed by the person who said: "We two shall be one and I shall be the one." Probably I shall not escape from that error in some of my remarks today, but I hope to suggest some of the things that can contribute to national unity.

I. AID TO OTHER NATIONS

Substantial unity supports production of defense articles for other democracies when they can be spared from what is needed to equip our outlying posts and to train our men in service. Substantial unity supports aid to Britain, but an attempt to link arms with communistic Russia does not apeal to the American people.

Churchill's quick logic is natural for England. Britain is at war with Germany. Hard pressed, she must welcome aid from any quarter. This turn of events, however, changes the base on which our aid to Britain was pledged.

Our aid was to be given to encourage the survival of the four freedoms in the earth. Do they flourish more in Russia than in Germany?

Today is there more freedom of religion in Russia, where communism denies the existence of God and abolishes Sunday, than in Germany, where churches are open, even though there may be an attempt to have the pulpits preach honor for the state and pray for the head of the state as almost the head of the church? Is no church better than a state church?

Today, is the system of private property overthrown in Germany or in Russia?

Today, is the institution of the family more protected in Russia or in Germany?

These questions suggest the difficulties of achieving a national unity based upon all-out aid for Russia?

The truth is that between the Third International of Russia and the Horst Wessel, Germany's song of world conquest, the people of the United States approve neither one.

For years we have been told that communism was not an ordinary political party but an international conspiracy, aiming at world revolution. Our appropriation bills carry riders denying the use of funds to pay the salary of any Government workers who belong to a society advocating the overthrow of the Government by force or violence.

Does anyone seriously think that national unity can be achieved on a proposal to send defense articles to go to Communist Russia, whose disciples are denied pay from the funds that furnish the defense articles?

Personally, I think the march on Moscow will destroy Hitler as it did Napoleon. England will blast his bases. Peoples he has swallowed will torment him internally. Russia will exhaust his energies before he can use her oil and wheat. We will rejoice, of course, as free peoples always rejoice in the overthrow of bullies and tyrants, but Mr. Speaker, any attempt to make heroes out of the "fellow travelers" who have been boring from positions of influence in this Government will produce neither enthusiasm nor unity.

There will be no cheers in America when bombers made in the United States of America blast the homes of the people of Finland we wanted to save a year ago.

For these trades and intrigues, familiar to Europe for a thousand years, are foreign to the nature of America. Our meddling in the Balkans has created a situation for which the day of reckoning is yet to come. Why further "interweave our destiny with that of any part of Europe, entangling our peace and prosperity in the toils of European ambition, rivalship, interest, humor or caprice?" (Washington). Demaree Bess tells us that the Yugoslav leaders sacrificed the present and staked the future of their country upon pledges given them by the American representatives that the American people would bring about the defeat of Germany. He says in the Saturday Evening Post of May 24, 1941:

"The Americans who gave those pledges were fully aware that thousands of miles separated the United States from the Balkans. They knew that we hadn't yet been able to make sufficient munitions for our own defense and the war needs of Britain. They knew that we hadn't yet built sufficient ships in which to carry munitions, but they knew also that the Serbs possessed an almost mystical faith in the power and benevolence of the American people. They used that faith to persuade the Serb leaders to transform their country into a battleground in the Anglo-German war."

Mr. Speaker, national unity can never be produced by that kind of a foreign policy. The American people do not want on their hands the blood of the Yugoslavian Nation nor the tragedy that came to Greece. There is only one safe guide for a foreign policy that seeks a united America. It is that which was enunciated by Monroe when he said that the governments of other countries were their own concern and that the government de facto was the government we recognize.

The needling of revolutions, the promiscuous promise of aid, the encouragement of wars, the underwriting of dynasties or dictators in the Old World are the things that destroy national unity today. There can be national unity on foreign policy today if the keystone of that policy is the preservation of the independence of the United States, declared by brave men 165 years ago tomorrow.

II. PRODUCTION OF DEFENSE ARTICLES

The second field in which national unity is important is that of the production of defense articles. The only people in this country who have been opposed to expediting the production of defense articles are those whose sympathies were with some foreign power.

The obstructions to production have come from two sources—red tape and racketeers. Under red tape I include selfishness and inertia on the part of Government bureaucrats, who have successfully resisted the creation of a unified direction of the national production effort with power to act. Under racketeers I include the profit-counting persons, whether industrialists or labor leaders, who have tied up production.

Mr. Speaker, united support for the production program will come when everyone knows that no favorites are being played. The father and the mother, however, who have seen their boy taken away to learn to use a gun at $21 a month cannot understand this talk of an unlimited emergency when someone else's boy is getting more than that for a 40-hour week, is permitted to strike and delay the production of the gun. You can orate and resolute and fireside chat until you are black in the face, but there will always be something synthetic in the emergency appeal while these conditions exist.

Let me put this straight.

The right to bargain collectively is accepted as a right of labor in normal times. That includes the right to strike, of course. But whenever the state of the Nation is such that an emergency calls for taking a million young men away from their homes, away from their plans, away from their dreams, and putting them into Army training for a year with a liability for 10 years of reserve duty on top of that, that emergency destroys the right to stop production whether on the part of employer or employee, in plants producing needed defense articles. And whenever the National Defense Mediation Board, or a properly constituted department of defense supply, says that further stoppage of work in a defense plant is critically impeding the defense program, there is no right on the part of any men for concerted action to stop or delay production further. Their proper compensation and their conditions of employment or factory use are subjects that can be handled in due time by authorities properly constituted.

On such a basis, Mr. Speaker, you can achieve national unity in the production of defense articles.

III. ORGANIZATION OF THE NATIONAL DEFENSE

The third field in which national unity can be improved is by a reorganization of our national-defense agencies. Several thoughtful proposals have been made. I am working on one such bill which I propose to introduce early next week on this subject.

If there is one thing on which the present war has convinced the people, it is that the Nation that commands the air controls the tides of the war. Hardly less in firmness of conviction is the belief that modern war is a war of hard-hitting, fast-moving machines. And the public is not convinced that the full strength of our Armed Forces is properly organized to achieve the maximum results in these fields. The papers are full of demands for a separate Air Force which the recent shake-up in the Army does not meet. The people want a central direction of the Air Force of Army and Navy.

Similarly, those who have gone into the matter of our procurement are convinced that vast sums are being wasted by the lack of a coordinated purchasing program. The public is certainly confused when it hears from one agency that we have enough aluminum and from another that we have not; from one agency that we are short on power and from another that we have plenty; from one source that we must save on gasoline and from another that there is an adequate supply.

This confusion grows out of an uncoordinated approach. We need some agency to see the whole problem and to have at its command the full picture of need and of supply. Economy and efficiency should result. It is just as important to the taxpayer to save a billion dollars in defense expenditures as to save it in nondefense items.

The plan I have in mind calls, first, for a central Department of Defense, headed by one man with Cabinet rank. The Department of Defense will have four subdivisions, a Secretary for each. There would be a Secretary for Land Forces—the Army; a Secretary for Sea Forces—the Navy; Secretary for Air Forces—a merger of all aviation units; a Secretary for Supply—a merger of all procurement and Production activities connected with the defense program.

The proposal I have in mind may not be the answer, but, Mr. Speaker, some definite action is needed to achieve the national confidence in our defense organization which is necessary for national unity. My proposal will be dropped in the hopper as a contribution toward that end.

IV. WORKING FOR PEACE

The fourth field in which action is needed, if we are to achieve national unity, is that of working for peace.

All history is a mockery if its lessons have not told us that when wars are over the peace has to be won. We have been told—the American people have been told—again and again and yet again—that the program of the administration was a program of aid short of war. Two days ago, however, we were advised that the President no longer said he believed that we could avoid war—he merely hoped that we could.

Mr. Speaker, St. Paul, in his epistle to the Hebrews, said, "Faith is the substance of things hoped for—the evidence of things not seen." And "faith without works is dead." If we want to avoid war, we must work to avoid war. If we want peace, we must work for peace.

I am not one who thinks the President wants to get us into war; he has had too many chances to put us there. He is driven, however, driven and harassed and cornered by selfish interests that see only a wreck of personal investments abroad or who are so driven by their hatred of Hitler that they demand all America redeem their interests and their feelings regardless of the cost. He is moved, as are we all, by the ruthless bombing of civilians, by the barbarity of total war.

I do not like Hitler's persecutions and his pogroms. I do not like Stalin's conspiracies and his purges. I do not know what the future holds but we have the lamp of the past. We know that the boundary lines in Europe have been rewritten every 20 years. We know that one war will be called a holy war, the next a crusade. We know the last war was waged to save the world for democracy, to get rid of the Kaiser and German imperialism, and that out of it we got Hitler, Stalin, and Mussolini with naziism, communism, and fascism. That should have cured us of the idea that we could inscribe boundaries or prescribe forms of government. Washington warned us:

"There can be no greater error than to expect, or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard."

We cannot, today, however, dismiss our connection with the present war for already we have contributed to its prolongation. Its widening tides rock every shore. We now have a responsibility for trying to get it stopped if we really hope to avoid getting into it ourselves. If men hope to avoid war, they must try to avoid war.

On the basis recently announced by Anthony Eden, there is a hope for peace. He said:

"We have no motive or self-interest prompting us to economic exploitation either of Germany or of the rest of Europe * * * No escape can be found for the curse which has been lying on Europe except by creating and preserving economic health in every country."

Repeated and insistent reports suggest that Germany has proposed terms which are not unacceptable to England, terms that include the withdrawal from Syria, Norway, Demark, Greece, and Holland, settlement with Belgium and France on terms mutually acceptable, and disposition of Poland, Czechoslovakia and Yugoslavia at the conference table.

The only attention given such reports in official circles apparently is to say "who can trust Hitler?" It should be obvious that these proposals are not promises but suggestions for concrete action. There is an easy way to test them. Let mutual acts of performance be called for. If one step succeeds, take another and then another.

That is the road to national unity, Mr. Speaker, leadership in bringing the world to peace. And with all the earnestness of which I am capable, I say let the President lead the world to peace and he will have won for himself and his administration a unity and an affection as great, as leadership into war would be disastrous to his fame, his party, and possibly his country.

There will be no glory in leading the Nation into a war it does not want.

Mr. Speaker, every Member of this House from the time he heard his first Fourth of July speech until he took his oath of office here, has hoped that he might contribute something substantial to the country he loves. Everyone of us has hoped that if, in his time of service the country passed through a crisis, he might do his part well and nobly. Everyone of us has hoped that he would measure up to the responsibility of his time.

There is a demand today for national unity. "Passion may strain, but it must not break our bonds of affection." It is my earnest prayer that each one of us may prove his fitness to serve in this time by contributing to the adoption of those measures which will create true national unity.

Mr. CASE. Mr. President, I also ask unanimous consent that the text of the report on Germany, submitted by the subcommittee of the House of Representatives Select Committee on Foreign Aid, be printed in its entirety at this point in the RECORD.

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

REPORT ON GERMANY

PRELIMINARY STATEMENT

Twice in a lifetime, the German people under evil leadership have upset the stability of Europe and the peace of the world. Today, the United States has a major responsibility for the political, economic, and social life of 46,000,000 German people in the western zones. Whether their capacities contribute to world order or world disorder is largely in our hands. We pay the costs of failure, in any case.

Prewar Germany had 69,000,000 people occupying 181,000 square miles of land, a population density of 382 per square mile. Postwar Germany has 66,000,000 people occupying 138,000 square miles of land, a population density of 477 per square mile. The lands lost were largely food-producing lands plus the industrial area of Silesia. The population, although approximately the same, lacks the skilled labor of 2,000,000 ablebodied men who went to war and have not returned, and of many more who never can return. If these prisoners were added, the German population would reach approximately prewar numbers with 24 percent less territory.

Prewar Germany even under pressure never produced more than 80 percent of her food supplies. The deficit was made up through exchange of goods manufactured by combining rich coal deposits, raw materials, skilled labor, scientific knowledge, and a willingness to work. Today, the major cost of feeding the German people falls upon the American taxpayer and upon the American consumer.

It is impossible to separate the economic problem in Germany from the political. Six million at least, possibly 10,000,000 of the people in postwar Germany, most of whom we are feeding, are persecutees, refugees, or expellees—non-self-suppliers living there because of political decisions.

The boundaries of the four zones were fixed by political decisions; the significance of which is suggested not too inaccurately by the quip that "the Russians got the farmlands; the English got the industry; and the United States got the scenery."

The extent to which we direct and determine the life of present-day Germany needs to be realized by every citizen of the United States, as well as the conditions under which we operate and the ways in which we proceed. We cannot solve the economic problems confronting us unless we make new political decisions.

Four powers—Soviet Russia, England, France, and the United States—occupy Germany today, each in a zone of its own, coming together in an Allied control authority. Berlin, while within the Russian zone, is divided into four sectors. In our sector of Berlin and in our zone of former Germany, the word of our military government is the supreme law, subject to such quadripartite agreements as may have been made. Quadripartite agreement has been difficult to achieve, due to frequent unilateral action by the Soviet Union in her zone or refusal to join in steps which the other powers believe are essential to European recovery. France and Britain have also had differences which delayed action. This has forced the United States to go ahead with such measures in her own zone and in other western zones to the extent that their zonal authorities would join. This policy was announced at Stuttgart by Secretary Byrnes in September 1946, and constituted a partial abandonment of the so-called Morgenthau plan as followed at Potsdam and Yalta.

Since Stuttgart, the United States and England have been moving in the direction of a bizonal administration. Recently the United States took over additional responsibilities in the British zone, chiefly the supplying of 90 instead of 50 percent of the dollar cost of the deficiencies in food, raw materials, and other import costs of the bizone. An integrated staff with a United States representative at the top, but still bifurcated, is to administer the bizonal area although its administrative share and its voice in policy is not commensurate with the share of the load thrust upon it.

This means that, like it or not, the United States is the major occupying power in what once was Germany. Under international law and under conventions of The Hague which we signed many years ago, the occupying power has a definite responsibility that a reasonable subsistence be assured the civilian population.

As former President Hoover has said, "The United States cannot be indifferent to, nor escape responsibility for, what happens under the American flag."

There can be no hope for stability in a hungry Germany. That alone, however, is a negative approach to the problem. The German people have capacity—a capacity to produce goods for themselves and for the wants of the world. The German people have ambition and willingness to work—whether for the welfare or the woe of the world depends upon the direction and opportunity provided.

It is the conviction of this committee that there can be neither prosperity nor security in a world economy which feeds the German people but fails to win the constructive contribution to world society which they are capable of making.

The recommendations made at the outset of this report rest upon economic facts and political situations found to exist by the subcommittee which devoted 4 weeks of intensive travel and study to the conditions in Germany in September and October 1947, and to prior and subsequent study and correlation of information and developments.

While it is recognized that administration is the responsibility of the executive branch of the Government, the Congress is ultimately responsible for the policies of the United States expressed in legislation and for examination of the ways in which policies are carried out. Under present conditions of

world-wide shortages in food and the interrelation of other matters, what the United States does abroad has an inevitable effect upon domestic legislative decisions. Special responsibilities devolve upon the House of Representatives in connection with policies which involve large expenditures. Hence, the scope of the recommendations herein.

The aims of the recommendations are—

1. To enable Western Germany to get on her feet economically and off the backs of the United States taxpayer.

2. To bring the productive capacity of Germany, her people, and her material resoures into position to contribute to world stability.

3. To encourage the development of a democratic Germany as a bulwark of world peace.

RECOMMENDATIONS

The recommendations will be classified under three heads: Governmental, economic, and social.

Governmental recommendations

It is the view of the subcommittee that the Government of the United States should not recognize as final the boundaries temporarily assigned at Potsdam for occupation purposes. As Secretary Byrnes has said, these agreements were merely provisional and depended upon the final peace treaty to reestablish Germany as an economic and political unit. It seems hardly necessary to point out that Soviet obstruction has been mainly responsible for making such a treaty impossible.

Since action to restore the economic health of Germany is long overdue, the subcommittee, reluctantly accepting the verdict of the London Conference of December 1947 that a single administration for all Germany is not possible at this time, recommends:

1. That immediate steps be taken to make the United States voice in administration and policy of the western zones commensurate with the share of the costs it pays. The latest agreement with the British for bizonal Germany does not do this. The subcommittee feels that Congress should be consulted in the making of agreements involving financial commitments by the United States.

Congress must no longer be confronted with agreements involving commitments requiring congressional appropriations, without prior consultation. Repeated attempts of the Executive to force congressional action by this technique may result in embarrassing the Executive rather than the Congress. In our domestic government as well as in international affairs, cooperation is a two-way street.

2. That our representatives on the Allied Control Authority seek to establish the right to complete freedom of movement for all citizens of Berlin to move to and from the zones with which their residence sectors are affiliated, moving over established routes.

(NOTE.—It is costing the United States $6,000,000 per month to feed its sector of Berlin alone. Additional responsibilities for the British and French sectors will raise this cost to a total of possibly $175,000,000 per year for the city of Berlin alone. The United States is entitled to have this cost reduced by whatever is possible through greater exchange of goods and services between the populations for which it has responsibility.)

3. That the State Department negotiate with France for restoration of the historical identities of Wurttemberg and Baden by permitting the southern portions of those states to join the northern portions as an integrated unit in the economic fusion of the laender in the western zones; and for affiliation of the Saar with France in accord with the plebiscite recently conducted.

4. That the states of Germany which are free to do so be encouraged to form a constitutional government at the earliest possible date: a government with powers prescribed by and derived from the member states, a government which other German states could join when free to do so, and free itself to join any federation of free states looking toward the economic stability of Europe and world peace.

5. That the duties and responsibilities heretofore performed by United States military government in Germany (but not the army of occupation) be turned over to an administration for occupied territories with a director-general to be named by the President and confirmed by the Senate, with powers, duties, and policies prescribed by act of Congress.

(NOTE.—It is the belief of the committee that the German people are capable of working out the details of production and distribution, if told what is expected of them. Great economies in personnel and administrative costs can be achieved by limiting occupation administration to the fixing of goals and limitations with an inspectorate to see that both are observed. The power would be reserved, of course, to protect, at need, law and order and military security through the army of occupation which is and has been distinct from military government. These same principles should be required in other zones where the United States foots the bill.)

6. That the Administration for Occupied Territories be directed to reduce United States personnel and administrative details to a minimum by turning executive as well as judicial and legislative duties over to the several laender and appropriate fusions thereof.

(NOTE.—In view of the repeated protestations of the State Department in the European recovery program hearings, that it is not an operating organization, and in view of the past record, the subcommittee does not believe that transfer of the administration of the occupation on June 30, 1948, is a satisfactory final solution of this problem.)

7. That Congress create a Legislative Advisory Committee for Occupied Territories to work with the legislative bodies of the several German states or a federation thereof in an effort to give all possible assistance to the development of a practicable, workable system of representative government from the smallest local governmental unit to the largest.

(NOTE.—The parliamentary bodies of England and France should be invited to assign like representatives on this Advisory Committee. Membership should be restricted to persons who have a proven understanding of workable and desirable procedures in representative government; e. g., have themselves been elected and reelected to public office by popular vote.)

Economic recommendations

1. That the Allied military governments proceed immediately with a realistic currency reform resigned to discourage black-market operations and to encourage the production and distribution of needed food and clothing.

2. That a minimal ration of 2,000 calories be guaranteed children under the age of 15 and that a schedule of incentives for food production be authorized toward accomplishing a like minimal ration for the civilian population as a means toward general recovery.

3. That a special incentive schedule be authorized for the production of coal by permitting Germany to retain for industrial and heating purposes all the coal mined beyond the minimum essential exports of coking coal to liberated neighbors.

4. That restrictions on the production of fertilizer be immediately abolished as an indispensable step in increasing the self-production of food.

5. That the dismantling of plants in the western zones be temporarily suspended in order that the list of those scheduled for dismantling may be restudied by a congressional committee to determine where they can best be used for the economic recovery of Europe, including the German states.

(NOTE.—Officials representing both the Department of State and the Department of the Army have stated that they consider the plants listed for dismantling to be surplus to future German needs, in the light of possible supplies of materials and of manpower. The also hold that it is important to go through with the program for dismantling, in order to avoid the appearance of indecision that would otherwise result. The subcommittee is mindful of these considerations, but feels that the weight of the argument, in view of the fact that the list was prepared before any serious consideration of a European recovery program, requires a review. The provision for Germany of $322,000,000 out of the $6,800,000,000 requested for the first 15 months of the ERP is also so low as to throw into question the soundness of the projected recovery of Western Germany in 1948 to 1949 to only 40 or 50 percent of prewar production levels, when nearly all other Western European countries will be at or higher than prewar levels.)

6. That any supply of new railroad cars for Western Europe be conditioned upon an undertaking by the countries receiving the new cars to increase by a larger number the used cars in serviceable condition returned to Germany, and to drop claims to German cars as reparations. This should apply to the 20,000 new cars projected by the State Department, after scaling down the CEEC requests, to be produced in the United States for Western Europe prior to July 1, 1949.

7. That the proposed Administration for Occupied Territories be authorized to negotiate to stop deliveries of German ships under reparations account and be authorized to acquire surplus ships from the United States Maritime Commission and the War Assets Administration and to charter them under proper operating restrictions to nationals or agencies of the occupied territories for the following purposes: Fishing, transport of relief supplies contributed either by individuals or the Government of the United States, and transport to the United States of salvaged scrap from the harbors and battlefields of Germany for which appropriate credit shall be given on occupation charges.

8. That operation of the Export-Import Agency be turned over to the Germans themselves, under inspection, with freedom to exchange goods with other countries, including the United States, on such terms as they are able to negotiate and to acquire such dollar exchange or other foreign credits, subject to priorities for the production and export of bottleneck items needed for European recovery and to security control over imports.

(NOTE.—This implies the necessary freedom of movement and contractual initiative, subject to the inspection of contracts and factories to conform to policy directives of the Occupation Administration.)

9. That the management of German industry be turned over to its owners under such restrictions as are consistent with occupation policies, allowing full freedom to make such use of raw materials or use of foreign exchange credits as are consistent with agreed-upon claims (such as the coal agreement, and restrictions indicated in recommendation 8 above).

10. That the schedule of levels for the different industries of Germany under the revised level of industry agreement of August 29, 1947, be reviewed in detail by the occupation administration in the light of any

program for European economic recovery, and a report with recommendations for changes be made to Congress by March 31, 1948, and annually thereafter.

Social recommendations

1. That denazification proceedings on all but "major offenders" be ended by May 8, 1948 (the third anniversary of VE-day) through proclaiming full amnesty for all "lesser offenders" and "followers" whose clearance proceedings have not been completed by that date, and that full faith and credit be accorded the holders of this and prior amnesty or clearance cards by all agencies of the United States Government, thereby granting full freedom of movement and the right to work and to enroll in educational institutions and to participate in government.

2. That an effort be made to reduce the burden on the German economy and the occupation by finding homes abroad for so-called displaced persons and the millions of peoples expelled from the former German provinces to the east, as well as from non-German territories under Soviet control.

(NOTE.—The committee wishes to call particular attention to the large numbers of expellees from the Baltic countries, accustomed to hard conditions and a difficult climate, and to the possibilities for settlement of these people in areas where population has been declining, and in western Canada, Alaska, Kenya, Brazil, Argentina, and other lightly populated areas.)

3. That any nation receiving aid from the United States under any program for European recovery holding able-bodied workers as German war prisoners be required to permit their return to Germany before receiving such aid.

4. That any program of social reform in the fields of land management or tenure, social insurance, and public health be subordinated to economic recovery in the occupation administration; that the Germans be required to operate and finance sufficient schools to afford full education opportunity, but that careful supervision be maintained to encourage the development of democratic education; and that the exchange of American teachers and students with German institutions be encouraged by making such programs as the Fulbright and Smith-Mundt Acts available to them.

The committee believes that carrying out these recommendations will go far in putting Germany on her feet, relieve the United States taxpayer of immense occupation costs, bring to the cause of world stability and European recovery the great capacities of the German people and aid much in developing the free states of Europe as a bulwark of world peace and of free institutions.

THE SUBCOMMITTEE FOR GERMANY,
FRANCIS CASE, *South Dakota, Chairman.*
JOHN M. VORYS, *Ohio.*
CHARLES W. VURSELL, *Illinois.*
EUGENE E. COX, *Georgia.*
OVERTON BROOKS, *Louisiana.*

Mr. CASE. Mr. President, today we woo the German people—rightly, in my judgment—for their own sake and for the security of peoples ever where. We seek to place the resources and industry of the German people on the side of the free world.

That is why I rejoice in the action which was taken yesterday by the Senate. It was a late step, but nevertheless a necessary step toward improving the position of strength of our free world. Some may call it a step toward a balance of power, if they wish to put it that way, but at least it is a step to readjust our position of strength throughout the world, so that the forces of tyranny can be curbed, and so that in time, we hope, the forces of freedom can be established everywhere and bring liberty to all peoples, including the people of Russia, and those inside the iron curtain. It is our hope that this can be accomplished without going through another war and without paying again the futile price which was paid in World War I and World War II, for those wars, as we discovered, led to a new crop of problems which seemed to be even greater than the ones they were supposed to end. Mr. President, wars have failed to answer problems. They create problems.

Now we are addressing ourselves to measures in the hope of avoiding war. To that end, I applaud the action taken yesterday by the Senate; and I trust that the other measures suggested will be pursued, until the purposes of the American Republic which was founded on July 4, just 176 years ago, are firmly established.

AMENDMENT OF NATURAL GAS ACT

During the delivery of Mr. CASE'S speech,

Mr. DOUGLAS. Mr. President, will the Senator from South Dakota yield to me for an insertion in the RECORD, with the understanding that it will come at the conclusion of his remarks?

Mr. CASE. I am happy to yield, but I will say to the distinguished Senator from Illinois that I hope that when the résumé of my speech of 11 years ago appears in the RECORD he will read it. He will find that 11 years ago I asked for the creation of a Central Department of Defense with four branches, one for air, one for land, one for sea, and one for a Department of Supply. I noted with interest the other day that the Senator from Illinois proposed a fourth Under Secretary in the Defense Department, to handle the Supply Department. I certainly hope that he pursues that objective, and I hope he will read my remarks on the subject which I delivered 11 years ago.

Mr. DOUGLAS. I thank the Senator from South Dakota. I promise to read his remarks.

Mr. President, I submit an amendment intended to be proposed by me to the bill (S. 1084) to amend section 2 of the Natural Gas Act, which I ask to have printed and lie upon the table. I request unanimous consent that the text of the amendment may be printed in the RECORD, together with a statement of mine explaining my grounds for objecting to the measure in its present form and for proposing the amendment just submitted, and a letter to Thomas C. Buchanan, Chairman of the Federal Power Commission, from the Bureau of the Budget. In order to save the time of this body, I do not wish to consume much time in floor debate on the bill, and hope that Senators may review my statement in the RECORD before voting upon the measure.

The PRESIDING OFFICER. The amendment will be received, and printed and will lie on the table; and without objection, the amendment and matters referred to by the Senator from Illinois will be printed in the RECORD.

The amendment, statement, and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT

In lieu of the matter proposed to be inserted by the committee amendment insert the following: That section 1 of the Natural Gas Act (15 U. S. C. 717), as amended, is amended by adding at the end thereof a subsection (c) as follows:

"(c) The Commission upon its own motion may, or upon application shall, exempt from the provisions of this act a person engaged in or legally authorized to engage in the local distribution of natural gas and who owns or operates facilities used or to be used for the transportation of natural gas in interstate commerce, or for the sale of natural gas for resale in interstate commerce, or for or in connection with the transportation of natural gas in interstate commerce for hire, provided, (1) such facilities do not extend beyond a community or metropolitan area, and (2) all gas delivered or transported through such facilities is ultimately consumed within such community or metropolitan area. To the extent that exemption from the provisions of this act is granted pursuant to this subsection the matters exempted are hereby declared to be matters primarily of local concern and subject to regulation by the several States."

SEC. 2. Section 2 of such act is amended by adding thereto a new paragraph to follow paragraph (9), to be numbered paragraph (10), to read as follows:

"(10) 'Community or metropolitan area' means the area of a community or city, and a zone adjacent thereto, which the Commission upon the basis of commercial, economic, social, or other relevant factors, or upon the basis of facilities, organization, and arrangements for the distribution of natural gas, finds to constitute a community or an area properly integrated for the local distribution of natural gas, and within which the Commission finds that the transportation or sale of gas does not require regulation by the Commission in order to protect the public interest."

STATEMENT BY SENATOR DOUGLAS

I originally objected to S. 1084, and still oppose it in its present form, because I believe it would be prejudicial to the interests of gas consumers. This is because, in my opinion, the exemptions that would be written into the Natural Gas Act by S. 1084 are in one important respect too broad.

The exemptions of stub lines and of the metropolitan area facilities, like those in New York, seem wholly desirable since these operations are clearly local in character, and adequately covered by State regulatory power.

The same cannot be said, however, for the exemption of the gas distribution systems owning extensive high-pressure, interstate, trunk lines (though located wholly within one State), aggregating in the case of the East Ohio Gas Co. over 650 miles of high-pressure long-distance lines. It is this exemption which renders S. 1084 objectionable, in my opinion. If rewritten or amended to exempt only the stub lines and metropolitan area facilities, I would not oppose it.

Contrary to the stated purposes of the bill, as set forth in the committee report, the exemption of extensive trunk lines would, in fact, exempt operations not fully and adequately covered by State regulatory power. It would eliminate Federal jurisdiction that does serve an important public purpose by taking away, (1) the effective right of smaller communities to seek and secure gas supplies and service from the trunk-line carrier, and

the authority of the Federal Power Commission to order and regulate such service under section 7 of the Natural Gas Act; and (2) the power of the FPC to assist State and local commissions by requiring uniform accounting systems, annual reports and inventories, and by investigating production and transportation costs of such carriers in interstate commerce.

I have not been able to make the detailed study of this matter that I would prefer to make before interposing any objection or proposing an amendment to eliminate the objectionable feature of the bill. But I find that the committee did not hold any hearings on the bill, and I have searched its report in vain for any discussion of the importance of the service and accounting requirements of the Natural Gas Act, as applied to such extensive trunk-line carriers of gas. The report does state that Chairman Buchanan raised the question, distinguishing the East Ohio operations from the "stub-line" situation, but the report does not analyze the issue. A subsequent letter of April 21, 1952, to the FPC from the Bureau of the Budget also questions the justification for exempting these extensive trunk lines and concludes that "we cannot recommend enactment of the proposed legislation."

Under these circumstances, I believe the Senate should either hold up action now on the bill in its present form or amend it to eliminate the questionable exemption, pass the agreed-upon provisions, and deal with that debatable exemption only after hearings and full study.

In order that my present grounds for feeling that the exemption of distributors with extensive, high-pressure, trunk lines, even though wholly within one State, is unwise may be clear, however, I would submit the following analysis for the information of the Senate:

BACKGROUND OF THE EAST OHIO CASE

The jurisdictional dispute with East Ohio Gas Co., culminating in the decision of the United States Supreme Court (338 U. S. 464), was not initiated by the Federal Power Commission. It was instigated by the city of Cleveland in 1938 through complaint based upon an affidavit of the then mayor of Cleveland, the Honorable Harold H. Burton, now Associate Justice of the Supreme Court. The city asked the Federal Power Commission to determine the cost of transporting natural gas from the Ohio-West Virginia State line at the Ohio River to the city of Cleveland.

Section 5 (b) of the Natural Gas Act authorizes the Commission, on petition of State commissions, to determine the cost of transporting gas even where the Commission has no authority to establish a rate. The city of Cleveland has rate-making authority under the Ohio law and was, therefore, entitled to make such request of the Federal Power Commission. A similar complaint was filed by the city of Cleveland in 1942 by its mayor, Frank H. Lausche, now Governor of Ohio, and complaints were also filed by the cities of Akron, Euclid, and Lakewood, Ohio.

One of the important prerequisites to a determination of the cost of transportation is the determination of the original cost of the property devoted to such transportation service. These cities recognized such fact and, therefore, asked the Commission to require East Ohio to ascertain and submit its original cost to the Commission. The Commission directed East Ohio to file an inventory and statement of the original cost of its property used and useful in transporting natural gas to the complainant cities. The company refused contending it was not a natural-gas company under the act and therefore the Federal Power Commission had no authority in the matter. The issue was thus joined, and after hearings before the Commission the litigation commenced which finally ended in the above-mentioned decision of the United States Supreme Court, holding East Ohio a natural-gas company under the jurisdiction of the FPC.

East Ohio does not make any sales for resale, nor does it engage in transportation for hire; therefore, the jurisdiction of the Federal Power Commission rests entirely on the fact that East Ohio transports natural gas in intersate commerce.

With respect to companies which do not make sales for resale or transport natural gas for hire, the regulatory activities of the Federal Power Commission are limited primarily to (1) services and (2) accounting and depreciation practices. But both of these functions are important as applied to such trunk lines as East Ohio, and both of them would be eliminated by S. 1084. Let us examine each one briefly.

SERVICE PROVISION OF NATURAL GAS ACT

The Natural Gas Act deals with the question of service in section 7 (a) thereof which authorizes the Commission to direct a natural-gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with facilities of, and sell natural gas to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural-gas company thereby.

Section 7 (b) deals with the abandonment of service by a natural-gas company. Abandonment is not permitted without permission of the Commission after hearing when it finds that the supply of natural gas is depleted or present or future public convenience and necessity so requires.

Under section 7 (c) of the Natural Gas Act, a natural-gas company is required to obtain from the Commission authority to engage in the sale or transportation of natural gas subject to the jurisdiction of the Commission or to acquire, construct, or operate facilities for such transportation or sale.

Many of the large natural-gas companies are prone to want to serve their large terminal markets and ignore the small cities and towns along their pipelines who desire service. In almost every large certificate case before the FPC several small towns or municipalities intervene in order to obtain a supply of natural gas. Likewise, many such cities and towns have found it necessary to institute section 7 (a) proceedings in order to obtain natural-gas service for their communities.

There is considerable doubt expressed by lawyers that the State regulatory commissions would have power to compel interconnections of interstate facilities and to require the sale of natural gas from such facilities to persons or municipalities engaged in the local distribution of natural gas. In an effort to cure such deficiency there was inserted in S. 1084 a further proviso reading: *"Provided further,* To the extent that exemption from the provisions of this act is afforded by this subsection the matters exempted are hereby declared to be matters primarily of local concern and subject to regulation by the several States."

Some lawyers take the position that because of the interstate aspects such proviso would be meaningless and of no effect unless the States adopt legislation specifically related thereto and based thereon.

Assuming that such a proviso is legal, moreover, it is believed that it would actually hamper any local distributing company or municipality in obtaining gas service from the lines of such a company as East Ohio. This is believed so, for if such local distributor were to be given service by East Ohio it would subject East Ohio to FPC jurisdiction since it would be making a sale for resale in interstate commerce. Therefore, it seems axiomatic that such companies as East Ohio will resist every effort made to obtain service for the small towns along their high pressure transmission lines. It is to be expected that the State commissions such as the Ohio commission will, after having gotten East Ohio out from under FPC jurisdiction, discourage any move which would change such status. This situation would place the municipalities and small distributing companies at the mercy of such companies as East Ohio. The only way that natural gas service from East Ohio could be secured would be the acquisition of the distribution system by East Ohio thus obviating any necessity of making a sale for resale. The amendment of the act as proposed in S. 1084 would put tremendous leverage in the hands of East Ohio and other companies similarly situated to force the sale of small distribution systems.

The legislative history of the act clearly reveals that the need for this Federal authority to compel service and require the necessary connections with trunk-line facilities was one of the important reasons for the enactment of the Natural Gas Act. Many communities were refused service even where the pipelines had excess supplies of gas and the States had no power to deal with the situation. (Cf. Final Report of FTC, Senate Doc. 92, 70th Cong., part 84A; hearings on H. R. 11662, 74th Cong., p. 155; hearings on H. R. 4008, 75th Cong., pp. 47, 66, 67, 68.) This still remains one of the vital functions of the FPC. In fiscal 1950 the Commission received 14 applications under section 7 (a) of the act. In fiscal 1951 there were 39 such applications filed. Rate regulation, which admittedly does not apply to companies situated as East Ohio is, is not the only important objective of the Gas Act. The powers to compel service under section 7 are also vital, and in my opinion it would be contrary to the consumers' interest to surrender this power over such interstate truck lines and create again a gap in the effective power of any governmental agency to require this utility service to consumers.

I hardly need point out that this exemption might well induce other local distributors with extensive trunk lines to rearrange their physical properties and legal status within a single State so as to acquire similar freedom from this Federal authority and thus increase their opportunities to buy up local distribution systems near their high-pressure lines at distress prices, by simply refusing to furnish their excess gas supplies on request.

For these reasons related to the Federal power over services, the exemption afforded distributors owning extensive trunk lines by S. 1084 seems to me highly objectionable.

COST ANALYSIS AND ACCOUNTING REQUIREMENTS UNDER THE NATURAL GAS ACT

The cost-analysis provisions of section 5 (b) of the act, under which the East Ohio case itself was started, was designed to authorize the FPC to assist State and local commissions in just such cases, even where the FPC itself had no rate-making power. The House report (H. Rept. 709), 75th Cong., p. 5) stated:

"Subsection (b) authorizes the Commission, upon its own motion, or upon the request of a State commission, to investigate and determine the cost of production or transportation of natural gas in cases

where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas. This subsection applies only to cases involving transportation of natural gas in interstate commerce, and will greatly aid State commissions in their rate-making proceedings."

It is difficult to see why we should now surrender this authority to assist local commissions, particularly in the face of the record that a number of Ohio communities themselves filed the complaints seeking this aid in the East Ohio Gas Co. case.

The committee's report, in justifying the exemptions that would result from S. 1084, relies heavily upon the claim that the accounting requirements under the Natural Gas Act are costly, wasteful, and duplicative, as applied to such companies as East Ohio. It would appear to me, however, that the argument exaggerates the burdensome and costly effects of these requirements and minimizes the value of them to the continuing work of the FPC.

East Ohio has vigorously resisted control of its accounting and depreciation practices by the Federal Power Commission asserting that it is fully regulated in such respect by the Ohio Commission. East Ohio was one of the companies investigated by the Federal Trade Commission who found that the accounts of East Ohio contained write-ups of utility property in excess of $15,000,000. (See S. Doc. 92, 70th Cong., 1st sess., pt. 83, p. 1695.) In its opinion (6 FPC 176) the Commission said, with respect to East Ohio's objection to the Commission's accounting orders:

"They are the Commission's general accounting orders, issued under sections 8 (a), 10 (a), and 16, which require installation of the uniform system of accounts, reclassification, and original cost determination, and annual and statistical reports. To these orders, East Ohio objects because the cost of compliance is claimed to exceed $1,500,000, and on the ground that the data sought can have relevancy, if to anything, only to the regulation of its local rates, a function reserved to the State of Ohio.

"To sustain these objections, we would have to shut our eyes to all provisions of the Natural Gas Act, save those relating only to rates. For example, uniform accounting is necessary to effective regulation under section 7. And original cost is a necessary incident to the establishment and maintenance of such a uniform system. In this connection, the legislative history of the Natural Gas Act indicates that, in 1935, the investment accounts of East Ohio reflected write-ups amounting to $15,454,511.65.

"One of the objections to these orders is that requests for accounting data and requirements that accounts be kept may not extend beyond facilities subject to our jurisdiction under the act. This argument, however, the Commission has previously considered and rejected (*Re Billings Gas Co., et al.* (G–152, G–153, G–154), 2 F. P. C. 288, 289–290, 35 P. U. R. (N. S.) 321; *Re Northwestern Electric Co.* (IT–5642), 2 F. P. C. 327, 330–331, 36 P. U. R. (N. S.) 202). To the position there taken, we adhere.

"As to cost of compliance, that alone is no bar. Furthermore, we believe that effective regulation in the public interest provided for by Congress, the objective of the orders, is justification for legitimate cost of compliance. And, in any event, the unsupported estimate of cost of reclassification and original cost studies is not convincing, for our experience with other companies with greater property investment indicates that this estimate is considerably exaggerated.

"Finally, protection of the public interest requires uniform accounting by natural-gas companies, as was contemplated by Congress in the Natural Gas Act. To provide effective regulation of such companies, we must have information available from a uniform system of accounts. Otherwise, such regulation cannot be maintained on a national basis."

It appears from Administrative Order No. 44 of the Public Utilities Commission of Ohio that on April 15, 1942, before the FPC had taken any action in the proceeding, the Ohio Commission ordered that the system of accounts prescribed by the FPC for natural gas companies be made applicable to natural gas companies operating within the State of Ohio if they or their affiliates are or may be subject to the jurisdiction of the FPC. Form No. 10 filed with the Securities and Exchange Commission by Consolidated Natural Gas Co., parent of East Ohio, showed that East Ohio had adopted the FPC system of accounts in 1942 pursuant to an order of the Public Utilities Commission of Ohio. Thus it appears that East Ohio has, since 1942, been following the FPC system of accounts pursuant to a requirement of the Ohio Commission. If this is the case, it is difficult to see why East Ohio has at the same time been maintaining, in the courts, in the halls of Congress and through various publications, that the FPC has been encroaching upon the jurisdiction of the Ohio Commission through insisting that East Ohio follow the Federal Accounting System with a resultant compliance cost of from $1,500,000 to $2,000,000.

If the cost analysis section of 5 (b) has the value that Ohio communities attribute to it and if the accounting requirements are as important to the FPC work, and as little burdensome as this summary indicates, I believe we should not now exempt such distributors with extensive trunk-lines from the act as S. 1084 would do.

ALTERNATIVE TO S. 1084

With the assistance of the Legislative Counsel's office I have prepared an amendment in the nature of a substitute which would preserve the desirable exemptions for stub-lines and metropolitan area facilities, but would not apply to distributors with extensive, interstate trunk lines.

The so-called stub-line cases while analagous in principle to East Ohio are very different on a factual basis. Most of them, according to my information, are short lines of from three to fifteen miles in length which run from the interstate pipeline to serve a single community or two or three small communities. The question of service to adjacent communities could hardly arise in any of these cases. The grounds for the metropolitan area exemption seem equally clear.

My proposed amendment accomplishes these exemptions by permitting the FPC on its own motion, or requiring it on application, to exempt from FPC jurisdiction persons engaged in the local distribution of natural gas and also engaged in the transportation of natural gas in interstate commerce or in the sale or transportation for hire of natural gas in interstate commerce, provided the facilities therefore are confined to a community or metropolitan area and a zone adjacent thereto, and provided also that the Commission find, based on certain criteria the particular transportation or sale does not require regulation by the Federal Power Commission in order to protect the public interest.

It will be noted that the amendment does not refer to facilities within a single State, as does S. 1084, and that the exemption is limited to companies who distribute natural gas within a community or metropolitan area and a zone adjacent thereto. This language would exempt the small stub-line companies but would leave, subject to Commission jurisdiction, the large interstate pipelines such as East Ohio and several other companies similarly situated. There are a number of instances where local distribution companies serve on both sides of State lines and the language of the amendment would serve to exempt such companies whereas S. 1084 would not.

The language leaves to the FPC the same discretion as to all cases that is embodied in S. 1084 as to the New York situation which is dealt with in the metropolitan area proviso.

CONCLUSION

If the Senate takes any action on this measure at this session, I hope it will go no further than the amendment I am proposing. It is designed to accomplish the objectives on which all parties seem agreed. It defers the objectionable, or at least debatable, aspects of the measure for more considered action after hearings on the questions which I have discussed and which were raised by Commissioner Buchanan and the Bureau of the Budget. I present this amendment in the hope that we shall not surrender Federal authority that is important to the continuing protection of consumers.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 21, 1952.

Hon. THOMAS C. BUCHANAN,
Chairman, Federal Power Commission,
Washington, D. C.
(Attention Mr. Leon M. Fuquay.)

MY DEAR MR. BUCHANAN: This will acknowledge receipt of the copy of a report which you transmitted to the Chairman of the Senate Committee on Interstate and Foreign Commerce on S. 1084, a bill to amend sections 1 and 2 of the Natural Gas Act which bill is in the nature of a substitute for S. 1084, introduced in the first session of the Eighty-second Congress. Your report included draft language proposed as a substitute for the above measures.

The purpose of the proposed legislation is to amend the Natural Gas Act so as to exempt the East Ohio Gas Co. and other gas companies similarly situated from the jurisdiction of the Federal Power Commission. In addition, the proposed substitute to S. 1084 would amend the Natural Gas Act so as to permit the Commission, under certain conditions, to exempt from its jurisdiction certain facilities serving metropolitan areas.

As your report notes, the transportation of natural gas by East Ohio was held by the Supreme Court in *F. P. C.* v. *East Ohio Gas Co.* (338 U. S. 464), to subject East Ohio to regulation under the Natural Gas Act. The Bureau of the Budget does not believe that the justification for relinquishing jurisdiction over companies situated as East Ohio has been made clear. We understand that the Federal Power Commission, under existing authority, has jurisdiction over various aspects of companies such as East Ohio and can require such companies to follow specified accounting practices and to submit required reports. The enactment of legislation divesting the Federal Power Commission of this jurisdiction might have the effect of hampering the Commission in carrying out its responsibilities under the Natural Gas Act.

We recognize that legislation which would exempt the so-called stub lines from Federal Power Commission jurisdiction may be desirable. However, we do not believe that it has been demonstrated that it is necessary in dealing with the stub lines problem to exempt from Federal Power Commission jurisdiction companies such as East Ohio, which operate an extensive network of major trunk lines and whose operations may exert a substantial influence on the Commission's regulatory activities under the Natural Gas Act. In the absence of information justifying the proposed substitutes to S. 1084, which exempt companies such as East Ohio from Federal Power Commission jurisdiction, you are advised that we cannot recommend enactment of the proposed legislation.

The Bureau of the Budget has no objection to the so-called New York facilities amendment.

Sincerely yours,

ROGER W. JONES,
Assistant Director for Legislative Reference.

DR. BION R. EAST

Mr. HUNT. Mr. President, on September 7, 1948, Dr. Bion R. East accepted appointment as Assistant Chief Medical Director for Dental Service of the Veterans' Administration. Dr. East reluctantly severed his connection with Columbia University to accept this invitation to public service in the interest of the veteran and the taxpayer. At Columbia he was associate dean, faculty of medicine, and executive officer, department of dentistry, an assignment to which he was particularly well fitted by his years of experience in the private practice of dentistry, public health, and professional educational fields. At present he is on leave of absence from the university as professor of dental public health practice in the school of public health.

The invitation to head the Dental Service of the Veterans' Administration presented a challenge and an opportunity to work for the improvement in the health services rendered to veterans. Although his acceptance entailed sacrifices and meant a heavy burden on his time and energy, personal considerations were not allowed to interfere in his decision.

There can be no question that his selection was most fortunate, and that the interests of the veteran and the Government, during his tenure, have been served in a very outstanding manner. Although prevented by some legislative and administrative blocks from fully accomplishing his objectives, his untiring efforts have been responsible for many improvements in the Dental Service. These include:

The appointment of outstanding specialists as consultants for use in furthering the training of full-time dentists, in providing veterans with efficient modern dental care;

The establishment of a training program which provides for post-graduate training of full-time employees at universities, and the use of recognized authorities in special fields for lectures at Veterans' Administration installations;

The development of the VA dental residency program at selected hospitals. This program is now under way at several stations, and is to be expanded;

The creation of a prosthetic training center in Washington, D. C., for advanced training of dentists and dental technicians in this field;

The planning and development of a dental training center, to be located in one of the new Chicago VA hospitals for training of VA dentists in oral diagnosis, periodontia, oral surgery, operative and prosthetic dentistry;

The reduction of dental outpatient treatment backlogs, which had formerly caused great delay in treatment of veterans, to an almost current state at this time. The use of VA clinics in providing dental examinations has allowed greater choice by the veteran of home town dentists for his treatment;

An increase in professional efficiency, by bringing into better balance the ratio of subprofessional to professional personnel, with a resultant conservation of professional man-hours;

Improved diagnostic service in VA hospitals by initiating a change in policy which now requires dental examination of all hospitalized veterans wherever possible;

Improved integration of the dental service in the over-all health services of the Department of Medicine and Surgery to insure more effective treatment for the veteran beneficiary. This includes a program for integrating dental care of psychotic and tubercular patients with their over-all treatment to expedite their return to useful citizenship or to increase the comfort and over-all health of those for whom a cure cannot be anticipated;

More effective field supervision, with an increased number of supervisory visits to installations and an over-all decrease in expenditures for this purpose.

Many other reforms which have been made have resulted in improved service to veterans, increased morale of dental service employees, more effective use of funds appropriated for dental care of veterans, and improved relations with the public and the profession.

Dr. East has been commended by resolution of the trustees of the American Dental Association, the American Association of Dental Schools, as well as by several State dental societies, for his sound administration of the dental program of the Veterans' Administration.

His unimpeachable philosophy of service, his drive, and his unlimited energy have served to generate a profound respect and cooperation from the employees under his supervision, who appreciate his leadership and guidance.

While the Dental Service of the VA is under his direction, the administration of the dental affairs is being accomplished in a most efficient and capable manner.

ASSOCIATED PRESS REVIEW OF CENSORSHIP PRACTICES

The PRESIDING OFFICER (Mr. MOODY in the chair). As chairman of the Anti-Censorship Subcommittee of the Senate Committee on Government Operations, the present occupant of the chair calls the attention of the Senate to a review of censorship practices in all parts of the world, as recently compiled by the Associated Press; and the Chair asks unanimous consent that a short statement be printed in the RECORD, together with an Associated Press article, as published in the Detroit Free Press.

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

STATEMENT BY SENATOR MOODY

As chairman of the Anti-Censorship Subcommittee of the Senate Committee on Government Operations, I call attention to a review of censorship practices in all parts of the world, recently compiled by the Associated Press.

At no time in our history has the free flow of facts from their source to the people been more important than now when the liberties of men and women everywhere are threatened by the international conspiracy known as communism.

Fortunately, here in the United States, the press, the radio, the television screen, and other media of communication are free, and they are going to remain free. But in other areas of the world, where people desire their freedoms as passionately as we do, the facts never reach the people; they are smothered and stamped out by the cruel heel of dictatorship.

The suppression of news in nations behind the iron curtain is the factor primarily responsible for the enslavement of those peoples, for that is what their present condition amounts to—enslavement. Such practices have spread to dictatorships in this hemisphere, as indicated by the accompanying Associated Press article.

The United States is the leader of the free world and must remain so by vigorous use of its influence. In this field of freedom of information, our Government, through the United Nations, should exercise its maximum pressure against outrages against the principles essential to liberty. Any government which is afraid to let its people have the facts by that act stamps itself as an oppressive government.

I hope those countries where suppression of freedom of information is reported in the Associated Press will reexamine their policy; and that the United States Government will use the full weight of its influence to induce them to do so. This should be one of the most important yardsticks guiding the attitude of our Government toward other governments.

[From the Detroit Free Press of June 29, 1952]

CENSORSHIP TIGHTENS NOOSE ON FREEDOM

Pressures against the free flow of world news increased in the first 6 months of this year. There were some heartening victories, however, by alert newsmen and militant editors over the foes of a free press.

This is disclosed in a semiannual survey of censorship and other conditions hampering the flow of news.

The Soviet Union and Communist China, and the nations that follow Moscow in blind obedience continue to choke off as tight as ever the flow of news from great areas of the world.

In lieu of news comes a constant barrage of propaganda. But this is a challenge to alert newsmen, who patiently sift through thousands of words to find clues as to what is really going on.

In general, the survey shows no censorship easing in countries where it is customarily employed. In some instances this censorship has tightened. Colombia and Venezuela in South America are examples.

A revolution in Bolivia April 9 brought about the death of the biggest newspaper in that country, La Rozon. The new regime of Victor Paz Estenssoro padlocked the newspaper. He promised to reopen the plant, but on June 4 the paper's management gave up and discharged its 300 employees.

Observers could not help but draw a comparison with La Prensa, the independent Argentine newspaper closed down last year by the regime of President Juan Dan. Peron.

In Hamilton, Bermuda, the editor of the Royal Morning Gazette, Edward Thomas Sayer, defied an order of the speaker of the House against publishing an account of a public debate on foreign exchange control.

In Chile, a successful campaign was waged by the press against the arrest of four newsmen for criticizing a cabinet minister. The

men were released and the cabinet minister resigned.

The situation in detail around the world, as revealed in the Associated Press survey:

COMINFORM NATIONS

Censorship in the Soviet Union remains severe for the handful of foreign correspondents in Moscow. They can't send out anything on arrests of Soviet officials or citizens unless it first appears in Soviet newspapers. Also banned are stories on air, train, or ship disasters; specific information on Soviet prices or wages; comment on crowded housing conditions; details on the personal lives of Soviet leaders.

As for the satellite nations, most of the news comes from official radio broadcasts or copies of the rigidly controlled press which reach the outside world.

The domestic press in Russia and all the Cominform nations remains totally subservient to the Communist dictatorship.

WESTERN EUROPE

France: The press is free and there is no censorship of outgoing dispatches. However, four times in May, Communist or pro-Communist newspapers had whole editions seized on charges of inciting to public disorders.

The Government-owned posts, telephone and telegraph system reserves the right to monitor and censor dispatches.

Switzerland: No censorship. The constitution guarantees freedom of the press. A parliamentary commission is studying a proposal to spell out certain limits within which action could be taken against anyone misusing freedom of the press.

Belgium: No censorship.

Italy: There is no censorship on outgoing news and no formal control over newspapers inside the country.

However, ANSA, the semiofficial news agency, is under close political control of the Christian Democrat government and gives preferred treatment to news regarded as favorable to the regime.

Foreign newsmen have noticed an increasing tendency by the Government to press for friendly stories.

Western Germany: Foreign correspondents and the German press are not censored. Occupation authorities have not exercised this year their right to ban publications which endanger the prestige and security of their military forces.

Eastern Germany: The Communist-led government and the Soviet Control Commission enforce strict control of newspaper content along Communist lines. Editorials, news stories, and pictures must conform to directives issued by the government.

Yugoslavia: Premier Marshal Tito's Communist regime employs no direct censorship of outgoing dispatches but it keeps a close check on what is printed abroad. Frequently foreign newsmen who criticize Government policy find themselves attacked in the official press for nonobjective reporting.

Austria: There is no censorship of outgoing dispatches by accredited foreign correspondents.

The Netherlands, Luxemburg, Greece, Norway, Sweden, Finland, and Denmark: No censorship.

Portugal: No direct censorship of foreign correspondents, but they are held responsible for what they write. The domestic press is Government-controlled.

Spain: No censorship of outgoing dispatches, but newsmen are held responsible for what they send. The domestic press cannot criticize fundamental laws of the Franco regime or Franco himself, or the Roman Catholic Church.

Provincial officials and cabinet members are not beyond criticism, however.

BRITIAN AND THE COMMONWEALTH

The United Kingdom and the Commonwealth nations of Canada, New Zealand, and Australia maintain their tradition of no censorship.

For the first time in the history of the 42-year-old Union of South Africa, a newspaper, the Guardian, a pro-Communist weekly, was shut down in May because of its political opinions.

Editor Brian P. Bunting denied his paper was a party organ and 5 days later came out with a new weekly, the Clarion, which looked and read just like the Guardian.

The Government took no further action.

India: No censorship of outgoing or incoming dispatches and no attempt to control news at the source. Last year Parliament approved a press law giving the Government power to control news which is "an incitement to crime."

Pakistan: There is no direct censorship of outgoing or incoming dispatches but there is some Government "supervision" of the writing of news by Pakistan nationals.

Ceylon: The Government has at times tried to curb writings of some resident correspondents, especially Indian correspondents writing on the Ceylon-Indian vote controversy.

AFRICA

Tunisia: Censorship is imposed on all incoming dispatches, on everything published in the local French and Arab press.

Censors read all incoming newspapers and frequently ban particular issues.

Outgoing copy is not censored but may be subject to delay and is sometimes "lost."

Algeria: No censorship.

Morocco: No censorship of press or outgoing cables but the latter are usually monitored and often delayed.

FAR EAST

Communist China: The Chinese mainland is still sealed off from the west. Everything sent out is not only censored but is prepared as propaganda for the purpose of deluding, convincing, hiding, or subverting facts.

Formosa (Nationalist China): No censorship of outgoing news. News which is unpleasant to Nationalist rulers is hard to get but there is no restriction against its transmission.

The Philippines: No censorship but the government appears to be tightening up on sources of information.

Japan and Korea: Korean war copy is subject to censorship. There is no censorship of the Japanese domestic press. A rigid press code emphasizes accuracy. In South Korea martial law prevails with the local press under censorship.

MIDDLE EAST

Iran: Foreign correspondents operate under "responsibility" censorship. Outgoing news is not bothered but a correspondent may be called to various ministries to receive complaints about his material.

Turkey: No censorship. But there is a law providing punishment for anyone who harms the dignity of the nation.

Israel: The consorship imposed since the fighting in 1948 is still in effect but refers only to military matters.

Afghanistan: The government says it has no official censorship but foreign correspondents who write anything unfavorable about the present regime have a tough time.

Egypt: Dispatches of foreign correspondents were subject to heavy censorship during the terror riots of last January. Censorship rules are very strict about mention of the royal family, certain top officials, and military matters.

Syria: No official censorship except in times of stress.

Lebanon: The government suspended six papers in June for reporting a government action against Al-Anba, organ of the opposition Socialist Party. The editor of Al-Anba was sentenced to 14 months in jail for libel.

Jordan: There is no continuing censorship but it is applied whenever there is important news about the government.

Iraq: No formal censorship, but foreign newsmen find it hard to get permission to enter the country.

Saudi Arabia: No welcome here for foreign correspondents, even in the area where an American oil company operates.

Libya, The Sudan, Eritrea, Ethiopia, Kuwait, Bahrein, Aden: No censorship.

SOUTHEAST ASIA

Thailand and Malaya: No formal censorship, but correspondents may be subjected to pressure from officials.

Indochina: The French military censorship sometimes extends to political subjects.

Burma: No formal censorship.

Indonesia: No censorship of outgoing dispatches. A Dutch national who was AP correspondent in Jakarta was ordered out of the country in May.

CENTRAL AMERICA

Cuba: The successful revolt by the forces of General Batista did not result in censorship.

Haiti, Costa Rica, Mexico, El Salvador: No censorship.

Honduras: No censorship. However, one newspaper, Vanguardia Revolucionaria, of San Pedro Sula, ceased to appear and some radio programs were canceled for attacking the "honor and dignity of individuals."

Guatemala: No censorship except in case of a threat to the security of the Government.

SOUTH AMERICA

Argentina: There is no direct censorship of outgoing or incoming dispatches. But communications companies are held responsible for transmission of undesirable news.

In February the Government decreed that all newsprint imports and deliveries would be made by the Argentine Institute for the Promotion of Trade, which has acquired all newsprint stocks in the country. Rationing of newsprint continues.

A United Press reporter was deported in March.

Uruguay, Brazil, Chile, Ecuador: No censorship.

Venezuela: The unofficial censorship of political news has tightened. Foreign correspondents take their copy to the communications companies, which must clear any having political angles with Government authorities.

The local press submits all political stories to a board of examination prior.

Peru: A July 1949 press decree limits press freedom. The censor keeps a watchful eye on outgoing copy.

Bolivia: La Razon, the newspaper owned by Victor Carlos Aramayo, of one of the country's big mining companies, is a casualty of the revolt by the National Revolutionary Party (MNR) on April 9. It has not appeared since then.

Paraguay: No open press restrictions, but the Inter-American Press Association says that "both in Paraguay and the Dominican Republic the political atmosphere is not conducive to freedom of expression."

Colombia: Censorship tightened the past 6 months in Colombia, which has been under a state of siege since November 1949.

Panama: No censorship. However, two newsmen were arrested during the recent election campaign and sentenced to 15 days in jail for stories considered offensive to the President.

ORDER OF BUSINESS

Mr. JOHNSON of Texas. Mr. President, I am about to move that the Senate proceed to consider executive business.

Mr. CAIN. Mr. President, let me inquire of the acting majority leader

whether it is the intention to have the Senate take a recess or adjourn after consideration of the Executive Calendar.

Mr. JOHNSON of Texas. That depends upon developments in the House of Representatives. We expect to receive some conference reports. After we conclude consideration of the Executive Calendar, if the Senator from Washington desires to speak—as I have understood he does—we shall be glad to have him speak. Thereafter, if conference reports have not been received, and if no other Senator desires to speak, I shall move that the Senate take a recess.

Mr. CAIN. Mr. President, I express my appreciation to the majority leader.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consider executive business.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. GEORGE, from the Committee on Finance:

Michael J. Bradley, of Philadelphia, Pa., to be collector of customs for customs collection district No. 11, with headquarters in Philadelphia, Pa., reappointment.

By Mr. JOHNSON of Colorado, from the Committee on Interstate and Foreign Commerce:

Robert B. Noble, and several other employees of the Coast and Geodetic Survey for permanent appointment.

The PRESIDING OFFICER (Mr. MOODY in the chair). If there are no other reports of committees, the clerk will state the nominations from the Executive Calendar.

FEDERAL HOUSING COMMISSIONER

The Chief Clerk read the nomination of Walter L. Greene, of Alabama, to be Federal Housing Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Chief Clerk read the nomination of David J. Coddaire, of Massachusetts, to be a member of the Subversive Activities Control Board.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Kathryn McHale, of Indiana, to be a member of the Subversive Activities Control Board.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

UNITED STATES DISTRICT JUDGES

The Chief Clerk read the nomination of Guthrie F. Crowe, of Kentucky, to be United States district judge for the district of the Canal Zone.

Mr. UNDERWOOD. Mr. President, the nomination of Guthrie F. Crowe, of La Grange, Ky., to be United States district judge in the Canal Zone, is a great honor to the State of Kentucky. Mr. Crowe is a distinguished veteran of World War II, and was commanding officer of a ship which was torpedoed. He and the crew were saved. He is the son of one of the most distinguished attorneys in the State.

I ask unanimous consent to have printed at this point in the RECORD a statement prepared by my colleague, the senior Senator from Kentucky [Mr. CLEMENTS], who is unavoidably detained from the floor.

There being no objection, Mr. CLEMENTS' statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CLEMENTS

In the nomination of Guthrie Crowe as United States district judge of the Canal Zone by the President, one of the finest young men in Kentucky's public, or private life, has been chosen. He is the son of the late Robert T. Crowe, who for many years was a distinguished member of the bar in Kentucky and, like his father, is himself an able and conscientious lawyer, having the training, experience, temperament, and judgment essential for the discharge of the duties of a jurist.

During World War II, Guthrie Crowe served in the Navy—both in the Atlantic and the Pacific—having been placed on inactive duty on December 7, 1945, with the rank of lieutenant commander, which he still holds in the Reserve. He was the first World War II veteran to serve in Kentucky as State commander of the American Legion.

It was my privilege, during my tenure as Governor of Kentucky, to appoint him to what I regarded as one of the most responsible appointive positions in our State government, in which exacting assignment he acquitted himself with such efficiency, skill and prudence that he richly merited and won State-wide respect and admiration among the citizens of Kentucky. As in each and every other undertaking—appointive or elective—Guthrie Crowe has done his splendid best, and as United States district judge, district of the Canal Zone, he can be depended upon to discharge his duties in that capacity in a thoroughly conscientious, able, and satisfactory manner.

I attach to this statement an editorial which appeared in the June 30, 1952 edition of the Courier-Journal, Louisville, Ky., commenting on the pending nomination of Guthrie Crowe, of La Grange, Ky.:

"KENTUCKY MAY BE PROUD OF GUTHRIE CROWE

"Guthrie Crowe, who comes from nearby La Grange, is part of a wholesome new influence in Kentucky politics. As commissioner of the new State police force that replaced the old highway patrol, he has done much to make it a disciplined and efficient body of men. Politics has played a minimum part in its formation and Mr. Crowe's own political ambitions have never interfered with the job he undertook to do. He establishes an excellent pattern in this respect and leaves a challenge for his successor.

"He is a young man to be nominated for the relative backwater of a Federal judgeship in the Panama Canal Zone. But there is no question as to his competence or of the wisdom of the appointment. Kentucky can ill afford to lose a man of this type but all of us must share the pride that must come of his having been singled out early for national preferment."

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Guthrie F. Crowe, of Kentucky, to be United States district judge for the district of the Canal Zone.

The nomination was confirmed.

The PRESIDING OFFICER. The next nomination on the calendar will be stated.

The Chief Clerk read the nomination of Ashton H. Williams, of South Carolina, to be United States district judge for the eastern district of South Carolina.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

JUDGE OF DISTRICT COURT OF THE VIRGIN ISLANDS

The Chief Clerk read the nomination of Herman E. Moore, of Illinois, to be judge of the district court of the Virgin Islands of the United States.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

UNITED STATES ATTORNEY

The Chief Clerk read the nomination of Edward M. McEntee, of Rhode Island, to be United States attorney for the district of Rhode Island.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

The PRESIDING OFFICER. Without objection, the postmaster nominations will be confirmed en bloc.

Without objection, the President will be notified forthwith of all nominations confirmed today.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. MOODY in the chair). Without objection, the Senate will resume the consideration of legislative business.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 3337) to authorize the loan of two submarines to the Government of the Netherlands.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5426) relating to the reserve components of the Armed Forces of the United States.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7072) making appropriations for the Executive Office and sundry independent executive bureaus, boards, com-

missions, corporations, agencies, and offices, for the fiscal year ending June 30, 1953, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 8, 9, 10, 11, 37, 68, and 86 to the bill, and concurred therein; that the House receded from its disagreement to the amendments of the Senate numbered 1, 17, 19, 46, 48, and 130 to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7151) making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1953, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 1, 4, 23, and 26 to the bill, and concurred therein, and that the House receded from its disagreement to the amendment of the Senate numbered 28 to the bill, and concurred therein with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7314) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1953, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 11 to the bill, and concurred therein; that the House receded from its disagreement to the amendments of the Senate numbered 20, 21, 28, and 39 to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7216) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1953, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 41 and 51 to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 57 and 66 to the bill, and concurred therein, each with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 658) to further amend the Communications Act of 1934.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 4109) to amend section 73 of the act of January 12, 1895, as amended, relating to the printing, binding, and distribution of the Statutes at Large, and sections 411, 412, and 413 of title 28, United States Code, relating to the printing, binding, and distribution of decisions of the Supreme Court of the United States, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 477) to continue the effectiveness of certain statutory provisions for the duration of the national emergency proclaimed December 16, 1950, and 6 months thereafter, but not beyond June 30, 1953.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 191) favoring the status of permanent residence to certain aliens.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 86) authorizing the appointment of a committee to attend the general meeting of the Commonwealth Parliamentary Association to be held in Canada.

ADDITIONAL REPORT OF A COMMITTEE

Mr. HUNT, from the Committee on Armed Services, to which was referred the bill (H. R. 5198) authorizing and directing the Secretary of the Army to transfer certain property located in St. Thomas, V. I., to the control and administrative supervision of the Department of the Interior, reported it without amendment and submitted a report (No. 2067) thereon.

DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1953 — CONFERENCE REPORT

Mr. HAYDEN. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7314) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1953, and for other purposes. I ask unanimous consent for its immediate consideration.

The legislative clerk read the report. (For conference report, see pp. 8988–8989 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. KNOWLAND. Mr. President, will the Senator from Arizona state whether the conference report is the unanimous report of all the conferees on the bill?

Mr. HAYDEN. It was unanimous, except that the Senator from Michigan [Mr. FERGUSON] disagreed to the Jensen amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 7314, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, U. S.,
July 2, 1952.

Resolved, That the House recede from its disagreement to the amendment of the Senate No. 11 to the bill (H. R. 7314) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1953, and for other purposes, and concur therein;

That the House recede from its disagreement to the amendment of the Senate No. 20, and concur therein with an amendment, as follows: After the matter inserted by the said amendment and before the period, insert: ": *Provided*, That no part of this appropriation shall be used for acquisition of any land which is not within the boundaries of a national forest: *Provided further*, That no part of this appropriation shall be used for the acquisition of any land over the objection of the local government concerned."

That the House recede from its disagreement to the amendment of the Senate No. 21, and concur therein with an amendment, as follows: After the matter inserted by the said amendment and before the period, insert: ": *Provided*, That no part of this appropriation shall be used for acquisition of any land which is not within the boundaries of a national forest: *Provided further*, That no part of this appropriation shall be used for the acquisition of any land over the objection of the local government concerned."

That the House recede from its disagreement to the amendment of the Senate No. 28, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That hereafter the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services an amount, some part of which may be in kind, not in excess of the value of the samples."

That the House recede from its disagreement to the amendment of the Senate No. 39, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

"SEC. 412. Of the total amount made available in this act for personal services above basic rates of the civilian personnel, for transportation of things (other than mail), and for travel of civilian employees, the Secretary is authorized and directed on or before September 1, 1952, to cover into the surplus funds of the Treasury, or return to the capital funds affected, sums equal to 10 percent of the amounts included in the budget estimates for such purposes, less an amount representing the reduction, if any, between the amount requested for such purpose in the budget estimates and the amount appropriated herein for such purpose: *Provided*, That this section shall not apply to:

"(1) employees working in field activities;

"(2) employees paid from funds for research;

"(3) employees of the crop and livestock reporting service;

"(4) the administrative expense limitations for Federal intermediate credit banks

and for production credit corporations, or to the appropriation for the Farm Credit Administration except the portion thereof provided by direct appropriation from the general fund of the Treasury:

"(5) employees paid from funds for marketing services;

"(6) employees of the Rural Electrification Administration;

"(7) employees of the Soil Conservation Service;

"(8) employees of meat inspection and other regulatory services;

"(9) employees of the Forest Service."

Mr. HAYDEN. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 20, 21, 28, and 39.

The motion was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1953—CONFERENCE REPORT

Mr. HILL. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7216) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1953, and for other purposes. I ask unanimous consent for its immediate consideration. It is the unanimous report of the conferees.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see pp. 8984–8987 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the report was considered and agreed to.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 7216, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, U. S.,
July 2, 1952.

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 41 and 51 to the bill (H. R. 7216) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1953, and for other purposes, and concur therein;

That the House recede from its disagreement to the amendment of the Senate numbered 57 to said bill and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment insert: "for cleaning snow and ice from streets, sidewalks, crosswalks, and gutters, in the discretion of the Commissioners."

That the House recede from its disagreement to the amendment of the Senate numbered 66 to said bill and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment insert: ", and the salary of the Budget Officer of the District of Columbia shall be at the rate of grade GS–16 in the general schedule established by the Classification Act of 1949."

Mr. HILL. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 57 and 66.

The motion was agreed to.

AMENDMENT OF COMMUNICATIONS ACT OF 1934—CONFERENCE REPORT

Mr. McFARLAND. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 658) to further amend the Communications Act of 1934. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The report was read by the legislative clerk.

(For conference report, see pp. 9022–9026 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the consideration of the report?

There being no objection, the report was considered and agreed to.

LABOR-FEDERAL SECURITY APPROPRIATIONS, 1953 — CONFERENCE REPORT

Mr. CHAVEZ. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7151) making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1953, and for other purposes. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see pp. 8990–8992 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 7151, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, U. S.,
July 2, 1952.

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 23, and 26 to the bill (H. R. 7151) making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1953, and for other purposes, and concur therein;

That the House recede from its disagreement to the amendment of the Senate numbered 28 to said bill and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert: ": *Provided further*, That, in computing allotments to States under sections 502, 512, and 521 (a) of such Act for the current fiscal year, balances in allotments previously made to States which remain available in the Federal Treasury for payment to them as of July 1, 1952, shall be taken into account by (1) adding the total of such balances to the appropriation herein made, and (2) subtracting from each resulting allotment to any State under section 502 (a), 512 (a), or 521 (a) any balance in any prior allotment under such section which remains available in the Federal Treasury for payment to it as of such date but with such adjustments as may be necessary to assure that this proviso does not operate to deprive any State of any balance in an allotment previously made to it under such section: *Provided further*, That no allotment for this or any succeeding fiscal year under such title V shall be available after the close of such fiscal year except as may be necessary to liquidate obligations incurred during such year."

Mr. CHAVEZ. Mr. President, I move that the Senate agree to the amendment of the House to the amendment of the Senate No. 28. This deals with the appropriation to the Children's Bureau for grants to States for maternal and child welfare. The House accepted the Senate amendment with the addition of a proviso for clarification.

The motion was agreed to.

RESERVE COMPONENTS OF THE ARMED FORCES—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5426) relating to the reserve components of the Armed Forces of the United States. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see pp. 9005–9017 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. LONG. Mr. President, there are very few Senators in the Chamber. So far as I know, no Senator objects to the conference report.

For the most part the conference agreed to the Senate provisions, with the exception that in the organization of the Reserve components the report provides that there shall be a ready and standby and inactive Reserve, with a limit to the size of the Ready Reserve. If any Senator tomorrow wishes to object to any provision of the conference report, the junior Senator from Louisiana will have no objection to reconsidering. I did not believe that there would be any opposition to the conference report. It is upon that basis I hope the Senate will agree to it.

The PRESIDING OFFICER (Mr. CASE in the chair). The question is on agreeing to the conference report.

The report was agreed to.

INDEPENDENT OFFICES APPROPRIATIONS—CONFERENCE REPORT

Mr. MAYBANK. Mr. President, I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7072) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices, for the fiscal year ending June 30, 1953, and for other purposes. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see pp. 8995–9000 of House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MAYBANK. The conference report was unanimously approved by all conferees except the Senator from Michigan [Mr. FERGUSON]. I talked to him about it in connection with the Jensen amendment, and he knew the report would come before the Senate today.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 7072, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, U. S.,
July 2, 1952.

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 8, 9, 10, 11, 37, 68, and 86 to the bill (H. R. 7072) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices, for the fiscal year ending June 30, 1953, and for other purposes, and concur therein;

That the House recede from its disagreement to the amendment of the Senate numbered 1 to said bill and concur therein with an amendment as follows: In lieu of the matter stricken out and inserted by said amendment, insert: "$1,000,000 of the unexpended balance in this fund on June 30, 1952, is hereby continued available during the fiscal year 1953."

That the House recede from its disagreement to the amendment of the Senate numbered 17 to said bill and concur therein with an amendment as follows: In line 7 of said amendment, strike out the word "expended" and insert in lieu thereof "June 30, 1953."

That the House recede from its disagreement to the amendment of the Senate numbered 19 to said bill and concur therein with an amendment as follows: In line 3 of said amendment, after the word "used", insert "during the fiscal year 1953."

That the House recede from its disagreement to the amendment of the Senate numbered 46 to said bill and concur therein with an amendment as follows: In line 2 of said amendment strike out the sum "$225,000" and insert "$112,500."

That the House recede from its disagreement to the amendment of the Senate numbered 48 to said bill and concur therein with an amendment as follows: In lieu of the matter stricken out by said amendment, insert: ": *Provided further*, That no housing unit constructed under the United States Housing Act of 1937, as amended, shall be occupied by a person who is a member of an organization designated as subversive by the Attorney General: *Provided further*, That the foregoing prohibition shall be enforced by the local housing authority, and that such prohibition shall not impair or affect the powers or obligations of the Public Housing Administration with respect to the making of loans and annual contributions under the United States Housing Act of 1937, as amended."

That the House recede from its disagreement to the amendment of the Senate numbered 130 to said bill and concur therein with an amendment as follows: At the end of said amendment following the words "United States," and before the period, insert a comma and the following: "or to any department, agency, or corporation which does not employ more than two persons at any one time in the performance of functions described in paragraphs (1) or (2) of subsection (a) of this section."

Mr. MAYBANK. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate Nos. 1, 17, 19, 46, 48, and 130.

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

Mr. MAYBANK. I yield.

Mr. SPARKMAN. I wonder whether the Senator would tell us whether any one of the amendments relates to the limitation on the number of public-housing units?

Mr. MAYBANK. Yes; one amendment limits the housing units for this year to 35,000. The Public Housing Administration cannot go beyond that number without the approval of Congress. They are not limited if Congress approves more units. The question which has been raised by the Senator from Alabama has given me grave concern, because 3 years ago Congress authorized 135,000 units. The conference report limits the number of new starts to 35,000 this year and 35,000 for each year thereafter, unless Congress increases the number. We did the best we could do. The Senator will recall that the House had voted for only 5,000 units. I think it is proper to say that the House conferees were adamant on any number exceeding what I believe was a better than fair compromise—35,000 units.

Mr. SPARKMAN. Mr. President, I certainly do not intend any criticism of the Senate conferees or of the very able chairman.

Mr. MAYBANK. Let me say that I did not vote for it. I insisted on the Senate figure of 45,000 units.

Mr. SPARKMAN. I have sat in many conferences presided over by the able Senator from South Carolina, and I know the job he does. I realize the futility at this late hour and at this late time in the session of Congress to try to do anything about stopping this provision in the conference report. I do want to call the attention of the Senate to what I consider to be a very bad practice.

Mr. MAYBANK. Mr. President, will the Senator from Alabama yield to me?

The PRESIDING OFFICER (Mr. CASE in the chair). Does the Senator from Alabama yield to the Senator from South Carolina?

Mr. SPARKMAN. I yield.

Mr. MAYBANK. If the Senator from Alabama will yield to permit me to make a brief statement, I shall take my seat after making it. I wish the Senator from Alabama to be assured of the fact that in the committee I opposed the amendment, and I did so because the amendment proposed the addition of legislation to the appropriation bill.

Mr. SPARKMAN. That is what I understand and from what I know about the Senator's views on the matter, what I would expect.

Mr. MAYBANK. However, the House was the body which added the legislation to the appropriation bill; and the House even requested a further conference, only last week.

Now the conference report has come to us again.

So I wish the Senator from Alabama, who has labored so hard on public housing legislation, as he has on all housing legislation, to know that so far as I was concerned, I did the best I could, both as chairman of the Banking and Currency Committee and as chairman of the conferees, to avoid having such a legislative amendment added to the independent offices appropriation bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina [Mr. MAYBANK].

Mr. MAYBANK. I understood that is the pending question, Mr. President.

Let me say that I understand that the only amendment about which the Senator from Alabama has spoken is the public housing amendment.

Furthermore, Mr. President, I understand that the distinguished junior Senator from Virginia [Mr. ROBERTSON] wishes to speak at this time in regard to another amendment.

Mr. SPARKMAN. Yes, Mr. President; I understand that the Senator from Virginia wishes to make a brief statement at this time.

Mr. ROBERTSON. Mr. President, will the Senator from Alabama yield to me, to permit me to make a brief statement?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that I may be permitted to yield for that purpose.

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

Mr. ROBERTSON. Mr. President, I wish to commend the conferees for saving the essence of the Senate provision with respect to the Thomas amendment.

I now ask unanimous consent to have printed at this point in the RECORD a statement prepared by the senior Senator from Virginia [Mr. BYRD], which he would personally make, but for the fact that he has a speaking engagement this evening in Fairfax County.

There being no objection, Mr. BYRD's statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BYRD

I hope the Senate will not accept the so-called Thomas amendment to the independent offices appropriation bill tampering with Federal employee leave.

I take this position for the following reasons:

1. The amendment is in the nature of permanent legislation attached to an annual appropriation bill providing funds for 1 year.

2. Within the year we have just enacted a new basic Annual and Sick Leave Act, after long and exhaustive consideration by the Standing Committee on the Post Office and Civil Service, and thorough consideration on the floor of the Senate. This amendment disturbs the application of that act.

3. In my opinion this amendment would constitute a breach of faith on the part of the Government with its employees, who in good faith have accepted the provisions of the new law as a part of their pattern of living.

4. In its consideration of the independent offices bill, the Senate Appropriations Committee rejected this amendment, and it was not in the bill as it passed the Senate.

5. Some have contended that the amendment would save money. Others have contended that the requirement for additional record-keeping and temporary employment would increase personnel costs. I am reliably advised that the only savings inherent in the amendment would be those resulting from leave lost by employees when it was impossible for them to use it. All other leave would be compensated for whether used or accumulated.

In justice to taxpayers I have repeatedly, and almost constantly, urged reduction in the number of Federal employees through increased efficiency in their employment; and this I shall continue to do at every opportunity. But at the same time in justice to those who work I would adequately and justly compensate all employees who merit it, both in and out of Government, in terms of salaries and wages, in terms of promotion, and in terms of earned leave. I do not think these things should be changed except with proper notice, and proper consideration under proper procedure.

I am familiar with the abuses which attach to excessive accumulation of leave in the Federal Government, and if they are continuing under the new basic act it should be perfected in the orthodox way; not in an appropriation bill. It seems to me that this amendment would penalize those who do not abuse it.

For these reasons I hope the Senate will reject the conference committee proposal to include this controversial leave amendment in an appropriation bill.

Mr. SPARKMAN. Mr. President, I wish to proceed for only a few minutes. I desire to make it clear that I am not directing any criticism at the Senator from South Carolina or at any of the other members of the conference committee or at the Senate itself. I simply wish to make a statement for the RECORD in regard to the practice to which I have referred, which I believe is bad, and which I believe should be discouraged.

In 1949 the Senate passed a measure which constituted basic legislation setting a ceiling on the number of public-housing units to be construed. The average number per annum was set at 135,000, and there was included an escalator provision which would allow that number to be increased when economic conditions justified such action, or to be decreased when that was justified.

Under that escalator provision the number of housing units was drastically reduced last year to 50,000 "starts."

This year the House sent to the Senate a bill providing for a much smaller number—for 5,000, I believe. The Senate voted to increase the number to 45,000. In the conference a compromise of 35,000 was reached. I do not believe anyone could quarrel with that sort of arrangement.

However, I wish to protest against inclusion in this measure of a provision which in effect repeals the Housing Act of 1949 or modifies it to the extent that now, instead of having a variable ceiling averaging 135,000 units a year, we shall have a maximum ceiling of 35,000 units a year. In other words, the Appropriations Committee has taken it upon itself to write legislation which changes materially the basic law. That is bad practice—very bad practice, indeed.

As I understand, the present situation is that whereas this year the President in his budget message recommended to Congress 75,000 units, instead of the 135,000 which normally he would have been expected to recommend, next year, if I correctly understand the situation, the budget will be restricted to a recommendation of not to exceed 35,000 units.

Mr. MAYBANK. The Senator from Alabama is correct.

Mr. SPARKMAN. Thus, the law has been changed in an appropriation bill. That should not be done. We should see to it that such things do not occur. Similar action could be taken in respect to any other piece of proposed legislation reported by a legislative committee and subsequently enacted into law.

The able Senator from New Mexico [Mr. CHAVEZ], who is chairman of the Committee on Public Works, has the tremendous job of submitting to the Senate from time to time bills and other measures relating to rivers and harbors, flood control, highways, public works, and similar matters. If in connection with such measures action were taken similar to the action about which I now complain, the program in connection with such measures could be completely changed, even after the program had been arrived at after long and careful study by the committee. Similar action could be taken in the case of every other legislative committee and the measures reported by it and subsequently enacted into law.

Mr. CHAVEZ. Mr. President, will the Senator from Alabama yield to me for a question?

Mr. SPARKMAN. I yield.

Mr. CHAVEZ. I have to return to the Appropriations Committee, where we are working on the supplemental appropriations bill. I have a conference report to submit, and I believe its consideration will require only about 3 minutes. I wonder whether the Senator from Alabama will be so kind as to yield to me for the purpose of permitting me to submit that conference report.

Mr. SPARKMAN. Mr. President, I shall not take more than 3 minutes myself.

I also wish to state for the RECORD that this measure contains an amendment similarly relating to the public-housing program. That amendment prohibits any person who is a member of an organization designated by the Attorney General as subversive from occupying a housing accommodation in a public-housing project.

No one would complain if the provision were general in application; that would be all right; but, Mr. President, is it not passing strange that whereas the Government is much more deeply obligated in and concerned with housing bills under the FHA program or the VA guaranteed home-loan program, no one thinks of writing a similar provision into the legislation relating to that program? Are we to suppose that only the poor who are unable to pay normal rents may be subjected to these conditions?

I wish to protest against such a provision, Mr. President. If we are going to apply such a provision to those who are unable to pay the normal rents, and who thus have to live in low-cost housing, let us apply the same provision to those who rely upon the Government to underwrite 80 percent, 85 percent, 90 percent, or 95 percent of the mortgage on the house which they build or which they buy, and in which they live. Let us apply such a provision straight across the board, or else not apply it at all.

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

The motion was agreed to.

Mr. MAYBANK. Mr. President, the independent offices appropriation bill, as now reported by the conference committee, contains in the authorizing provision relating to the Public Housing Administration a proviso reading as follows:

Provided further, That no housing unit constructed under the United States Housing Act of 1937, as amended, shall be occupied by a person who is a member of an organization designated as subversive by the Attorney General: *Provided*, That the foregoing prohibition shall be enforced by the local housing authority, and such prohibition shall not impair or affect the powers or obligations of the Public Housing Administration with respect to the making of loans and contributions under the United States Housing Act of 1937, as amended.

Mr. President, unfortunately this particular provision technically was not in conference, and therefore the committee of conference was unable to make any change in this provision, although, for reasons which I shall explain in a moment, the committee felt that this provision should be changed.

Since this provision relates only to the low-rent public housing program, it applies to less than 5 percent of the total housing program. It was apparent, therefore, to the members of the committee of conference that this statutory prohibition against having Communists or other subversives occupy governmental-assisted housing, applied only to this small fraction of the total housing produced with Government assistance. In addition, it would affect only the poor Communists and subversives, and would not in any way affect the well-to-do Communists.

Mr. President, of course the ones we should really be afraid of are the rich Communists. The poor Communists make noise and confusion; the well-heeled Communists perpetrate the in-

sidious ideas and the evil and traitorous plans.

All of us felt, of course, that if any such provision were to be included, it should be applied uniformly to any housing which the Government assists directly or indirectly, if it is to be a really effective provision.

Mr. President, no one knows better than does the distinguished Presiding Officer, the Senator from South Dakota [Mr. CASE], who has fought so steadfastly against the Communists, that all Communists should be put in jail. On the other hand, if such a provision as the one to which I have just referred in the pending measure is to be made, it should be applied uniformly in the case of any housing for which the Government provides either direct or indirect assistance.

In any event, it obviously would make much more sense to apply the prohibition to 95 percent of the Government-assisted housing and let the other 5 percent escape than to apply it, as this provision does, to only 5 percent of the total and let the other 95 percent escape.

As a result, the committee of conference, within the limitations on its authority, sought to remedy this defect in the provision included in the act as best we could. We therefore indicated clearly in the conference report that we felt very strongly that the principle embodied in this proviso should be made applicable and applied uniformly to all housing assisted by the Federal Government by loan, grant, insurance, guaranty, or otherwise. Also, the report of the committee of conference specifically requests every agency of the Government which assists housing in any way to adopt and put into effect procedures which, insofar as practicable, will apply this principle to their programs, to put out and keep out Communists, whether they be in FHA housing, whether they be in FHA insured housing, VA guaranteed housing or in section 608 or section 207 rental projects or any other federally aided housing. They all ought to be in jail. But there was no reason for an amendment merely proposing to keep them out of public housing.

Therefore, I want to say to the Members of the Senate that I am thoroughly satisfied that the other agencies of the Government which are administering programs for insuring or guaranteeing loans for housing, such as the Federal Housing Administration, the Veterans' Administration, and the Farmers Home Administration of the Department of Agriculture, can, without any serious difficulty, adopt procedures which will make this principle apply effectively to their programs. I think it is entirely practicable for any of such agencies by regulation to provide that they will not guarantee or insure, nor will they contract to guarantee or insure, any loan made for any housing unit unless the owner or owners of such housing unit agree or, in the case of any loan which is guaranteed or insured, the lender—banks are included—agrees to require the owner or owners of such housing unit to agree, that, prior to the admission of any person to occupy any such housing unit or prior to the sale of any such housing unit, such owner or owners will obtain from the prospective occupant or purchaser, and furnish to such department, agency or instrumentality, a certificate that he is not a member of any organization designated by the Attorney General as subversive. There will be no uncertain words in this report, the result of which might be that the poor people would be penalized while rich Communists live in luxurious FHA apartments—should there be any; and there should not be any in or under the Federal Housing Administration, or anywhere else.

I can see no practicable difficulty involved in such a procedure. Therefore, I shall certainly expect the agencies to comply with the clear intent of the Congress in this matter. I also want to call attention to the fact that such a procedure when put into effect by the agencies would in no way impair or affect the powers and obligations of the agencies with respect to the making of loans, or the guaranty or insurance of loans, or contracts with respect thereto.

I want to assure the Members of the Senate that the committee of conference was keenly aware of its responsibility in a matter such as this and that were it not for the limitations upon our authority, I think certainly we would have changed the proviso included in the act so that the law itself would expressly apply to all Government-assisted housing. However, since we could not do that, but being entirely aware of our responsibility, as I have indicated, we did the best we could by requesting the agencies to take appropriate steps to accomplish the same purpose and, as I have indicated, there is really no question but what if they desire to comply with the intent of the Congress in this respect, they have the power to do so and they can do so.

MR. BENTON IN WISCONSIN, A THOUSAND MILES AWAY

Mr. CAIN. Mr. President, recently the junior Senator from Connecticut [Mr. BENTON] made a speech in the State of Wisconsin, to portions of which I take considered exception. As a result of the speech made in Wisconsin, on yesterday I addressed to the Senator from Connecticut a letter which I now wish to read:

JULY 1, 1952.

The Honorable WILLIAM BENTON,
United States Senate, Washington, D. C.

MY DEAR BILL: The reference you made to me in Wisconsin the other day was unnecessary, uncalled for, and just plain foolish. If time permits before adjournment, I shall briefly talk to you from the floor of the Senate. You will be advised of the hour when I speak.

Though we have often differed on public questions, we have been impersonal in the treatment of our differences and I have never publicly mentioned your name except in your presence. I was surprised and disappointed by your Wisconsin comments concerning myself and other Senators who have disagreed with you while never doubting your sincerity or criticizing you by name as a person. In the Senate you endeavor to be known as one who believes in fair play and one who frowns on smear tactics. In my view, you have now earned the right to be known as a political charlatan.

In all seriousness, I urge you to campaign against me in Washington State. I will gladly take the stump with you at any time and in any place. I am reminded of those several occasions when we have shared radio programs together. In those cases I was amused by your willingness to admit how uninformed and unprepared you were. You had better be both prepared and informed if I have the pleasure of finding you in the State of Washington.

In anticipation of our next meeting, I beg to remain,

Most sincerely,

HARRY P. CAIN.

Now, Mr. President, there obviously must have been a reason for my writing as I did about the speech, concerning which I have offered nothing up to this moment. I offer it now, in rare good humor, but in all seriousness. I think this RECORD of the Senate ought to indicate, upon occasion, anyway, how the Senator from Connecticut spends his time, and in what fashion. The date line of this portion of a ticker tape is Oshkosh, Wis., and it simply reads as follows:

Senator WILLIAM BENTON (Democrat, of Connecticut), told Wisconsin Democrats President Truman might conceivably seek another term.

He said he didn't think Mr. Truman would run again, "but I guess that he would run—if he had to—to save our party from a candidate who would not run on the great record" of the Roosevelt-Truman administration since 1932.

Parenthetically, I am intrigued to know that the Senator from Connecticut is a monitor concerning the question of how Members of the Senate, other than myself, not only should act but must act, within his party; otherwise they are likely, if he has anything to do with it, to be promptly executed, or excommunicated. The ticker continues:

The Senator, a close political friend of Mr. Truman, dealt out some licks for the "Dixiecrat," wing of his own party and unloaded some caustic remarks about the Republicans, especially his archpolitical enemy, Senator JOSEPH R. MCCARTHY, in whose home State he was speaking.

BENTON included MCCARTHY, in "the terrible sextet"—six GOP Senators seeking reelection this year. Besides the Wisconsin Senator, who has sued him for $2,000,000 in a libel and slander action, BENTON named in "the terrible sextet" Senators JOHN W. BRICKER (Ohio), HARRY CAIN (Washington), JAMES P. KEM (Missouri), WILLIAM E. JENNER (Indiana), and GEORGE W. MALONE (Nevada).

It is interesting, is it not, to inquire as to the origin of the characterization "terrible sextet"? The item continues:

"Any similarity between the party of Abraham Lincoln and the party of JOE MCCARTHY is purely coincidental." BENTON said. "It's a semantic accident."

When the Senator from Connecticut finds it convenient, I would appreciate it if he would give the Senate an adequate and clear explanation of the expression "semantic accident." Does the Presiding Officer of the Senate know what the phrase means? I am satisfied

that he can do it, because of his experience with words contained in the Encyclopedia Britannica and other such media of information, as he has been so familiar with them during a good many years in the past. I continue:

The Republicans are calling on the shades of Abraham Lincoln and Theodore Roosevelt, but unfortunately they are today the party of BRICKER, CAIN, KEM, JENNER, MALONE, and MCCARTHY.

I find the phrase interesting, "any similarity between the party of Abraham Lincoln," and some of the members of the Republican Party today. Mr. President, I want the Senator from Connecticut to point out the similarity between the Senator from Connecticut and Thomas Jefferson and Andrew Jackson, and, for example, Woodrow Wilson. I continue:

BENTON said Democrats have their work cut out, however.

"We must lick the Dixiecrats in Chicago as a preliminary to the TAFT-ites and MCCARTHY-ites in November," he said.

Mr. President, if it is the wish of the Senator from Connecticut to destroy the effectiveness and certainly the outstanding loyalty and devotion to their ideals of those members within his own party called the Dixiecrats, he is at liberty to try it; but, should they have any need to be defended—which I doubt completely—the Senator from Washington, with great pride, will do what he can to defend them, within the Democratic Party, from the attacks of the Senator from Connecticut. I continue:

Of Mr. Truman's plans, BENTON said:

"The President does not want to run again. I don't want him to run. He is determined not to run."

But then he "guessed" Mr. Truman would, if the party nominates a candidate who disavows the New Deal-Fair Deal program.

At least I compliment the Senator from Connecticut upon making it publicly known as to precisely what he is now, politically, and what he expects to be in the future, even though he must overlook no opportunity to do injury and inflict suffering upon some very outstanding men within his own party—those whom the Senator from Connecticut took occasion, in Wisconsin, a thousand miles from here, to call "Dixiecrats." I continue:

But, BENTON continued, "I do not think he will run, because I am positive we Democrats will nominate the right candidate, a candidate who will run on the Roosevelt-Truman record and who will assure us of victory."

BENTON said, "The Republicans seem to have a genius for snatching defeat out of the jaws of victory."

But, he said, "I am confident we shall not try to rival them or outdo them at this stage of the game by nominating a candidate who fails to accept our great, progressive record in its entirety."

BENTON termed MCCARTHY a "sleight-of-mouth artist" and as a "Joseph-come-lately" in the fight against communism.

I presume that the Senator from Connecticut will restate those comments to the Senator from Wisconsin tomorrow.

I read further:

He said that MCCARTHY, despite his communism-in-Government campaign, has had nothing to do with the cases of Alger Hiss, Judith Coplon, Julian Wadleigh, William Remington, or the trial of 11 Communist leaders in New York.

To what extent the Senator from Connecticut is correct about the Senator from Wisconsin [Mr. MCCARTHY] I am completely unable to say, but this I do know, that the Senator from Wisconsin has staked his complete future political record in a devoted, constant, and continuing effort to rid this Government of Communists, be they the 11 Communists in question or not, or be they the others to whom reference was made by the Senator from Connecticut.

One further thing I know: If the Senator from Wisconsin has not had as much to do with ridding this Government of Communists as he would like to see done, what has the Senator from Connecticut had to do with Alger Hiss, Judith Coplon, Julian Wadleigh, William Remington, or the trial of 11 Communist leaders in New York? Has any Member of the Senate ever heard the Senator from Connecticut rise to his feet before this body and make any reference, complimentary or otherwise, to Alger Hiss? It is unbecoming, I think, for anyone who has never raised his voice with reference to Alger Hiss, to raise that voice a thousand miles away from the Senate against a Member of the Senate who has raised his well-intentioned voice on literally scores of occasions.

As I said in my letter to the Senator from Connecticut, "Please favor me by coming to the State of Washington."

I wanted to write a brief letter. I can extend it now, because if the Senator from Connecticut is not interested tonight in talking about what steps he has taken to rid this Government of such persons as Alger Hiss, he certainly will be required to express himself on that and other related subjects should he favor the junior Senator from Washington by coming to the State which I so very proudly represent.

I resume reading:

He said MCCARTHY "has been a sleight-of-mouth artist, who, by the technique of the big lie oft repeated, has managed in some quarters to create an illusion that it was he who was responsible for the effort to rid the Government of Communists."

The phrase "sleight-of-mouth artist" is perhaps an apt phrase; but a gentleman who has spent his mature life, or much of it, in the advertising business, which is a legitimate business, becomes, does he not, facile with phrases?

Mr. President, if I am able to do so, I shall certainly attend the committee meeting tomorrow to listen to the Senator from Connecticut tell the Senator from Wisconsin what the former means by the other being a "sleight-of-mouth artist."

Mr. President, I am a friend of the Senator from Wisconsin. I do not believe, nor have I ever heard the Senator from Wisconsin say, that he and he alone was responsible for present-day efforts to rid this Government of communism. All I know is that he has done his best to encourage those in executive authority to get rid of those who premeditatedly and admittedly seek to destroy the fiber, the soul, and the character of the greatest Republic this world of ours has ever known.

I draw no particular significance from this fact, Mr. President, but, again, I found it interesting. I picked up the Congressional Directory this afternoon to learn a little more about the background of those whom the Senator from Connecticut characterized, in Wisconsin, as being the terrible sextet. Though I have served with all of them for the better part of 6 years, I thought I might have overlooked something in their background which might have been heinous, and terrible and it might be disclosed in the Congressional Directory.

Some people serve their country in the Armed Forces of America; others serve the Nation in other and equally laudable ways. In the latter category one finds conspicuously the Senator from Connecticut. I am not raising a question about his patriotism or his loyalty. It is unimportant to me that he never found it convenient or perhaps possible to serve in the Armed Forces. That was and is and continues to be his own business.

Perhaps there is no significance in the fact that when the Senator from Connecticut was determining who was going to be within his "terrible sextet" he made certain—or it may have been merely a coincidence—that each of those whom he was going to attack in Wisconsin had served his country as best he could in the Armed Forces.

For those of my colleagues who have not recently reread the Congressional Directory, I would encourage them to do so. I think it is very refreshing to go back occasionally and find out more about those with whom we serve and, in most instances, so willingly. I chuckle to myself when I say that we actually can determine more about the Senator from Connecticut from reading his autobiography in the Congressional Directory than we can determine about anyone else, for its length is approximately twice that of the space occupied by any other Member of the Senate.

I am not interested in that autobiography. I am almost inclined to put it into the RECORD where it will speak plainly for itself, but I shall leave that to its author.

I shall, however, partly because I am devoted to him and partly because I consider him to be an outstanding American, say that I was distressed by the inclusion in the "terrible sextet" of the junior Senator from Ohio [Mr. BRICKER]. It will not be wasting the time of the Senate of the United States to make several factual references, by way of compliment, to a great American who the Senator from Connecticut, by name, characterized as being "terrible."

The Congressional Directory, at page 102, covers in one of the most brief autobiographies of all those included, the following references to JOHN W. BRICKER:

Mr. BRICKER "served as a first lieutenant and chaplain in the First World War; has practiced law in Columbus since 1920 except when holding public office; served as a member of the Public

Utilities Commission of Ohio for 3 years; attorney general of Ohio for two terms; Governor of Ohio for three terms; was Republican candidate for Vice President in 1944."

As I said at the beginning, so now, I do not speak in anger so much as in disappointment. But I am in part indignant that any Member of the United States Senate would dare, either here or in Wisconsin, or anywhere else, to characterize an American possessed of one of the greatest public records in America's history as being "terrible" in any sense whatsoever. There are things done which the Senator from Washington has no intention of forgiving. Never do I intend to forgive a statement which characterizes that great American, JOHN BRICKER, as being "terrible."

Who are the others? Well, there is JOE MCCARTHY. He is terrible, so says the Senator from Connecticut. Of all the men I have seen defend themselves, the Senator from Wisconsin has been among the more able. I need not spend any time in defending the Senator from Wisconsin. He can take care of himself under any circumstances, and particularly, in any way, shape, or fashion, with the Senator from Connecticut.

However, I should like to reread what some people, called patriots, have said about the Senator from Wisconsin. I have in my hand a citation from C. W. Nimitz, an admiral in the United States Navy, the greatest naval officer in the last war, who on one occasion, I take it to be for cause, had this to say about an American who was then a junior officer in the Marine Corps of the Navy of the United States:

> Capt. Joseph R. McCarthy, United States Marine Corps Reserve, for service as set forth in the following citation:
>
> "For meritorious and efficient performance of duty."

The "courageous devotion to duty" of the Senator from Wisconsin "was in keeping with the highest traditions of the naval service."

Even though the Senator from Connecticut has called the Senator from Wisconsin terrible, I do not find that argument appealing or persuasive in the face of the citation given by a great admiral to a loyal marine captain for meritorious and loyal performance of duty.

Mr. President, I have a great fondness for the Senator from Missouri [Mr. KEM]. There are occasions on which I have differed with him strongly, and even fundamentally. But always I have considered the Senator from Missouri to be a man whose character was as exemplary as anyone could wish it to be. He is a man who is God-fearing, honest, and courageous; a man who ventures his political fortunes every day in this Chamber on the basis of his own convictions. I might extend to him many compliments. I would never dare, for it would be false and reprehensible, to place upon him the burden of the word "terrible."

I do not know what the Senator from Connecticut is attempting to accomplish in running around the country for the purpose of raising doubts about the character and integrity or, at least, the reputations of individuals, rather than, as he would always lead us to believe he was devoted to doing while on the floor of the Senate, discussing the issues of the day.

Mr. President, perhaps the Senator from Connecticut is truly qualified to judge who is and who is not terrible. I do not think so, and I am not the slightest bit interested in those who do think so. What I know about the Senator from Connecticut comes by indirection. He makes the point in his autobiography that he has had some connection with the Encyclopedia Britannica. I wish to be absolutely accurate in what I say.

I find on page 19 of the Congressional Directory, written by the Senator from Connecticut, the following reference to the encyclopedia:

> Became chairman of the board and publisher Encyclopedia Britannica, Inc., February 1943, and chairman of the board of Encyclopedia Britannica Films, Inc., relinquishing these posts during tenure in State Department and resuming them October 1947.

That reference indicates that as the publisher, the Senator from Connecticut knew exactly what was included in the Encyclopedia Britannica. I was interested in what the Senator's concept of communism was, so I went back to get one of the issues during the early portion of his supervision of that journal. Being a little unsatisfied with what I found, thinking he authorized the inaccurate description of communism at that time because of his inexperience in that field, I studied later issues. I hold in my hand the issue of 1947, which carried this comment about communism:

> In China Communist groups established themselves in the western provinces and fought for agrarian reform and for better educational and sanitary standards. Long hostile to the National Government of Generalissimo Chiang Kai-shek, they finally made common cause with him against Japanese invasion. Communism in China seemed more an indigenous agrarian revolutionary movement born of the backward conditions of the country and the exploitation of the masses, than an integral part of the worldwide Communist movement which has its centre in Moscow.

We Americans have been fighting those agrarian Chinese reformer Communists in Korea since about the latter part of October 1950. That seems a long time ago. Many men have died, many Americans and many of our allies, since the Chinese Communists wended their farmers' way across the Yalu River to cut down and visit death and destruction on American forces.

I know that this identical reference to communism is carried in later annual issues of the Encyclopedia Britannica. I suppose that fuzzy kind of description of communism entitles the Senator from Connecticut to say publicly in Wisconsin that there are among my associates in the Congress—some think them to be great patriots—some very terrible people whom this Nation must get rid of, else it fails in the achievement of its objectives.

The Senator from Connecticut likewise said in Wisconsin that the junior Senator from Nevada [Mr. MALONE] belonged to the "terrible sextette" which must be gotten rid of. The Senator from Nevada is a self-made man. He has grown up in the West. He uses language on occasion which is stubborn, even awkward, often blunt, but nearly always clear. The Senator from Connecticut is the only American I have yet known who has said of the Senator from Nevada, who was a vice national commander of the American Legion—something the Senator from Connecticut would hardly appreciate or understand—that he "is a terrible person."

I have differed with the Senator from Nevada, though I belong to the same party to which both of us owe allegiance, on more occasions than I have differed with the Senator from Missouri [Mr. KEM], but I have, first, a respect for the man's determination and honesty, and, secondly, a real affection for the Senator from Nevada.

The Senator from Washington, neither on this occasion nor on any other occasion, intends to let anyone who has so little by way of qualification to judge others characterize those whom I both respect and admire as being terrible.

It has been my impression during some of my experience in the Senate since the junior Senator from Connecticut came to be among us, that he has sought to become the conscience for his Nation. He has always made it plain that he wanted to reestablish in this country a code of high moral and political ethics. He has always stated, in clarion calls, that issues are the important things. He has always let it be known about himself, that he would never be the one to cast the first stone.

The Senator from Connecticut is an entertaining and joyous sort of fellow whose company I willingly state I have enjoyed on many occasions in the past. I do not know that I can be successful in what I now say to the Senator from Connecticut. It is simply that, insofar as it is humanly possible for me to do so, I am going to assist him in becoming interested again in issues rather than men. Insofar as the future is concerned, on each and every occasion when it comes to my attention that he has criticized individuals without what seems to me to be reasonable and legitimate cause, I shall make public mention of that fact and deny, on my own responsibility, that the Senator from Connecticut knows anything about what he is talking about.

Let us use this Wisconsin silliness as an example. The Senator from Wisconsin and the Senator from Connecticut have had serious disagreements between them for a long time. They have spoken those disagreements in each other's presence on the floor of the United States Senate. There is nothing unusual, nothing indecent, nothing unfair about that. It was perfectly natural—and to some extent courageous, I suppose—for the Senator from Connecticut to go out to Wisconsin to express himself adversely and indignantly about the Senator from Wisconsin and certainly

at a time when the Senator from Wisconsin was not present.

I challenge any Senator—I may be wrong—to rise on this floor now, or after he has read the RECORD, and indicate those occasions on which the Senator from Ohio [Mr. BRICKER], the Senator from Nevada [Mr. MALONE], the Senator from Missouri [Mr. KEM], or the Senator from Indiana [Mr. JENNER] has ever publicly, and off this floor, made a single, solitary personal reference to the Senator from Connecticut. Knowing those gentlemen as I do, it would not be becoming of them; nor do they follow such course as to make malicious references to anyone, including him who wishes to be "holier than thou," unless those references are made in the presence of the person to whom they are addressed.

In the Senate of the United States, in my brief term of 6 years, I have made many friendships. Those friendships will last during the length of my life. I shall guard them zealously. There have also been occasions on which I have sought to end a friendship which, on the basis of someone's conduct, simply is not worth bothering about. I am referring now, and for cause, to the Senator from Connecticut.

Mr. President, I understand that the acting majority leader has a request in mind to make of me.

Mr. JOHNSON of Texas. I will say to the Senator from Washington that the chairman of the subcommittee, Mr. HAYDEN, does not yet have available the material he will need. If the Senator will proceed, when he has concluded I will suggest the absence of a quorum.

Mr. CAIN. I shall be very pleased to accommodate the Senator from Arizona at his request whenever he returns to the floor. I was merely expressing the depth of my own disappointment at losing a friend whose company I have enjoyed in a personal way in years gone by. The Senator from Connecticut leaves me no choice. I am not the slightest bit concerned that he included me in any group—he with his background—which he calls "the terrible sextet."

I feel like the Senator from Wisconsin, that we have nothing to worry about from that source.

My distress has come from having the Senator from Connecticut, who believes apparently in the myth of the agrarian Chinese Communist characterizing some of those whom I know to be outstanding Americans as being terrible. It was a foolhardy thing for the Senator from Connecticut to have done in Wisconsin. If he thinks it was not foolhardy, I would urge him to try the same type of smear tactics again.

Mr. President, during the last several years the Senator from Connecticut and I have carried on some infrequent correspondence. I looked it up out of idle curiosity today. I thought for a moment that I would offer it for the RECORD, but then it seemed that it would be a personal approach to what I conceive to be an impersonal subject. That the Senator from Connecticut has over his signature been signally complimentary in times gone by is something that I wish to forget.

I have said nothing about another one of those terrible sextetters. His name is JENNER. He is the Senator from Indiana. Mr. President, there are 96 Members of the United States Senate. If the Senator from Washington had the right to select the personnel who should sit in the United States Senate, he would always make certain that there was a Jenner in it. BILL JENNER, of Indiana, understands and acts by this creed. The individual possessed of courage can sometimes turn out to be a majority.

Mr. President, I have been on this floor among the majority when BILL JENNER thought we were making serious mistakes, and he would fight and literally eat his heart out to show us the error of our ways. I have differed on occasions with the judgment of the Senator from Indiana. Goodness knows, he has a perfect right to differ with mine. But no one, if I can prevent it, will call another great American "terrible."

Mr. President, I want, not my colleagues, for they are aware of it, but more Americans who are not aware of it, to be conscious of the background of the Senator who judges his colleagues to be "terrible."

Mr. President, earlier in my remarks I expressed my surprise over what appears to me to have been the unseeming conduct of the Senator from Connecticut while in Wisconsin. Upon reflection, and after giving more study to the Congressional Directory, as well as to several quotations from the press and the Senator from Connecticut's publicity bureau, I am by no means as surprised as I was. I wish to read all, or a portion, of the biographical sketch of the Senator from Connecticut, which appears in the Congressional Directory. I understand that the Senator from Connecticut, like other Members of the Senate, is completely responsible for what is included in a biography to be printed in the Congressional Directory. If there are any inaccuracies in these references, those concerned may consult the author. I read:

WILLIAM BENTON, Democrat, of Southport, Conn., was born in Minneapolis, Minn., April 1, 1900, the son of Charles and Elma Caroline (Hixson) Benton; attended Shattuck Military Academy, Faribault, Minn., and Carleton College, Northfield, Minn., 1917–18, and was graduated from Yale University with A. B. degree in 1921; while at Yale served in Student Army Training Corps.

I do not wish to be misunderstood, Mr. President, but this information indicates that when and if duty and circumstances ever require it, the Senator from Connecticut could become a member of the armed services, as all of the "terrible sextet," to whom the Senator made reference, have been. He might need a refresher course or two, but on the basis of what he learned at Shattuck immediately prior to World War I, and at Yale, immediately following the war, he should be pretty well prepared for the future. That he missed the three wars of his time must be a distressing thought to him.

Worked in New York and Chicago for advertising agencies until 1929, when, in partnership with Chester Bowles (former Governor of Connecticut) founded the firm of BENTON & BOWLES.

They had the ability to make a phrase, and I know from my own knowledge that they did such things extraordinarily well. I read further:

In 1932 established residence in Connecticut where his Benton ancestors had been born for eight generations; resigned as board chairman of Benton & Bowles in 1936 and sold his interest in the firm; became vice president of the University of Chicago in 1937, on a half-time basis, and continued until 1945; served as Assistant Secretary of State in Washington in charge of public affairs from August 31, 1945, to September 30, 1947.

The Senator from Connecticut, a past Assistant Secretary of the State Department, criticizes the Senator from Wisconsin and other Senators. Small wonder, I think. Reading further:

Member of United States delegation at six international conferences, on three occasions as delegation chairman.

If one is going to be in a delegation he had better make up his mind to be the chairman. The Senator, out of six chances, became chairman three times. That is better than par for the course. Few other persons I know could equal such a meritorious public record. He has been helpful in pointing out this great achievement in his autobiography.

I read further:

First General Conference of UNESCO—

In brackets the Senator from Connecticut carefully spelled out United Nations Educational, Scientific, and Cultural Organization. That was at Paris in 1946. I read further:

and Second General Conference of UNESCO at Mexico City, 1947; and United Nations Conference on Freedom of Information, Geneva, Switzerland, 1948; member Advisory Committee, Coordinator of Inter-American Affairs, beginning in 1940, and Vice Chairman, United States Commission, Inter-American Development Commission.

Mr. President, I think I am beginning to understand why the Senator from Connecticut can characterize the Senator from Ohio [Mr. BRICKER] as being terrible. Perhaps in his travels, which were extensive, he listened more to outside points of view than he gave consideration to domestic appraisals. In having been chairman of three out of six of these delegations he is perhaps qualified to say that a man who has been attorney general of one of the great sovereign States in America for two terms, and who has been a Governor for three terms, is terrible.

I read further from the biography:

Served as Vice Chairman, Committee for Economic Development, and Vice Chairman of CED Research and Policy Committee from 1942 on, except during tenure in State Department.

I do not know what is going to happen to the Senator from Connecticut in his coming campaign. There are those who believe he will not do so well. Should he not do too well, his record in his own language indicates that he leaves the State Department only for temporary periods. I presume he will be made very welcome whenever he cares to return.

I read further:

Became chairman of board and publisher Encyclopedia Britannica, Inc., February 1943, and chairman of the board of Encyclopedia Britannica Films, Inc., relinquishing these posts during tenure in State Department and resuming them October 1947.

Then it says something about his personal business and that he has been awarded several honorable degrees. It then winds up by saying he was appointed to the United States Senate by Gov. Chester Bowles "to fill the vacancy caused by the resignation of Raymond E. Baldwin, who resigned effective December 17, 1949, and elected November 7, 1950."

Bowles and BENTON—BENTON and Bowles—they are a clever, successful combination through the years.

I am reminded that in his speech in Wisconsin the Senator from Connecticut said he "guessed that Mr. Truman would run if the party nominates a candidate who disavows the New Deal-Fair Deal program."

The Senator now says frankly, "I am a New Dealer and a Fair Dealer." That comment gives me some reasonable measure of surprise. My memory is quite clear with respect to when the Senator from Connecticut became a Member of this body. I thought I had almost remembered what it was he said, but I wanted to be positive that I was accurate, so I had looked up some information which was brought to me.

Following his appointment to the Senate in 1949 he announced that he was a "political independent," and he stated that he would "sit on the Democratic side of the aisle."

In 1952—make no mistake about it—he is a Fair Dealer and a New Dealer, but in his own words, in 1949, when he came to the Senate, he was not certain what he was.

These quotes appeared in a Washington Star article of December 18, 1949. The article consisted mostly of a biography of BENTON, his business experiences, his sojourn in the State Department, and run-in with the Senate and House Appropriations Committees at that time.

The Washington Star of December 1, 1949, stated that BENTON's appointment was a "personal one" and that he was named because Connecticut Democrats could not agree upon any "career Democrat" to replace Senator Baldwin, resigned.

There seems to be some remaining doubt concerning what he is, was, or may become in the future.

I find this reference in a newspaper, which is of some interest to students, on the subject of the Senator from Connecticut. It begins as follows:

An attempt to peddle the talents of Senator BENTON (Democrat, of Connecticut), to the Republican Party in 1947 was revealed yesterday by Representative MORANO (Republican, of Connecticut).

Mr. President, I do not know Representative MORANO. I do not know that what he states is absolutely so, but I am making reference to it in the presence of the person concerned, and he will correct the RECORD if I am inaccurate. I am disinclined to believe in the validity of this comment, because I have read the Senator's biography in which he says, "I am a Democrat." I have read his Wisconsin speech in which he said "I am a New Deal-Fair Deal Democrat." I have read the release he put out in 1949 in which he said, "I am an Independent Democrat."

Now a member of Congress by the name of MORANO says that BENTON was trying to get out of the Democratic Party in 1947. The article written by a Mr. Willard Edwards continues as follows:

BENTON at present is the Truman administration's leading smear propagandist, centering his efforts on a campaign against Senator MCCARTHY (Republican) of Wisconsin, foe of Communists in the State Department where BENTON served as an assistant secretary from 1945 to 1947.

Two men, representing themselves as emissaries for BENTON, approached CARROLL REECE, then chairman of the GOP National Committee, and told him BENTON was seeking the post of publicity director of the committee.

As a member of the Republican Party I feelingly and freely admit that we have a great deal of trouble from time to time. It is nothing, however, to what would have happened if any such offer, if it was made, had been accepted.

REECE confirmed the story. He was told, he said, that BENTON had left his State Department post, burning with a desire for revenge against the Truman administration. The publicity talents of BENTON, a former advertising executive, were available to the GOP, REECE was told.

Reportedly, BENTON was seething with a desire to even the score with the Truman administration because he had been forced to resign from the State Department and felt he had been made the "goat" in the clash between Congress and the administration over the issue of pro-communism in the Department's international information program which he headed. BENTON, it was said, was angry because the administration not only had failed to back him up in the controversy, but had forced him to get out as an appeasement move. In his letter accepting BENTON's resignation, President Truman mentioned BENTON's "difficulties and frustrations."

The Senator from Connecticut was upset by some difficulties and frustrations in his speech in Wisconsin last Saturday.

MORANO said something else of which I have made mention earlier tonight:

Senator BENTON has emerged in the Senate as a champion of ethics in Government with a self-appointed mission to lead the country back to moral and ethical government. He appeared before the Senate Committee on Election Laws, proposing a commission to list the names of people who make contributions of both parties.

MORANO ends with this statement:

His righteous indignation against people who play both sides of the fence is sheer hypocrisy in view of the fact that he himself appears to have been willing to propagandize in behalf of whichever side employed him.

Mr. President, during recent months we have given much thought to, taken some action on, and provided consideration for the subject of communism. As most Members of the Senate know, there has been a move by a good many people throughout the country, whom I personally believe to be very wrong, to repeal the Smith-McCarran anti-Communist law. In a letter written in January 1952, the same Mr. MORANO, a member of the House of Representatives who knows the Senator from Connecticut better than I do, was concerned about the movement to repeal the Smith Act. That was the anti-Communist law under which 11 Communist leaders were recently convicted of advocating the overthrow of the Government of the United States.

Mr. MORANO, seeing no politics in a constant and vigilant fight against communism, addressed a letter to his associate, the junior Senator from Connecticut. In his letter, Mr. MORANO asked the Senator from Connecticut to help him in combating any attempt to repeal the Smith Act.

I quote from a newspaper article by Willard Moore:

In the letter, MORANO said he was aware that BENTON has at times worked closely with the Americans for Democratic Action, and commented:

"I believe that the ADA (which long has barred Communists from membership) is dead wrong in advocating repeal of the Smith Act—a cry set up by the Communists and by groups sympathetic to the Communist cause."

MORANO then appealed for BENTON's help in keeping the Smith law on the books.

In due time, and probably very promptly, the Senator from Connecticut responded to Mr. MORANO's letter and said this:

Thank you for the views expressed in your letter of January 11.

Speaking for myself, I make it a practice not to waste time arguing with Communists because they have demonstrated they never argue in good faith.

The same can also be said of some Members of Congress.

That is a sly sentence. After having said that the Communists never argue in good faith, and for that reason the Senator from Connecticut never argues with Communists, he goes on to say there are Members of Congress who never argue in good faith.

I am not unmindful now that the Senator from Connecticut is he who is an apostle of sweetness and light. He is one who always says that the issue is the thing that counts—never, never talk about a man except to argue with him in his presence on a public question.

That was a very sly and, I think, clever sentence.

May I ask the junior Senator from Idaho, who happens to be sitting here at the moment, if he could tell whether the Senator from Connecticut, in responding to a colleague of his, to a man who was part and parcel of his State's delegation, was for the Smith Act or was against it? Mr. MORANO, the one who received the letter, could not tell. He had asked the Senator from Connecticut a very simple question. He got a very cloudy answer.

Mr. President, I have paid my compliments to the advertising ability of the junior Senator from Connecticut. I am as willing as is the next person to say that a man does not lose his capacity for a particular talent when he moves from private life into public life. I offer but

one example. It ought to be called, I suppose, a tidbit. It is a release—earth-shaking as it is—for Saturday afternoon, October 27, 1951. It went to the press from the office of Senator WILLIAM BENTON, Democrat, of Connecticut, room 354, Senate Office Building, Washington. The date line is Washington. Here is the news release. What is its date? October 27, 1951.

On October 27 those Chinese agrarian Communists, who have no connection with an international conspiracy in Moscow, had been spilling the blood of Americans and our friends for better than a year. So here is a pronouncement of great importance to the Nation, as given by the junior Senator from Connecticut, who last Saturday said that six of his colleagues in the Senate were "terrible."

Senator WILLIAM BENTON, discussing the relative merits of campus recreations on Saturday afternoon, offered his opinion today that girls may offer "advantages" over either football or physics.

When one has reason to try to ascertain what offers justification to the Senator from Connecticut to characterize other Members of the Senate as being "terrible," all he has to do is to undertake a little research, and it produces a critic who thinks that girls, on Saturday afternoon, are better recreation than are either football or physics.

Mr. President, let it not be said that I have wasted any of the time of the Senate tonight. I have attempted to do a job that has needed to be done for a long time. This job would be worth doing at any time. Whenever one can point out a phoney he ought to do it.

I have done this job between acts of transacting material business as it has come to the Senate in the form of conference reports.

By way of recapitulation and summary, there are a couple of things the junior Senator from Washington wishes to say. As a candidate for reelection in his own name he does not know that he will be returned to the Senate. I shall do my very best to retain my seat in what I consider to be the greatest opportunity offered to any man or woman on the face of the earth at any age. The respect which I have for this legislative body and the confidence I have in it are beyond description. I may not again have an opportunity to make such a comment.

It is strange indeed, that I am provided with that opportunity by finding it imperatively necessary to be as brutally critical of the conduct of my colleague from Connecticut as I possible can be.

It happens that the Senator from Connecticut is running for reelection. It is not for me to give him any advice. It is not for me to judge whether he will or will not come back to the Senate. I would encourage him however—and I do this against my will—to spend a great deal of time in the State of Connecticut if he aspires to return to the Senate.

I say that I give him that encouragement against my will, because I shall be most disappointed if he does not find it convenient to come out and spend a good long time in the State of Washington. I would like to sit and listen to him deliver in the State of Washington the same speech which he delivered in the State of Wisconsin on last Saturday night.

He and I are both candidates for reelection. The Senator from Missouri [Mr. KEM], one of the "terrible sextet," the Senator from Ohio [Mr. BRICKER], three times governor, and a vice presidential candidate, is a member of the "terrible sextet." The Senator from Indiana [Mr. JENNER] is another. I am not trying to wave the flag, but BILL JENNER did all he could in two brief years in the last war, as a result of which he was retired for disability.

Then there is the Senator from Nevada [Mr. MALONE], another member of the "terrible sextet." They, together with the Senator from Wisconsin [Mr. MCCARTHY], are candidates for reelection. I wish each of those five the best of good fortune, because, knowing them so well, I know that they will always serve their country to the very best of their ability.

I have long since stopped worrying about this man on the other side of the aisle, who, if he cannot get rid of the Dixiecrats, who are a pretty proud people themselves, must call other people "terrible"; and if he cannot get away with getting rid of these terrible Republicans, if he is reelected, he will have to gnaw at the entrails of the Dixiecrats who sit in his presence.

So far as the remainder of the night is concerned, I have plenty of places to go, but I am willing to remain here for as long as may be necessary, or go anywhere else, for that matter, should the Senator from Connecticut wish to take the floor and spell out in a little clearer detail why the people of the sovereign States of Wisconsin, Ohio, Missouri, Indiana, and Nevada did not know what they were doing when they selected five loyal, God-fearing men to serve those States in the United States Senate.

Imagine the temerity of anyone, be he smear artist or someone else, who seeks refuge a thousand miles away, when those to be assaulted did not even know that he had been absent, and who, from that vantage point of comparative security and safety, says that those who serve their Nation well are terrible and ought to be eliminated from the Senate of the United States.

I think that for quite a time, so far as the junior Senator from Washington is concerned, he will remember an occasion which arose from something that was evil, because he who did the evil is always prattling about accomplishing the good. "I am holier than thou," states the Senator from Connecticut on every occasion which he can manufacture and he is very skillful in such matters.

I think this is the first time in some time a person in that form has been unclothed; but because of that event I have been given an unexpected opportunity, to say in simple language that the sovereign States concerned have chosen well in BRICKER, MCCARTHY, KEM, JENNER, and MALONE; and though I by no means deny that those States could possibly find within their confines men or women possessed of greater intelligence, knowledge, and wisdom, it is an undeniable fact that the men sent to the United States Senate by those States have never legitimately been characterized as being anything other than what they are—distinguished, splendid Americans in public life.

Mr. President, on a temporary basis I yield the floor.

The PRESIDING OFFICER. What is the pleasure of the Senate?

RECESS

Mr. LONG. Mr. President, if no other Senator wishes to be heard, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 o'clock tomorrow.

The motion was agreed to; and (at 8 o'clock and 20 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until tomorrow, Thursday, July 3, 1952, at 9:30 o'clock a. m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 2 (legislative day of June 27), 1952:

FEDERAL HOUSING COMMISSIONER

Walter L. Greene, of Alabama, to be a Federal Housing Commissioner.

SUBVERSIVE ACTIVITIES CONTROL BOARD

TO BE MEMBERS OF THE SUBVERSIVE ACTIVITIES CONTROL BOARD FOR TERMS OF 3 YEARS, EXPIRING AUGUST 9, 1955

David J. Coddaire, of Massachusetts.
Kathryn McHale, of Indiana.

UNITED STATES DISTRICT JUDGES

Guthrie F. Crowe, of Kentucky, to be United States district judge for the district of the Canal Zone.

Ashton H. Williams, of South Carolina, to be United States district judge for the eastern district of South Carolina.

JUDGE, DISTRICT COURT OF THE VIRGIN ISLANDS OF THE UNITED STATES

Hon. Herman E. Moore, of Illinois, to be judge, district court of the Virgin Islands of the United States.

UNITED STATES ATTORNEY

Edward M. McEntee, of Rhode Island, to be United States attorney for the district of Rhode Island.

POSTMASTERS

ALABAMA

John A. Alsbrooks, Sheffield.

ARKANSAS

Carl D. Lynch, Smackover.

CALIFORNIA

Charles Edward Wilson, Keene.
Opal F. Hamilton, Leggett.

GEORGIA

Katherine C. Wimberley, Bainbridge.

HAWAII

Ikuko Jean Nakamura, Ookala.

ILLINOIS

George O. Downer, Downers Grove.
Joseph R. Sester, Genoa.

KANSAS

George K. Shipley, Holyrood.

KENTUCKY

Julian K. Wood, Bagdad.

MAINE

Lawrence M. Glidden, Palermo.

MARYLAND

John F. Stevens, Annapolis.
Edward L. Best, White Hall.

MASSACHUSETTS

Edward J. McCaffrey, Concord.
John F. Murphy, Northampton.
Harold J. Cuff, South Deerfield.
Willard W. Ellis, Yarmouth Port.

MISSOURI

Jerry Crane, Ashland.
James O. Finney, Bucklin.

NEBRASKA

Bruce B. Bohlken, Coleridge.

NEW JERSEY

Harold Vincent Ely, Avon by the Sea.
Eleanor M. Latzo, Dayton.
Joseph P. LaPorta, Williamstown.

NEW YORK

John D. Megivern, Jr., Apalachin.
James W. Maloney, Aurora.
William J. McInerney, Buskirk.
Gerard LeRoy Church, Eaton.
Philip Gerard Donahue, Gardiner.
Myrtle E. Sherman, Genoa.
Audrey Miller, Harris.
Paul A. Lane, Larchmont.
Herman Wood, Long Beach.
Clarence J. Dumas, Malone.
John M. Southard, Massapequa Park.
Ruth M. Darrah, Morrisonville.
Elwyn D. Judd, New Woodstock.
Robert C. Tatem, Old Westbury.
Grace L. Patch, Prattsburg.
James J. Sullivan, Quogue.
Jeannette L. Moran, Rexford.
Peter J. Clark, Richland.
Rene A. Devillers, Schenevus.
Howard C. Green, Sinclairville.
Paul H. Irving, Skaneateles.
John J. Becker, Union Springs.
Gerald W. Churchill, Walden.
Hedwig A. Caldwell, Walker Valley.

OHIO

Albert R. Matuszak, Lorain.

OKLAHOMA

Paul S. Badami, Ponca City.
Opal M. Rone, Smithville.

PENNSYLVANIA

Lawrence M. Mulligan, Bristol.
William J. B. Reitz, Cairnbrook.
Howard W. Harrison, Chambersburg.
Homer F. Foreman, Everett.
John A. Duffy, Elwyn.
Alice M. Springer, Glenmoore.
Edmund P. Lawlor, Homestead.
John J. McDonnell, Locust Gap.
Clarence Chester Calvert, Pleasantville.
Charles B. McNamee, Pomeroy.
James Alfred Marquet, Pottstown.
John Alvin Mills, Prospectville.
Paul H. Lewis, Quakertown.
George Clair Cochran, Quarryville.
Homer L. Budinger, Salladasburg.
Kenneth H. Drumheller, Sanatoga.

PUERTO RICO

Olga Rivera de Rodriguez, Gurabo.

SOUTH DAKOTA

Vernon A. Sjerven, Bristol.

TENNESSEE

Oscar V. Smith, Gallatin.
Nedgel R. Leathers, Toone.

UTAH

George E. Brown, American Fork.

WISCONSIN

Walter G. Ready, Bagley.
Roy W. Williams, Brooklyn.
Francis W. Hart, Glidden.
Robert L. Williams, Gordon.
Marie T. Carns, Hazel Green.
Charles W. Kleist, Jr., Horicon.
Alessio C. Loreti, Hurley.
Allen E. Duncanson, Mondovi.
William H. Taft, Necedah.
Byron F. Pope, Phillips.
Vernette M. Means, Rothschild.
John C. Killeen, Slinger.
Frederick E. Shidell, Vesper.

WYOMING

Hugh M. Currah, Shoshoni.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JULY 2, 1952

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

The Reverend Cyril Neil McKinnon, S. J., of Marquette University, Milwaukee, Wis., offered the following prayer:

O Most Holy Trinity, Father, Son, and Holy Spirit, from whom all right authority is derived, and to whom, as to their last end, all actions of individuals and states are directed, grant that the deliberations of this body may be guided by the wisdom of Thy counsels and just judgments. Grant that the fearful responsibilities of this Congress may be discharged in the spirit of divine love.

If the world hate us, we know that it is because we have loved the brethren. For "in this we know the love of God, that He laid down His life for us." Teach us to love not in word nor tongue, but in deed and truth.

May Thy religion be the firm inner wall of our national defense. We fight not against flesh and blood, but against principalities and powers. In our Declaration of Independence we invoked Thee. We call upon Thee now to preserve us in liberty and peace. Amen.

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

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Landers, its enrolling clerk, announced that the Senate had passed without amendment a joint resolution and concurrent resolution of the House of the following titles:

H. J. Res. 466. Joint resolution relating to the continuance on the payrolls of certain employees in cases of death or resignation of Members of the House of Representatives, Delegates, and Resident Commissioners; and

H. Con. Res. 236. Concurrent resolution authorizing the printing of additional copies of the Immigration and Nationality Act, Public Law 414, Eighty-second Congress, second session.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 3589) entitled "An act to amend title 17 of the United States Code entitled 'Copyrights' with respect to recording and performing rights in literary works," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EASTLAND, Mr. O'CONOR, Mr. SMITH of North Carolina, Mr. WILEY, and Mr. FERGUSON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 7800) entitled "An act to amend title II of the Social Security Act to increase old-age and survivors insurance benefits, to preserve insurance rights of permanently and totally disabled individuals, and to increase the amount of earnings permitted without loss of benefits, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GEORGE, Mr. CONNALLY, Mr. JOHNSON of Colorado, Mr. BUTLER of Nebraska, and Mr. MARTIN to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to a joint resolution and a concurrent resolution of the House of the following titles:

H. J. Res. 430. Joint resolution approving the constitution of the Commonwealth of Puerto Rico which was adopted by the people of Puerto Rico on March 3, 1952; and

H. Con. Res. 191. Concurrent resolution favoring the granting of the status of permanent residence to certain aliens.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

SUMMIT LAKE INDIAN RESERVATION

The Clerk called the bill (H. R. 4285) to reserve certain land on the public domain in Nevada for addition to the Summit Lake Indian Reservation.

Mr. FORD. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

FORT RENO MILITARY RESERVATION, OKLA.

The Clerk called the bill (H. R. 1631) to set aside certain lands in Oklahoma, formerly a part of the Cheyenne-Arapaho Reservation, and known as the Fort Reno Military Reservation, for the Cheyenne-Arapaho Tribes of Indians of Oklahoma, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That title to the following-described lands situated in Canadian County, Okla., being a part of the Fort Reno Reservation, is hereby vested in the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma:

All of sections 1, 2, 3, and 4, township 12 north, those portions of sections 25 and 26 lying south of the North Canadian River, that portion of the west half of the west half of the northwest quarter of section 26 lying west of the North Canadian River channel change, and all of sections 27, 28, 33, 34, 35, and 36, township 13 north, range 8 west, Indian meridian.

SEC. 2. All of sections 9 and 10 and the west half of section 11 (except that portion which the Secretary of War was directed by the act of May 24, 1937 (50 Stat. 200), to