tion of compensation paid service-connected disabled veterans of the World War, insofar as this may affect disabled veterans of the Spanish or other wars; to the Committee on World War Veterans' Legislation.

10422. Also, petition of Professional Pilots Association of Los Angeles, Calif., favoring legislation which provides for maintenance of all air mail routes now being operated; to the Committee on Appropriations.

10423. By Mr. DELANEY: Petition of the Women's Committee for the Repeal of the Eighteenth Amendment, Brooklyn, N. Y., petitioning a fair and honest plan for State ratifying conventions free from congressional dictation; to the Committee on the Judiciary.

10424. By Mr. HAUGEN: Resolution of the New Century Club of Northwood, Iowa, urging the establishment of a Federal motion-picture commission for the regulation and supervision of the motion-picture industry; to the Committee on Interstate and Foreign Commerce.

10425. By Mr. HOWARD: Resolution adopted by the Nebraska State Senate requesting aid to unemployed and homeless young men and urging President-elect Franklin D. Roosevelt to use his official influence with his Secretary of War to expedite and aid millions of young American boys and young men by inviting those who desire to take advantage of the Government's willingness to be of service to them; to the Committee on Military Affairs.

10426. By Mr. MARTIN of Massachusetts: Petition of Joseph Francis Keane and eight other residents of Fall River, Mass., urging revaluation of the gold ounce and correction of financial abuses associated with mass production; to the Committee on Coinage, Weights, and Measures.

10427. By Mr. MEAD: Petition of the Buffalo section, New York State Association of Highway Engineers, protesting any further diversion of Federal-aid highway money to the Reconstruction Finance Corporation as a credit for unemployment relief loans; to the Committee on Banking and Currency.

10428. By Mr. SEGER: Petition of Alfons Adler, of Clifton, N. J., business manager of New York and New Jersey district of full-fashioned hosiery workers, favoring passage of the Black-Connery 30-hour work week bills; to the Committee on Labor.

10429. By Mr. STULL: Petition of the Cambria County committee, the American Legion, Department of Pennsylvania, disapproving all changes in veterans' legislation as proposed by the so-called Economy League and the United States Chamber of Commerce, and favoring the immediate and full payment of adjusted-compensation certificates, and immediate passage of the widows and orphans' pension bill; to the Committee on Ways and Means.

10430. By Mr. SWANK: Petition by the Senate of the State of Oklahoma, memorializing Congress to repeal the law levying an excise tax of 1 cent per gallon of gasoline for Federal purposes; to the Committee on Ways and Means.

10431. By Mr. SWICK: Petition of Jennie Blevins, president, Madge Miller, secretary, and members of Harlansburg Woman's Christian Temperance Union, Harlansburg, Lawrence County, Pa., indorsing Senate Resolution 170 and House bill 1079, to provide for the regulation of the motion-picture industry by a Federal motion-picture commission; to the committee on Interstate and Foreign Commerce.

10432. By Mr. WHITE: Petition of Rev. Austin A. Bork and others, of Toledo, Ohio, asking Congress to revalue the gold ounce; to the Committee on Banking and Currency.

SENATE

WEDNESDAY, FEBRUARY 15, 1933

(Legislative day of Friday, February 10, 1933)

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

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House insisted upon its amendments to the bill (S. 88) to authorize the Postmaster General to investigate the conditions of the lease of the post-office garage in Boston, Mass., and to readjust the terms thereof, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HAINES, Mr. PATTERSON, and Mr. Foss were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 7518) to amend an act entitled "An act extending certain privileges of canal employees to other officials on the Canal Zone and authorizing the President to make rules and regulations affecting health, sanitation, quarantine, taxation, public roads, self-propelled vehicles, and police powers on the Canal Zone, and for other purposes, including provision as to certain fees, money orders, and interest deposits," approved August 21, 1916.

The message further announced that the House had agreed severally to the amendments of the Senate to the following bills of the House:

H. R. 7519. An act to amend the Penal Code of the Canal Zone;

H. R. 7520. An act to amend the Code of Criminal Procedure for the Canal Zone;

H. R. 7521. An act to provide a new Code of Civil Procedure for the Canal Zone and to repeal the existing Code of Civil Procedure; and

H. R. 7522. An act to provide a new Civil Code for the Canal Zone and to repeal the existing Civil Code.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 220. An act authorizing adjustment of the claim of the Van Camp Sea Food Co. (Inc.);

S. 3438. An act authorizing adjustment of the claim of Lindley Nurseries (Inc.);

S. 4673. An act to amend an act entitled "An act to incorporate the trustees of the Female Orphan Asylum in Georgetown and the Washington City Orphan Asylum in the District of Columbia," approved May 24, 1828, as amended by act of June 23, 1874;

S. 4694. An act to amend section 812 of the Code of Law for the District of Columbia;

S. 5289. An act to authorize the Commissioners of the District of Columbia to reappoint George N. Nicholson in the police department of said District; and

S. J. Res. 248. Joint resolution to amend the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes," approved January 14, 1933.

THE JOURNAL

Mr. FESS. Mr. President, I ask unanimous consent for the approval of the Journal of the proceedings of the legislative day of Tuesday, February 14, 1933.

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

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Borah	Connally	Fess
Austin	Bratton	Coolidge	Fletcher
Bailey	Brookhart	Costigan	Frazier
Bankhead	Bulkley	Couzens	George
Barbour	Bulow	Cutting	Glass
Barkley	Byrnes	Dale	Glenn
Bingham	Capper	Davis	Goldsborough
Black	Caraway	Dickinson	Grammer
Blaine	Clark	Dill	Hale

Harrison	Logan	Robinson, Ark.	Thomas, Okla.
Hastings	McGill	Robinson, Ind.	Townsend
Hatfield	McKellar	Russell	Trammell
Hayden	McNary	Schuyler	Tydings
Hebert	Moses	Sheppard	Vandenberg
Hull	Neely	Shipstead	Wagner
Johnson	Norbeck	Shortridge	Walcott
Kean	Norris	Smith	Walsh, Mass.
Kendrick	Nye	Smoot	Walsh, Mont.
Keyes	Oddie	Steiwer	Watson
King	Patterson	Stephens	White
La Follette	Pittman	Swanson	
Lewis	Reed	Thomas, Idaho	

Mr. WALSH of Montana. My colleague [Mr. WHEELER] is absent owing to illness. I ask that this announcement may stand for the day.

Mr. NORRIS. I desire to announce that my colleague the junior Senator from Nebraska [Mr. HOWELL] is detained on official business of the Senate.

Mr. FESS. I wish to announce that the junior Senator from Wyoming [Mr. CAREY] is detained on official business. I ask that this announcement may stand for the day.

Mr. WAGNER. I desire to announce that my colleague [Mr. COPELAND] is necessarily absent from the Senate because of the death of his father. I ask that this announcement may stand for the day.

Mr. SHIPSTEAD. I wish to announce that my colleague [Mr. SCHALL] is unavoidably absent. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a letter from the Governor of Arizona, transmitting copy of House Joint Memorial No. 1 of the Legislature of the State of Arizona, which, with the accompanying memorial, was referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE,
Phoenix, Ariz., February 9, 1933.

The honorable the PRESIDENT OF THE UNITED STATES SENATE,
Washington, D. C.

SIR: I have the honor to transmit House Joint Memorial No. 1, in which the eleventh Arizona Legislature, now in session, respectfully prays that Congress enact legislation providing for the universal adoption of the 30-hour week throughout the United States.

Very truly yours,

B. B. MOEUR, *Governor.*

STATE OF ARIZONA,
OFFICE OF THE SECRETARY.

UNITED STATES OF AMERICA,
State of Arizona, ss:

I, James H. Kerby, secretary of state, do hereby certify that the within is a true, correct, and complete copy of House Joint Memorial 1, regular session, eleventh legislature, State of Arizona, all of which is shown by the original engrossed copy on file in this department.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Arizona. Done at Phoenix, the capital, this 9th day of February, A. D. 1933.

[SEAL.]

JAMES H. KERBY,
Secretary of State.

House Joint Memorial 1

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialist, the eleventh State legislature, in regular session convened, respectfully represents:

Unemployment among all classes of people in the United States has reached alarming proportions, until at present there are, by conservative estimate, 11,000,000 unemployed persons, a large percentage of whom are wholly or partially dependent upon public and private charity for a bare subsistence.

In modern industrial life there has been added to seasonal and cyclical unemployment a technological displacement of men by the increase in labor-saving machinery, which makes it impossible for all to secure gainful employment if the present working hours are retained, as shown by the fact that the number of productive workers decreased over 2,000,000 between 1919 and 1929, while the general population and the volume of manufactured goods increased enormously.

This unemployment has gone hand in hand with decreased wages and a rapidly falling standard of living, which in turn has resulted in diminishing the purchasing power of the masses, thereby intensifying the depression and precluding the return of general confidence in the stability and soundness of our institutions.

The American Federation of Labor, progressive economists and sociologists, and students of political science have indorsed the 30-hour week as a means of creating further employment, raising the standard of living, and causing a return of confidence.

Wherefore your memorialist respectfully prays that the Congress enact legislation providing for the universal adoption of the 30-hour week throughout the United States.

And your memorialist will every pray.

Adopted by the senate February, 1933.

Adopted by the house January 25, 1933.

Approved by the governor February 8, 1933.

Received in the office of the secretary of state February 8, 1933.

The VICE PRESIDENT also laid before the Senate the following joint memorial of the Legislature of the State of Idaho, which was referred to the Committee on Public Lands and Surveys:

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, Franklin Girard, secretary of state of the State of Idaho, and legal custodian of the original enrolled copies of all acts passed at the various sessions of the Legislature of the State of Idaho, do hereby certify that the annexed constitutes a full, true, and complete transcript of the original enrolled copy of Senate Joint Memorial No. 5, enacted by the twenty-second session of the Legislature of the State of Idaho, and filed in this office on the 10th day of February, 1933.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State. Done at Boise, the capital of Idaho, this 10th day of February, A. D. 1933.

[SEAL.]

FRANKLIN GIRARD,
Secretary of State.

IN THE SENATE.

Senate Joint Memorial 5 (by Yost)

A joint memorial to the Senate and House of Representatives of the Congress of the United States of America.

Received and filed February 10, 1933.

FRANKLIN GIRARD,
Secretary of State.

IN THE SENATE.

Senate Joint Memorial 5 (by Yost)

To the Senate and House of Representatives of the Congress of the United States of America:

We, your memorialists, the Senate and House of Representatives of the State of Idaho, in legislative session duly and regularly assembled, most respectfully present the following petition, preamble, and resolution, to wit:

Whereas there is now pending before the Seventy-second Congress, second session, H. R. 413, by Mr. FRENCH, as amended, a bill to enlarge the Boise National Forest by adding thereto certain areas in Idaho; and

Whereas the purpose of said H. R. 413, as amended, is the placement of certain areas within the boundaries of the Boise National Forest, and thus placing the same under the control and regulation of the Forest Service; and

Whereas the rules and regulations of said Forest Service and the control of lands within the area of national forest reserves are such as to give great protective regulation of our watersheds; and

Whereas the area proposed to be included within the Boise National Forest contains an area of the watersheds contributing water supply to the Boise River; and

Whereas approximately 400,000 acres of land now under irrigation, extending from the city of Boise to the Snake River, are dependent upon this water supply for irrigation purposes: Therefore be it

Resolved by the Senate of the State of Idaho (the House of Representatives concurring), That the prompt passage of H. R. 413, by Mr. FRENCH, as amended, now pending before Congress, be, and the same is, recommended and urged.

This senate joint memorial passed the senate on the 2d day of February, 1933.

GEO. E. HILL,
President of the Senate.

This senate joint memorial passed the house of representatives on the 6th day of February, 1933.

ROBERT COULTER,
Speaker of the House of Representatives.

I hereby certify that the within Senate Joint Memorial No. 5 originated in the senate during the twenty-second session of the Legislature of the State of Idaho.

[SEAL.]

M. J. HAMMOND,
Secretary of the Senate.

The VICE PRESIDENT also laid before the Senate a letter from G. J. Brown, of Sterling, Kans., making certain suggestions relative to farm relief through setting minimum prices for cotton, corn, and wheat, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution adopted by the Board of Supervisors of the City and County of San Francisco, Calif., favoring the passage of legislation setting aside February 15 for national observance of the birthday of Susan B. Anthony, "the pioneer who blazed the trail leading to

woman suffrage in the United States," which was referred to the Committee on the Library.

He also laid before the Senate a resolution adopted by the City Council of Minneapolis, Minn., favoring the passage of legislation to commemorate the one hundred and fiftieth anniversary of the naturalization as an American citizen in 1783 and appointment as brevet brigadier general of Thaddeus Kosciuszko, a hero of the Revolutionary War, by issuing a special series of postage stamps in honor of such anniversary, which was referred to the Committee on Post Offices and Post Roads.

He also laid before the Senate a letter in the nature of a memorial from Mrs. Florence E. Spalding, Visalia, Calif., remonstrating against the repeal of the eighteenth amendment of the Constitution or the repeal or modification of the national prohibition law, which was ordered to lie on the table.

He also laid before the Senate resolutions adopted by the convention of the National Association of Merchant Tailors of America, at Detroit, Mich., favoring the balancing of the Budget through the curtailment of unnecessary expenditures; the repeal of legislation authorizing the appropriation of over $450,000,000 annually for the care of ex-service men whose disabilities have no connection with their war service, etc.; the passage of the so-called Dies bill, being the bill (H. R. 12044) to provide for the exclusion and expulsion of alien communists; and opposing the intervention of Government in private enterprise, the prepayment of the so-called soldiers' bonus, and the recognition of the Soviet Government of Russia, which were ordered to lie on the table.

Mr. CAPPER presented a resolution adopted by the Board of Commissioners of the City of Eldorado, Kans., favoring the passage of legislation defining the term "political subdivision" and exempting the several States and their political subdivisions from all taxes imposed by the revenue act of 1932, which was referred to the Committee on Finance.

He also presented petitions of chapters of the Woman's Christian Temperance Union of Emporia, La Harpe, and Winona, and the Woman's Home Missionary Society, of Winona, all in the State of Kansas, praying for the passage of legislation to regulate and supervise the motion-picture industry, which were ordered to lie on the table.

Mr. WALSH of Massachusetts presented memorials and papers in the nature of memorials of sundry citizens and organizations in the State of Massachusetts, remonstrating against the repeal of the eighteenth amendment to the Constitution or the modification of the Volstead Act, which were ordered to lie on the table.

He also presented a resolution of the Woman's Home Missionary Society of the Central Methodist Episcopal Church, of Brockton, Mass., favoring the passage of legislation to regulate and supervise the motion-picture industry, which was ordered to lie on the table.

He also presented a memorial of members of General Israel Putnam Chapter, Daughters of the American Revolution, of Danvers, Mass., praying for the passage of legislation to regulate and supervise the motion-picture industry, which was ordered to lie on the table.

Mr. RUSSELL. Mr. President, I present memorials and papers in the nature of memorials from 36 cities and towns of the State of Georgia, signed by sundry citizens, and from various organizations, remonstrating against the repeal of the eighteenth amendment of the Constitution or the repeal or modification of the Volstead Act, which I ask may lie on the table.

The VICE PRESIDENT. The memorials will be received and lie on the table.

Mr. SHEPPARD presented memorials, and communications in the nature of memorials, of 41 citizens of Beaumont, 158 citizens of Houston, 578 citizens of Cleburne, 101 citizens of Fort Worth, 90 citizens of Harlingen, 243 citizens of Marshal, 35 citizens of San Antonio, 61 citizens of Shamrock, 83 citizens of Big Spring, and 12 citizens of Tyler, all in the State of Texas, remonstrating against the passage of legislation to legalize the manufacture and sale of beer, which were ordered to lie on the table.

Mr. SHEPPARD also presented memorials and communications in the nature of memorials of sundry citizens and organizations, all in the State of Texas, remonstrating against the repeal of the eighteenth amendment of the Constitution or the modification of the Volstead Act so as to legalize the manufacture and sale of beer, etc., which were ordered to lie on the table.

The memorials and communications are summarized, as follows:

1. From 100 members Anti-Alcoholic League of Barry;
2. From 245 citizens of Gorman;
3. From 1,025 citizens of Stephenville and students of John Tarleton Agricultural College, located at Stephenville;
4. From 146 members of the Woman's Christian Temperance Union and other citizens of Port Arthur;
5. Memorial from pastors and laymen, Waco district, Central Texas Conference of the Methodist Episcopal Church South, Texas conference, on part of the conference, representing more than 12,000 members;
6. From 26 citizens of Big Spring;
7. From 131 citizens of Cleburne;
8. From Federation of Missionary Societies of Polk County;
9. From 100 citizens of Beaumont;
10. From 21 citizens of Paradise;
11. From 33 citizens of Andrews;
12. From 38 citizens of Dallam County;
13. From 56 citizens of Weatherford;
14. From 50 citizens of Elgin;
15. From 36 citizens of Bryans Mill; and
16. From 164 citizens of McAllen, Alamo, Weslaco, Edcouch, Edinburg, San Juan, and Pharr: 167 citizens of Dalhart; 89 citizens of Waxahachie; 284 citizens of Fort Worth; 17 citizens of San Antonio; 45 citizens of Buffalo Gap; 26 citizens and members of the First Christian Church of Coleman; 123 citizens of Beeville; 67 citizens of Commerce; and 150 citizens of Palmer and Ennis, all of the State of Texas.

Mr. ASHURST presented the following joint resolution of the Legislature of the State of Arizona, which was referred to the Committee on Agriculture and Forestry:

Senate Joint Resolution 2, urging State legislatures to petition Congress to pass United States Senate bill 1197, known as the Frazier bill, and to amend said bill to include ranchers and livestock owners

Be it resolved by the eleventh Legislature of the State of Arizona, That a crisis exists, and hundreds of thousands of once prosperous farmers, ranchers, and livestock owners in this Nation have already lost their homes and their all by mortgage foreclosures because of the fact that the price of agricultural products and livestock have for years been below the cost of production, a condition that affects all of the people of this Nation, and is largely responsible for the continuance of the depression; and

There is no adequate way of refinancing existing agricultural indebtedness, and the farmers, ranchers, and livestock owners are at the mercy of their mortgagees and creditors; and

Unless immediate relief is given, thousands and hundreds of thousands of additional farmers, ranchers, and livestock owners will lose their farms, ranches, and livestock, and their homes, and millions more will be forced into our cities and villages, and the army of unemployed will necessarily increase to alarming proportions, precipitating a condition that threatens the very life of this Nation; and

The State Legislatures of Montana, North Dakota, Minnesota, Wisconsin, Nevada, and Illinois have each and all petitioned Congress to pass Senate bill 1197, known as the Frazier bill, without delay; which bill provides that existing farm indebtedness shall be refinanced by the Government of the United States at 1½ per cent interest and 1½ per cent principal on the amortization plan, and through mortgages on livestock at 3 per cent per annum, not by issuing bonds and plunging the Nation further into debt, but by issuing Federal reserve notes the same as the Government now does for the banks through the Federal reserve bank: Now, therefore, be it

Resolved, That the Legislature of the State of Arizona respectfully requests and petitions the legislatures of the other States that have not already done so to petition Congress to pass Senate bill 1197 without delay, and amend same to include ranches, ranges, and livestock, in order that the agricultural and ranch indebtedness of this Nation may be speedily liquidated and refinanced, and agriculture and livestock saved from utter ruin and destruction, and this depression brought to an intelligent and speedy end; and respectfully requests that the State legislatures cause copies of such resolution, after same has been passed, to be sent to the President of the United States, to the President of the Senate, and the Speaker of the House, to Senator FRAZIER at Washington, D. C., and to WILLIAM LEMKE, Congressman elect, at Fargo, N. Dak.; be it further

Resolved, That the secretary of state cause sufficient copies of this resolution to be printed, and that he mail a copy to the president of the senate and the speaker of the house of each of the States that have not as yet petitioned Congress to pass Senate bill 1197, requesting that said resolution be read before each of said bodies; and be it further

Resolved, That Arizona's Representatives in Congress—Senator HENRY F. ASHURST, Senator CARL HAYDEN, and Hon. LEWIS DOUGLAS—be sent copies of said resolution.

Approved February 2, 1933.

Passed the senate January 31, 1933, by the following vote: 19 ayes.

HARRY W. HILL,
President of the Senate.
W. J. GRAHAM,
Secretary of the Senate.

Passed the house February 2, 1933, by the following vote: 51 ayes.

S. A. SPEAR,
Speaker of the House.
LALLAH RUTH,
Chief Clerk of the House.

EXECUTIVE DEPARTMENT OF ARIZONA,
OFFICE OF GOVERNOR.

This bill was received by the governor this 2d day of February, 1933, at 4.30 o'clock p. m.

H. H. HOTCHKISS,
Secretary to the Governor.

Senate concurs in House amendments February 2, 1933, by the following votes: 19 ayes.

Approved this 2d day of February, 1933.

B. B. MOEUR,
Governor of Arizona.

EXECUTIVE DEPARTMENT OF ARIZONA,
OFFICE OF SECRETARY OF STATE.

This bill was received by the secretary of state this 2d day of February, 1933, at 4.55 o'clock p. m.

JAMES H. KERBY,
Secretary of State.

Mr. HALE presented the following joint memorial of the Legislature of the State of Maine, which was referred to the Committee on Finance:

STATE OF MAINE, 1933.

Joint memorial

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, your memorialists, the Senate and House of Representatives of the State of Maine, in eighty-sixth legislative session assembled, most respectfully present and petition your honorable body as follows:

Whereas the immediate and greatest need of this Nation is to establish a fully employed citizenship and normally functioning private industry offers the most desirable employment opportunities and the primary and largest market for American produce and manufactures is found in meeting the wants of the American people and the necessary employment in supplying these wants belongs first to American workmen; and

Whereas without the free flow of gold, the common medium of international values, the exchange rates of many nations' currencies have by application of the law of supply and demand become divorced from the actual values of those currencies as measured in buying power within the bounds of the nation issuing the currency; and

Whereas depreciated currency is seriously handicapping American industry and our foreign markets are stifled and our domestic industries face destruction by increased imports from depreciated-currency nations; and

Whereas the economic life of the State of Maine is derived from basic industries, such as lumber, fish, pulp, wheat, fruits, coal, cement, and their allied industries, and the very existence of capital, industry, employment, wages, and our standards of living are based on the profitable operation of these basic industries; and

Whereas the Nation faces an emergency and the differences in money levels have existed for a long period and have not become adjusted; and

Whereas nations whose currencies are depreciated are able to ship merchandise into the United States, pay the existing tariffs, accept American currency in payment, and to make a greater profit on their merchandise than if sold in their own markets; and

Whereas such importations from more than 40 nations of the world into the United States under the existing depreciated-currency conditions has the effect of not only eliminating all tariff structures but of enabling such merchandise to be sold at such a low price in the markets of the United States as to handicap and paralyze American industry and increase unemployment, and the industries of the United States are facing bankruptcy and destruction; and

Whereas we believe that unless this legislation is immediately passed chaos and ruin threaten the financial and governmental structure of the United States; and

Whereas Congressman SAMUEL B. HILL, of the State of Washington, has introduced in the present session of Congress a bill, the official title of which is a bill "to prevent loss of revenue, to provide employment for American labor, and to maintain the industries and agriculture of the United States against the effects of depreciation in foreign currencies"; and

Whereas the delay in enacting this bill into law at the present session of Congress is causing continued and alarming increase in unemployment in our industries, America industry and agriculture are being seriously harmed, and in many instances ruined, by this disastrous new form of competition, which is forcing hundreds of thousands of workmen to sacrifice their jobs; and

Whereas the Government of the United States is being deprived of vast customs revenue under existing conditions; and

Whereas equalization measures must be adopted to preserve American jobs for American workmen: Now, therefore, be it

Resolved, That the Senate and House of Representatives of the State of Maine respectfully urge the present Congress, now in session, and the President of the United States to promptly enact into law H. R. 13999; and be it further

Resolved, That this memorial be immediately transmitted by the secretary of state to the proper officers and committees of the United States Senate and House of Representatives and a copy sent to each of the Representatives and Senators representing the State of Maine in the United States Congress; and be it further

Resolved, That this memorial be immediately forwarded by the secretary of state to the legislatures of all the States of the United States, requesting that they pass and present similar memorials to Congress; and

Your memorialists will ever pray.

HOUSE OF REPRESENTATIVES.
Read and adopted. Sent up for concurrence January 31, 1933.
HARVEY R. PEASE, *Clerk.*

IN SENATE CHAMBER.
Read and adopted. In concurrence February 7, 1933.
ROYDEN V. BROWN, *Secretary.*

STATE OF MAINE,
OFFICE OF SECRETARY OF STATE.

I, Robinson C. Tobey, secretary of state of the State of Maine and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of the memorial to the Congress of the United States of the Senate and House of Representatives of the State of Maine in legislature assembled with the original thereof, and that it is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof, I have caused the seal of the State to be hereunto affixed. Given under my hand at Augusta this 8th day of February, A. D. 1933, and in the one hundred and fifty-seventh year of the independence of the United States of America.

[SEAL.] ROBINSON C. TOBEY,
Secretary of State.

Mr. THOMAS of Oklahoma presented the following concurrent resolution of the Legislature of the State of Oklahoma, which was referred to the Committee on Banking and Currency:

STATE OF OKLAHOMA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I, R. A. Sneed, secretary of state of the State of Oklahoma, do hereby certify that the following and hereto attached is a true copy of enrolled House Concurrent Resolution No. 7 (by Hogg and Beaman), a resolution requesting the Congress of the United States to enact legislation whereby a moratorium of foreclosures on homesteads may be declared, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of State. Done at the city of Oklahoma City, this 9th day of February, A. D. 1933.

[SEAL.] R. A. SNEED, *Secretary of State.*

A resolution requesting the Congress of the United States to enact legislation whereby a moratorium of foreclosures on homesteads may be declared

Whereas it is a well-known fact that thousands of homesteads in the State of Oklahoma and throughout the United States are now facing foreclosure; and

Whereas such action will place the owners of said homesteads without home or shelter and that thousands of home owners are daily being ejected from their homes through foreclosure and thrown upon charity and are fast becoming public charges; and

Whereas the loss of their homes has created a state of discontent among these unfortunates and they are fast becoming transients, roaming from place to place, and unless something is done to curb the wholesale foreclosures on small homes we shall face a national crisis such as the world has never known; and

Whereas we are daily being called upon by our constituents to enact legislation whereby this condition may be relieved, and realizing that the people of the State of Oklahoma and the United States in general are entitled to remedial legislation having for its purposes the relief of said condition: Now, therefore, be it

Resolved by the House of Representatives of the State of Oklahoma (the Senate of the State of Oklahoma concurring therein), That the Congress of the United States be and is hereby requested to enact laws which will provide for the immediate relief from foreclosure on homes in the State of Oklahoma and in the United States in general; be it further

Resolved, That the Congress of the United States be requested to propose an amendment to the Constitution of the United States giving it the power immediately to provide such remedial legislation; be it further

Resolved, That copies of this resolution be forwarded to each of the Oklahoma delegation in Congress.

Adopted by the house of representatives this the 17th day of January, 1933.

TOM ANGLIN,
Speaker of the House of Representatives.

Adopted by the Senate this the 2d day of February, 1933.

CECIL R. CHAMBERLIN,
Acting President of the Senate.

Correctly enrolled.

JULIUS W. COX,
Acting Chairman Committee on Enrolled and Engrossed Bills.

Mr. THOMAS of Oklahoma also presented the following concurrent resolution of the Legislature of the State of Oklahoma, which was referred to the Committee on Finance:

STATE OF OKLAHOMA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I, R. A. Sneed, secretary of state of the State of Oklahoma, do hereby certify that the following and hereto attached is a true copy of enrolled Senate Concurrent Resolution No. 8, by Curnutt and Thomas of the senate and Johnson of the house; a resolution memorializing Congress to repeal the law levying an excise tax of 1 cent per gallon of gasoline for Federal purposes, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of state.

Done at the city of Oklahoma City, this 11th day of February, A. D. 1933.

[SEAL.] R. A. SNEED, *Secretary of State.*

A resolution memorializing Congress to repeal the law levying an excise tax of 1 cent per gallon of gasoline for Federal purposes

Whereas the recent session of the United States Congress enacted a law establishing an excise tax of 1 cent per gallon on gasoline sold in the United States for the purpose of raising revenue for the expenses of the Federal Government; and

Whereas in this State and many other States of the United States there exist laws levying an excise tax on gasoline from 1 cent to 7 cents per gallon; and

Whereas such taxes are out of all proportion in comparison with other forms of taxes on other commodities; and

Whereas the same should be by the Federal Congress repealed: Therefore be it

Resolved by the Senate of the State of Oklahoma (the House of Representatives of the State of Oklahoma concurring therein), That the Congress of the United States is hereby memorialized to repeal the act which levies an excise tax of 1 cent per gallon on gasoline sold in the United States as it is believed the same is an undue burden on said commodity and upon the citizens of the United States: And be it further

Resolved, That copies of this resolution be forwarded to each Representative and Senator from the State of Oklahoma in the National Congress calling their attention to the desire of the people of Oklahoma as herein expressed: Be it further

Resolved, That copies of this resolution be forwarded to the secretary of state of each State in the United States to be transmitted to the legislatures of their respective States.

Passed by the senate this the 19th day of January, 1933.

ROBERT BURNS, *President of the Senate.*

Passed by the house of representatives this the 6th day of January, 1933.

TOM ANGLIN,
Speaker of the House of Representatives.

Correctly enrolled.

CLAUDE LIGGETT,
Chairman Committee on Engrossing and Enrolling.

Mr. THOMAS of Oklahoma also presented the following concurrent resolution of the Legislature of the State of Oklahoma, which was referred to the Committee on Post Offices and Post Roads:

STATE OF OKLAHOMA,
DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I, R. A. Sneed, secretary of state of the State of Oklahoma, do hereby certify that the following and hereto attached is a true copy of enrolled senate Concurrent Resolution No. 11 (by Johnston and Curnutt), a resolution memorializing the Congress of the United States to enact a law reducing first-class postage to 2 cents base rate, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of State. Done at the city of Oklahoma City, this 9th day of February, A. D. 1933.

[SEAL.] R. A. SNEED, *Secretary of State.*

A resolution memorializing the Congress of the United States to enact a law reducing first-class postage to 2 cents base rate

Whereas for revenue-raising purposes only a recent session of our United States Congress caused an increase in first-class postage to 3 cents domestic; and

Whereas such increase in the postage rate is an added burden to the classes of people unable to carry it, and was not an incident to meeting the cost of or improvement in the Postal Service: Therefore be it

Resolved by the Senate of the State of Oklahoma (the House of Representatives of the State of Oklahoma concurring therein), That the Congress of the United States is hereby memorialized to enact a law reducing the first-class postage rate from 3 cents to 2 cents; and be it further

Resolved, That copies of this resolution be forwarded to each Representative and Senator from the State of Oklahoma in our National Congress calling their attention to the desires of the people of Oklahoma as herein expressed.

Passed by the senate this the 19th day of January, 1933.

ROBERT BURNS,
President of the Senate.

Passed by the house of representatives this the 2d day of February, 1933.

TOM ANGLIN,
Speaker of the House of Representatives.

Correctly enrolled.

CLAUDE LIGGETT,
Chairman Committee on Engrossing and Enrolling.

SURVEY OF SHIPPING BOARD, SEA-SERVICE SECTION

Mr. GRAMMER. Mr. President, there has been brought to my attention a statement from Hon. T. V. O'Connor, chairman of the United States Shipping Board, giving considerable information on the activities of the sea-service section of the board. As this statement sets out the necessity of the section's being maintained, in the event we are going to have an American merchant marine, I ask that it be printed in the RECORD and appropriately referred, in order that this side of the question may have the consideration of the Senate.

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

GENERAL SURVEY OF THE UNITED STATES SHIPPING BOARD, SEA-SERVICE SECTION

The sea-service section is a part of the Bureau of Marine Development of the United States Shipping Board.

During the fiscal year ended June 30, 1932, the sea-service section field offices, located at the ports of Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, Mobile, Galveston, Houston, New Orleans, Portland (Oreg.), and Seattle placed 30,367 men in various ratings, from master to mess boy, and 95.4 per cent of these seamen were American citizens. This result has been brought about by the increasing Americanization work of the sea-service section since its establishment.

The American merchant marine prior to our entrance into the World War had been a declining institution for many years. It is unnecessary to go into the causes of the decline, but the effect may be summarized by the statement that for 10 years prior to the war American ships carried an average of but 10 per cent of our total foreign trade, as contrasted with 83 per cent in 1840. This was the significant result of our departure from shipping as a national industry and our growing interest in manufacturing and agricultural enterprises. Our once sea-minded people had turned away from the sea.

When the World War began it was obvious that we were under a tremendous handicap through lack of ships. Congress recognized the deplorable situation and a year before our entrance into the war gave us our shipping act, 1916, the stated purpose of which is of importance.

The title of the shipping act of 1916 reads:

"An act to establish a United States Shipping Board for the purpose of *encouraging, developing,* and *creating* a naval auxiliary and naval reserve and a merchant marine *to meet the requirements of the commerce of the United States* with its territories and possessions and with foreign countries; to regulate carriers by water engaged in the foreign and interstate commerce of the United States, and for other purposes." (Italics supplied.)

This act created the Shipping Board and charged it with carrying out its purposes and objects. The tremendous program of shipbuilding, ship manning, and operations ensued. One of the multitudinous activities of the board was the training and development of men to man the ships brought out in our reborn American merchant marine. This work was conducted by the war establishment of the sea-service section. In all 34,000 men and 16,000 officers were trained and placed. Such was the origin of our sea-service work. Then came the change from war to peacetime activity and the problem of rejuvenation of our merchant marine.

On June 5, 1920, the merchant marine act of 1920 became law. The first section thereof contains further mandates by Congress touching on the redevelopment of our shipping. Section 1 reads:

"*Be it enacted, etc.*, That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the *best equipped* and most suitable types of vessels *sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency*, ultimately to be owned and operated privately by citizens of the United States; and

it is hereby declared to be the policy of the United States to do whatever may be necessary *to develop and encourage* the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be obtained." (Italics supplied.)

The stress laid by Congress upon the development of our shipping placed upon the Shipping Board the responsibility of solving many problems relating to the merchant marine. The board found itself in possession of a great fleet of ships, which Congress decided should be put to peace-time uses. It proceeded with this great responsibility by establishing steamship services to all parts of the world, and, appreciating the vital necessity of manning the ships with competent American seamen, undertook through its sea-service section the task of carrying out the will of Congress in so far as providing an efficient personnel was concerned. This was a natural corollary to the major problem of having a marine of the best equipped ships, as declared in section 1 of the act of 1920.

The board is still engaged in its program of developing and encouraging a merchant marine adequate for the carriage of the greater portion of our commerce. Recovery from the low average of 10 per cent carried just prior to the war has been gradual. Modernization of the fleet is steadily going on and eventual success will in great part be accomplished by proper manning. The board, in other words, is still carrying out the mandates of the 1920 act.

The duty of accomplishing the permanent establishment of the American merchant marine lies with the Shipping Board. Part of the essential work embraces the activities of the sea-service section.

AMERICAN CREWS ON AMERICAN SHIPS

The Americanization program as carried on by the sea-service section is not open to criticism, as it is a well-known fact that if the section were discontinued the merchant service would have a very small percentage of native-born and naturalized citizens. The provision contained in the merchant marine act of 1928 to the effect that an increasing proportion of the crews of American ships holding mail contracts must be American citizens makes it necessary for the sea-service section to pay special attention to the placement of seamen.

Under date of January 4, 1932, Congressman DAVIS of Tennessee introduced a bill (H. R. 6710), as follows:

"To repeal certain laws providing that certain aliens who have filed declarations of intention to become citizens of the United States shall be considered citizens for the purpose of service and protection of American vessels."

This bill was reported out of committee on April 25, 1932, passed the House of Representatives on June 6, 1932, and was referred to the Senate Immigration Committee on June 7, 1932.

H. R. 6710 should be enacted into law. The bill is constructively American. It will have the effect of eliminating from our American merchant marine many aliens who through the mere act of securing first papers are for marine purposes counted as citizens and given the protection accorded full-fledged Americans. Under the law as now in effect, and as defined by the Attorney General in an opinion given under date of March 12, 1929, these so-called "first paper" men are regarded legally as citizens on mail contract and other American ships.

The merchant marine act of 1928 was the most constructive piece of merchant-marine legislation placed upon the statute books in recent years. By the provisions of this act ships engaged in the carrying of mail, in pursuance of contracts had with the Postmaster General, are required to have crews (exclusive of officers) at least two-thirds American. The Attorney General has ruled that these "first paper" men may be classified as citizens on mail-contract ships. If H. R. 6710 becomes a law, the ships in our American merchant marine will be required to have two-thirds of the crew (exclusive of officers) native-born or fully naturalized citizens.

We should ever bear in mind the lesson taught by the late war, when the greatest question before the country was how to get ships and men to man them; when the large number of alien seamen then employed on American ships refused to man our ships on voyages through the war zone, but instead sought safety on coastwise runs or retired entirely from the sea until the close of the war. This made it necessary to man our ships with inexperienced young Americans or, in a large number of cases, tying up the ships until American youths could be trained, thus crippling the country's resources because of its lack of experienced American seamen.

PHYSICAL EXAMINATION OF SEAMEN

A 1-man lobby, having as its object the doing away with the sea-service section, has been conducted annually by Mr. Andrew Furuseth, whose labor organization (the International Seaman's Union) would benefit greatly were this section abolished and the union left free to monopolize the employment of seamen. For several years he has succeeded in having an amendment inserted in the appropriation bill forbidding any expenditure of Federal funds for the maintenance of this important activity. He has repeatedly appeared before congressional committees and condemned the work of the sea-service section, but has never been able to substantiate his charges. On page 574 of the 1931 hearings on the independent offices appropriation bill, Mr. Furuseth made the following statement:

"I could say a lot of things about the sea-service bureau, but I can not prove it all, only a very little of it."

Mr. Furuseth is opposed to the physical examination which the section gives to each man. The savings to American shipowners through these examinations amount to many thousands of dollars yearly. Before the examinations were instituted it was possible, for example, for a seaman suffering, say, from hernia, to claim that the injury was incurred on board the ship and institute suit for damages. The section's medical examinations have practically done away with these bogus claims. If, on the basis of past experience, an estimate were made of potential claims, using a figure of $200 per claim (exclusive of the cost of litigation), it could be shown that the yearly savings on Shipping Board ships alone would amount to well over $200,000. This figure by no means represents the total savings to the merchant marine and the country at large through the elimination of persons suffering from loathsome diseases. In the close contact with other men aboard ship it is imperative that the seaman's health be safeguarded in every way. Watchful supervision and voyage reports made by the shipmaster to the sea-service section covering health conditions, especially conditions with respect to venereal diseases, indicate that the precautions taken have borne excellent results. It is almost platitudinous to say that an incapacitated seaman is a loss to the ship in time, money, and efficiency.

The sea-service section maintains its own medical department in New York City, Baltimore, Houston, and New Orleans, where the physical examination of seamen is conducted prior to their assignment to a vessel. These medical examinations have a dual purpose. They acquaint the seaman with his physical condition and at the same time assure a personnel that is physically fit. It has been computed that the savings on bogus claims for personal injuries more than offset the expense of operating the whole sea-service section. In ports where the service does not maintain its own medical staff arrangements have been made with the United States Public Health Service to conduct the examinations when so requested by the master of the vessel. Physical examinations are opposed only by the seamen's union and by those who because of loathsome disease or other bodily disqualification find difficulty in securing employment.

During the past two years the United States Shipping Board, through its sea-service section, has worked in close cooperation with the United States Public Health Service in carrying on a campaign to combat venereal diseases among seamen. Arrangements have been made whereby every Shipping Board vessel carries materials for prophylaxis, together with complete instructions as to use. At the end of each voyage the master of each ship is required to make a report to the head of the sea-service section as to conditions aboard his ship with respect to venereal disease. Reports thus far received indicate that excellent results have been obtained through this campaign of education and prevention.

CHARGES AGAINST SEA-SERVICE SECTION—BLACKLIST, ETC.

Charges have been made by the seamen's union that the sea-service section is not Americanizing the crews of our merchant ships; that it is discriminating against American labor; that it maintains a "blacklist" to the great detriment of the seamen; that it duplicates the work of the United States shipping commissioners; and that it is a continuation of the crimping system. The latest effort to destroy its constructive work takes the form of a proposal that the service be transferred from the Shipping Board to the Department of Labor.

The charge that the section is not engaged in Americanization work is without foundation and is apparently brought forward to confuse the issue. The fact is that in each and every placement made American citizens are given preference, and no foreigner is given a position when Americans are available. Not only is this the case, but it may be stated without fear of contradiction that the sea-service section is the only Federal agency that encourages the youth of America to follow the sea as a means of livelihood. Inasmuch as it is everywhere recognized that an American deep-sea merchant fleet can not attain maximum efficiency, or be depended on in time of national emergency, unless it is manned by American citizens, the importance of this work in the building up of our merchant marine must be fully apparent. Local managers of the sea-service offices in various ports of the country are instructed to give every legitimate aid and encouragement to able-bodied young Americans who seriously desire to follow the sea.

The unprecedented depression in international trade and shipping has recently had a retarding effect on this program of the sea-service section to interest the youth of the land in sea-faring careers—a program by virtue of which thousands of American lads have been persuaded to enroll in the merchant service. On December 4, 1930, this phase of the sea-service section's work was temporarily curtailed in order to provide additional positions for experienced men who were out of work. As a result the section during the past year was able to place only 412 boys in the lower ratings, as contrasted with fourteen or fifteen hundred in normal years. With the return of better conditions, the "deck boy" program, deemed to be of the utmost importance in the section's Americanization work, will be resumed along the lines originally mapped out.

The charge that the sea-service section is discriminating against American labor is unfounded. In making placements the local managers never inquire as to whether or not the applicant for a position belongs to a labor organization. Union and nonunion seamen are treated absolutely on a parity. The section takes the

stand that American seamen should be entirely free to join organizations of any kind, but that membership in such organizations should not be considered a requisite in order to qualify for a rating in the American merchant marine.

The charge of maintaining a "black list" is also brought forward to becloud the issue. The charge arises out of the fact that masters and owners of vessels invariably request that undesirable seamen—men who have been found faithless, inefficient, or physically unfit, and are so reported by masters under whom they have served—be disciplined for specific periods. If the offense is of a minor nature, no action is taken by the sea-service section. In flagrant cases the offender is placed on a deferred list. Without this disciplinary action incompetency and disease would be prevalent, and it would become next to impossible to build up an efficient and loyal personnel in the merchant marine.

On a par with the gross misrepresentations circulated with respect to the so-called "black list," is the charge that the sea-service section places incompetents in the various ratings aboard ship. It is obviously unfair to the gallant American seamen employed in the merchant service to attempt to discredit their efficiency, after they have proved to the world that they are the peers of any seamen afloat. Even our foreign competitors have recognized their heroic conduct and devotion to duty under the most trying conditions, as disclosed by a long and unparalleled list of daring rescues at sea. The charge in this case is worse than puerile. It merits the severest censure and indicates sufficiently well the motives of those who make it.

NO DUPLICATION OF WORK OF UNITED STATES SHIPPING COMMISSIONERS

Nor is there any basis for the charge sometimes made that the sea-service section is doing the work assigned by law to the United States shipping commissioners of the Department of Commerce. There is not the slightest duplication of work.

United States shipping commissioners are appointed under act of Congress to supervise the engagement and proper treatment of seamen in the merchant service and to enforce laws for the seaman's protection. They attend to the signing of the "ship's articles," a legal instrument in writing, specifying the terms of the contract between owners and seamen. They also attend to the discharge of the seamen and the payment of their wages when the contract has been fulfilled.

The sea-service section does not infringe upon nor duplicate in any way the above duties of the United States shipping commissioners. It is the specific duty of the section to furnish American ships with competent and physically fit American seamen. In the various sea-service offices, maintained at the principal American ports, the men do not register, nor are they shipped mechanically in turn, but rather the American seamen holding the best discharges, and physically qualified, are given preference. As already indicated, physical qualifications are determined by medical examinations given before the actual placement.

The Appropriations Committee of the United States House of Representatives (72d Cong.) requested the Bureau of Efficiency to make a study of the sea-service section for the purpose of determining whether there is any duplication of the work now being performed by the shipping commissioners of the Department of Commerce. The report of the Bureau of Efficiency covering this matter appears in the printed hearings on the independent offices appropriation bill (1933), page 640, and shows conclusively that there is no duplication.

PROPOSED TRANSFER TO DEPARTMENT OF LABOR

The suggestion to transfer the sea-service section to the Department of Labor is analogous to proposing the transfer of the recruiting services of the Army, Navy, and Coast Guard to this same department. It would be no more illogical to propose a like transfer of the Civil Service Commission. It is not clear just what advantage would follow from any of these transfers. Certainly there would be no benefit to American seamen, nor to the American merchant marine. The fact is that the opponents of the sea-service section, baffled in other directions, have devised this plan as a step in their fight for eventual abolishment. That their suggestion is conceived in bona fide regard for the good of the service is unthinkable. One has only to consider their past performances and their perennial tirades in the public press to evaluate their true motives in advancing this, their latest plan.

The Shipping Board in its contacts with the marine interests of the Nation is charged with responsibilities not inherent in any other governmental agency. The importance of the problems to be solved in the board's promotion of American shipping, especially during the present depression, when thousands of unemployed American seamen are haunting the sea-service offices, demands that the confidence reposed in the board by owners and operators be not disturbed by pointless and wholly indefensible changes of policy. To transfer the sea-service section to another department would be a move in a retrograde direction, in that it would break the intimate contact with collateral interests which now characterizes the section's devotion to the cause of the merchant marine.

The section also handles the board's study of officer training, a subject which in recent years has assumed major importance. With the growth of the merchant marine since the passage of the Jones-White Act, the availability of properly trained and experienced officers for our new and modern ships has become an increasingly vital problem. The subject is under consideration by the maritime interests of the country and any move to transfer the sea-service section to a comparatively unrelated field of activity would terminate this phase of the section's work.

The charge that the sea-service section is a continuance of the "crimping" system is entirely without foundation, and only illustrates the desperate lengths to which the section's opponents are willing to go in order to achieve their ends. One of the main reasons for the establishment of the sea-service section was the fact that crews of Shipping Board vessels were being furnished by shipping masters, or "crimps," whose practice was to charge from $5 to $100 per man, depending upon what they could collect from the ship under the particular circumstances and conditions at the respective ports. Payment for seamen furnished by crimps has long been one of the sources of graft in American shipping. It is well known that crimps will, during the period of employment, make the men pay for the positions and at the same time charge the vessel for furnishing them. The money so collected is often divided with dishonest officers, making it profitable for such officers to change crews often and employ crimps to replace those dismissed.

Members of Congress have been petitioned by various crimps to use their influence to stop the sea-service section from supplying crews, as it is considered an interference with their business to have seamen placed in the merchant marine free of charge. The United States Shipping Board has also received many letters of the same character. If there were any slackening of the work of the sea-service section, the steamship companies would have to resort to the old and discredited practice of securing crews from crimps, a practice that would cost more in one month than the Americanization and placement work of the sea-service section costs in a year.

Due to the business depression and the consequent large number of idle ships, unemployment has been unusually severe among sea personnel. This abnormal condition accounts for the fact that while the total number of placements has fallen off, the number of applicants for positions has increased so greatly that the resources of the various sea-service offices have been taxed to the utmost. Cooperating with charitable organizations and State employment offices, the section has succeeded in finding shore positions for many of the seamen who could not be placed aboard ship. Some have been given positions as riggers on construction work, others in engine rooms, hotels, restaurants, etc.

Opponents of the sea-service section claim that there is a large turnover in employment of seamen. In an effort to substantiate their claim they place in the record a table compiled by the United States shipping commissioners' office and compare it with the figures furnished by the sea-service section.

The United States shipping commissioners' report for the year ended June 30, 1932, shows that 268,427 seamen were shipped and reshipped in 1932. From these figures it must not be understood that every time a ship makes port an entirely new crew is taken aboard, but rather that most of the crew is reshipped for another voyage. In other words, the commissioner's report takes credit for each and every voyage of the ship, whereas the table submitted herewith by the sea-service section shows only the seamen actually placed.

For the record there is also shown herewith a table showing the yearly cost of operating the sea-service section from 1922 to the present time. In this connection it should be remembered that the abolishment or transfer of the section would effect no saving in appropriations, as a similar activity would have to be set up and the same amount of money would have to be expended if we are to continue the work at anything like its present high state of efficiency.

COST OF OPERATING SEA-SERVICE SECTION

The following is the total cost of operating the sea-service section from the time all other bureaus were discontinued that came under the recruiting service, with the exception of 1922 when the sea-service section still has some of the training bureau program charged to their account:

June 30, 1922	$200,067.64
June 30, 1923	145,283.68
June 30, 1924	135,918.50
June 30, 1925	131,752.97
June 30, 1926	117,965.65
June 30, 1927 [1]	121,159.38
June 30, 1928 [1]	126,529.49
June 30, 1929	120,811.07
June 30, 1930	114,149.90
June 30, 1931	113,248.38
June 30, 1932	108,496.25

There is also submitted the following statement showing reduction of expenses of the sea-service section as of July 1, 1932.

Statement of reduction of expenses of United States Shipping Board, sea-service section, as of July 1, 1932

Cost of maintaining the United States Shipping Board, sea-service section, for the fiscal year ended June 30, 1931	$113,248.38
Cost of maintaining the United States Shipping Board, sea-service section, for the fiscal year ended June 30, 1932	108,496.25
Total salaries of employees of the sea-service section as of June 30, 1932	88,460.00
Nine employees separated from pay roll as of July 1, 1932, showing a saving of	12,780.00
	75,680.00

[1] The increase in 1927 and 1928 was due to the installation of medical examinations.

Rent of offices of United States Shipping Board, sea-service section

Port	As of June 30, 1932		Reduction as of July 1, 1932	
	Monthly	Per annum	Monthly	Per annum
Boston	$70.00	$840.00	$60.00	$720.00
New York	500.00	6,000.00	458.33	5,500.00
Philadelphia	125.00	1,500.00	100.00	1,200.00
Baltimore	40.00	480.00	40.00	480.00
Norfolk	72.22	866.64	65.00	780.00
New Orleans	170.00	2,040.00	140.00	1,680.00
Galveston	65.00	780.00	60.00	720.00
Mobile	50.00	600.00	40.00	480.00
Portland	75.00	900.00	67.50	810.00
Seattle	75.00	900.00	60.00	720.00
Savannah	25.00	300.00	25.00	300.00
Houston	[1] 65.00	780.00	[1] 50.00	600.00
	1,332.22	15,986.64	1,165.83	13,990.00

[1] At Houston the United States Shipping Commissioner occupies space in the sea-service office and pays $20 per month or $240 per annum. This amount has not been deducted in the above figures.

Total reduction in salaries	$12,780.00
Total reduction in rents	1,996.64
Total	14,776.64

The above shows a saving of $1,996.64 per annum in rentals.

C. W. SANDERS,
Director Sea-Service Section.

JANUARY 20, 1933.

The following list contains the names of private American steamship owners who favor the sea-service section and ask for retention of same under the United States Shipping Board. This list represents 90 per cent of the steamship owners, also chambers of commerce and other maritime interests:

American Steamship Owners Association (representing the following steamship companies): American-Hawaiian Steamship Co. of New York and San Francisco; American South African Line (Inc.), New York City; American Line Steamship Corporation, New York City; American Sugar Transit Corporation, New York City; Argonaut Steamship Line, New York City; Barber Steamship Lines (Inc.), New York City; Bliss, Dallett & Co. (Red "D" Line), New York City; A. H. Bull & Co., New York City; Calmar Steamship Corporation, New York City; Chile Steamship Co. (Inc.), New York City; Colombian Steamship Co. (Inc.), New York City; Cities Service Transportation Co., New York City; Clyde Steamship Co., New York City; Colonial Navigation Co., New York City; Dollar Steamship Co. (Inc.) (Ltd.), San Francisco, Calif.; Eastern Steamship Lines (Inc.), Boston, Mass.; Freeport Sulphur Transportation Co., New York City; Grace Line (Inc.), New York City; Great Northwestern Shipping Corporation, New York City; Gulf Mail Steamship Co., New Orleans, La.; Gulf Refining Co., New York City; International Shipping Corporation, New York City; Luckenbach Steamship Co., New York City; Mallory Steamship Co., New York City; Matson Navigation Co., San Francisco, Calif.; Merritt, Chapman & Scott Corporation, New York City; Moore & McCormack Co. (Inc.), New York City; Munson Steamship Co., New York City; New York & Cuba Mail Steamship Co., New York City; New York & Porto Rico Steamship Co., New York City; North Pacific Division of the Grace Line, New York City; Ore Steamship Corporation, New York City; Pan American Petroleum & Transport Co., New York City; Panama Mail Steamship Co., New York City; Peninsular & Occidental Steamship Co., Jacksonville, Fla.; Pocahontas Steamship Co., New York City; Roosevelt Steamship Co., New York City; Southern Pacific Steamship Lines, New York City; Southern Steamship Co., Philadelphia, Pa.; C. H. Sprague & Son., Boston, Mass.; Standard Oil Co., San Francisco, Calif.; Standard Shipping Co., New York City; Standard Transportation Co., New York City; Strachan Shipping Co. of New York and Savannah, Ga.; Sun Oil Co., Philadelphia, Pa.; The Texas Co., New York City; Tide Water Oil Co., New York City; Union Oil Co. of California, Los Angeles, Calif.; Union Sulphur Co., New York City; United Fruit Co., Boston, Mass.; Isthmian Steamship Co., New York City; Vacuum Oil Co., New York City; Williams Steamship Co. (Inc.), New York City; C. D. Mallory & Co. (Inc.), New York City; Duncan, Fox & Co., New York City; Edward P. Farley, New York City; Atlantic Refining Co., Philadelphia, Pa.

Pacific American Steamship Association (representing the following steamship companies): Alaska Packers Association, San Francisco, Calif.; Alaska Steamship Co., Seattle, Wash.; American-Hawaiian Steamship Co., San Francisco, Calif.; Associated Oil Co., San Francisco, Calif.; Dollar Steamship Line, San Francisco, Calif.; W. R. Grace & Co., San Francisco, Calif.; Los Angeles Steamship Co., Wilmington, Calif.; Luckenbach Steamship Co. (Inc.), San Francisco, Calif.; Matson Navigation Co., San Francisco, Calif.; Munson-McCormick Line (McCormick Steamship Co.), San Francisco, Calif.; Pacific Steamship Co., San Francisco, Calif.; Panama Mail Steamship Co., San Francisco, Calif.; Richfield Oil Co., Long Beach, Calif.; Standard Oil Co. of California, San Francisco, Calif.; Standard Transportation Co., Los Angeles, Calif.; Swayne & Hoyt (Inc.), San Francisco, Calif.; the Texas Steamship Co., Los Angeles, Calif.; Union Oil Co. of California, Los Angeles, Calif.; United Fruit Co., San Francisco, Calif.

Mexican Petroleum Corporation, Baltimore, Md.
Mystic Steamship Co., Norfolk, Va.
Baltimore-Oceanic Steamship Co., Baltimore, Md.
Mississippi Steamship Co., New Orleans, La.
Portland Steamship Operators Association, Portland, Oreg.
Tacoma-Oriental Steamship Co., Seattle, Wash.
The Texas Transport & Terminal Co., Baltimore, Md.
Lykes Bros.-Ripley Steamship Co., Galveston, Tex.
Van Heynigen Brokerage Co., Mobile, Ala.
Wilbur F. Spice Co., Baltimore, Md.
Port of Philadelphia Ocean Traffic Bureau, Philadelphia, Pa.
Savannah Port Authority, Savannah, Ga.
Portland Chamber of Commerce, Portland, Oreg.
Shipping Federation of State of Washington, Seattle, Wash.
John G. Hall & Co. (Inc.), Boston, Mass.
Merchants Exchange, Portland, Oreg.
Grays Harbor Stevedore Co. (Inc.), Aberdeen, Wash.
Wood Towing Corporation, Norfolk, Va.
Seattle Chamber of Commerce, Seattle, Wash.
Baltimore Association of Commerce, Baltimore, Md.

C. W. SANDERS,
Director Sea-Service Section.

REPORTS OF COMMITTEES

Mr. BORAH, from the Committee on Foreign Relations, to which was referred the bill (H. R. 13534) authorizing the appropriation of funds for the payment of claims to the Mexican Government under the circumstances hereinafter enumerated, reported it without amendment and submitted a report (No. 1226) thereon.

Mr. GOLDSBOROUGH, from the Committee on Naval Affairs, to which was referred the bill (H. R. 2213) for the relief of Harvey Collins, reported it with an amendment and submitted a report (No. 1227) thereon.

Mr. SCHUYLER, from the Committee on Naval Affairs, to which was referred the bill (H. R. 9231) for the relief of George Occhionero, reported it without amendment and submitted a report (No. 1228) thereon.

BILLS INTRODUCED

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

By Mr. DICKINSON (by request):

A bill (S. 5641) authorizing R. L. Metcalf, of Omaha, Nebr., and W. E. Wright, of Kansas City, Mo., to construct, maintain, and operate a toll bridge across the Mississippi River between the cities of Davenport, Iowa, and Rock Island, Ill.; to the Committee on Commerce.

(Mr. LEWIS introduced Senate bill 5642, which see under a separate heading.)

By Mr. JOHNSON:

A bill (S. 5643) granting a pension to Michael L. Walsh (with accompanying papers); to the Committee on Pensions.

By Mr. GLENN:

A bill (S. 5644) to authorize the placing of a bronze tablet bearing a replica of the congressional medal of honor upon the grave of the late Brig. Gen. Robert H. Dunlap, United States Marine Corps, in the Arlington National Cemetery, Va.; to the Committee on Naval Affairs.

WIDENING THE POWERS OF THE RECONSTRUCTION FINANCE CORPORATION AS TO LOANS

Mr. LEWIS. Mr. President, may I present an emergency matter and ask the privilege of introducing a bill to take the form of an amendment to the measure known as the Wagner bill, and that it may be referred to the same committee whence that bill came?

The bill (S. 5642) to provide for making loans to needy individuals, ex-service men, farmers, home owners, and business men, and for other purposes, was read twice by its title and referred to the Committee on Banking and Currency.

AMENDMENT OF THE CONSTITUTION—REPEAL OF PROHIBITION

Mr. CLARK. Mr. President, I wish to give notice that at the proper time I shall offer an amendment to Senate Joint Resolution 211. Therefore I submit a proposed amendment and ask that it be printed and lie on the table.

The amendment intended to be proposed by Mr. CLARK to the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States was ordered to lie on the table and to be printed, as follows:

On page 3, to strike out all after line 6 and insert in lieu thereof the following:

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in

three-fourths of the several States within seven years from the date of its submission."

Mr. BARBOUR submitted amendments intended to be proposed by him to the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States, which were ordered to lie on the table and to be printed in the RECORD, as follows:

(In the committee amendment:)
On page 3, line 2, to strike out "the legislatures of" and insert in lieu thereof "conventions in."
On page 3 to strike out all of section 2.
On page 3 to strike out all of section 3.

PRODUCTION COSTS OF ULTRAMARINE BLUE

Mr. BARBOUR submitted the following resolution (S. Res. 359), which was referred to the Committee on Finance:

Resolved, That the United States Tariff Commission is hereby directed to investigate, for the purposes of section 336 of the tariff act of 1930, the difference in the cost of production between domestic ultramarine blue and foreign ultramarine blue, and to report at the earliest date practicable.

PROPOSED LIMITATION OF DEBATE

Mr. BARKLEY. Mr. President, I offer the following resotion and ask unanimous consent for its present consideration.

The VICE PRESIDENT. Let it be reported for the information of the Senate.

The Chief Clerk read the resolution (S. Res. 360), as follows:

Resolved, That during the remainder of the present Congress debate on the part of any Senator shall be limited to 1 hour on any measure, including conference reports and amendments between the Houses, and to 30 minutes on any amendment or motion relating thereto.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. BORAH. Let it go over.

The VICE PRESIDENT. Under the rule it will go over.

Mr. BARKLEY. I desire to serve notice that I shall call up the resolution to-morrow.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, 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. 13710) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes.

The message also announced that the House insisted upon its amendments to the bill (S. 2148) for the relief of Clarence R. Killion, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HILL of Alabama, Mr. MONTET, and Mr. CHIPERFIELD were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 4368) for the relief of the widow of George W. McDonald.

REPORT OF NATIONAL TRANSPORTATION COMMITTEE

Mr. FESS. Mr. President, there is printed in the New York Times this morning a complete report on the National Railway Survey and recommendations for reform by the National Transportation Committee that was appointed some time ago, on which served the late President Coolidge. The report is a very informative body of facts. I think it ought to have a wider reading than the press will give it. Therefore I ask unanimous consent that it may be printed in full in the RECORD.

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

The report is as follows:

[From the New York Times, Wednesday, February 15, 1933]

TEXT OF REPORT ON NATIONAL RAIL SURVEY AND RECOMMENDATIONS FOR REFORMS—SMITH SAYS RAILROADS' FUNDAMENTAL PROBLEM IS CONSOLIDATION ON NATIONAL SCALE

INTRODUCTORY

Herewith are presented:
A. The conclusions of the National Transportation Committee.
B. The report of the committee.
C. Supplemental report by former Gov. Alfred E. Smith, who prefaces it, "While I am in substantial agreement with the greater part of the committee report, this supplementary memorandum states my conclusions in my own language, placing the emphasis where I think it belongs."
D. Special studies by the research staff to be published shortly by the Brookings Institution, Washington, D. C.

The committee associated itself at the request of certain business associations, savings banks, insurance companies, and fiduciary and philanthropic institutions interested in railroad securities (see Appendix 1) in response to an invitation in essential part as follows:

"We, the undersigned organizations, representing many of the interests concerned, believe that there is no more important present task than a thorough and satisfactory solution of the railroad problem, as an integral but the most urgent part of the entire transportation problem. We beg that you examine all phases of the problem and recommend a solution which, with due regard for the public interest, will insure an opportunity for the railroads of this country to be put on a business basis so that neither now nor in the future will they constitute a present threat to the invested savings of our citizens, to loss of employment to our wage earners, and to the stability of the insurance companies and savings banks; and so that the present burden on the Federal Treasury and the American taxpayer may be in a fair measure removed."

The committee met and organized on October 7, 1932. It was composed of Calvin Coolidge, chairman; Bernard M. Baruch, vice chairman; former Gov. Alfred E. Smith, Alexander Legge, and Clark Howell. John W. Power acted as secretary. The committee selected Dr. Harold G. Moulton, of the Brookings Institution, to organize a research staff.

Just as the committee's work was nearing a close it lost the distinguished director of its deliberations, who was giving his great talents unsparingly to this work. The report had not taken form at the time of his death, but the committee has tried to carry on in the spirit of his leadership.

The committee gathered its facts from three sources:
(1) Open hearings.
(2) Studies by other investigating bodies, memoranda, briefs, and specific suggestions.
(3) The work of Doctor Moulton and the staff.

This mass of material is too voluminous and varied to publish in full, but the work undertaken by the research staff will be published shortly by the Brookings Institution. Doctor Moulton's conclusions are his own.

The transport problem has been with man since the first rude trails of pre-history. It has shaped the destiny of humanity. The closing of the caravan routes to the East Indies discovered America. History is full of similar consequences. Just now, largely due to the recent rapid development of new forms of transportation, the railroad problem is acute in nearly all important countries, including our own. Commissions more or less similar to this committee have been at work in England, Canada, and the Argentine Republic, and we have considered their reports and analyses. There are railroad commissions in nearly every one of our 48 States and similar bodies in many other countries. These, the Interstate Commerce Commission, and the very able congressional committees on these subjects have all been devoting themselves to the problems created by these rapid shifts. Much of this work and a great mass of other data have been assembled and given careful study by the committee. The problem is very complex, and while the committee is in substantial agreement as to conclusions, it is too much to expect that four men of independent mental processes would all arrive at decisions by identical paths, or with equal emphasis on various factors.

CONCLUSIONS OF THE COMMITTEE

I. The railroad system must be preserved. Changed conditions require new policies, but not abandonment of railroad regulation. The development of regulation and of new methods of transport make it unnecessary for Government further to create and foster competition with or among railroads as a defense against monopoly. That is an expensive and ineffective attempt to do indirectly what Government has shown its ability to do directly. Regulation is sufficient. Government policies should be freed of any purpose either to favor or to handicap any form of transporation with relation to any other form. We can not solve the problem on the theory upon which horses are handicapped in a race. In a fair field and no favor competition should be permitted to decide the result. Regulation should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination and extortion and on requiring the most efficient service at the lowest competitive cost.

(1) Parallel lines and systems are wasteful and unnecessary. Regional consolidations should be hastened and, where necessary, enforced, looking eventually to a single national system with regional divisions and the elimination of all excess and obsolete lines and equipment. Neither holding companies nor any other device should be permitted to hinder consolidation or evade the letter or the spirit of regulatory law.

(2) Unprofitable railroad services should be replaced by cheaper alternative transport methods.

(3) Railroads should be permitted to own and operate competing services, including water lines, but regulatory jurisdiction should be extended to water rates and practices in coastal, intercoastal, and lake shipping to relieve commerce of present chaotic

conditions. Congress should promptly clarify its intention on the long-and-short-haul clause of the transportation act.

(4) Government assumption of all or part of the costs of inefficient competing transport as a defense against monopoly is no longer warranted and should be abandoned. As a general principle inland waterways should bear all costs of amortization, interest, maintenance, and operation of the facilities for their navigation. If they can not bear such charges and compete with other forms of transport, they should be abandoned. The St. Lawrence Waterway should be tested by this rule of self-support and if it fails in that test the pending treaty with Canada should not be ratified. Governmental commercial operation of the actual facilities of transportation, such as barge lines, should not be continued.

(5) Automotive transportation should be put under such regulation as is necessary for public protection. It should bear its fair burden of tax but only on a basis of compensation for public expenditure on its behalf, plus its share of the general tax load. Neither tax nor regulation should be applied for any purpose of handicapping the march of progress for the benefit of the railroads.

(6) Wages and working conditions of labor in transportation are determinable by established procedure in another forum and are not within the scope of this inquiry. There should be no heavier burdens on the railroads in employing labor to operate automobiles than on their competitors. In the railroads (as in other industries), rates, capitalization, salaries, and wages must all follow changing economic conditions, but none should be sacrificed for the benefit of others.

(7) Beacons, weather service, and similar auxiliaries to air traffic should be maintained at public expense, and air transport should be encouraged during its development stage, but we believe that every such service should ultimately pay its own way.

(8) The committee has no recommendation to make on pipe lines.

II. The policy of trying to appraise railroad properties on some selected basis of valuation and then saying that they are entitled to earn a fair return on this appraisal should be reconsidered. Where competition with trucks and other methods exists, it will determine rates. In other cases rates must be regulated, but the basis of costs of operation under efficient management is a better general guide than any attempt to preserve capital structures regardless of economic trends. We see no reason why the rate-making rule should not say in plain English that railroads are entitled to make a reasonable profit based upon costs of efficient operation and that they are not entitled to earnings merely to preserve present structures if overcapitalized.

III. The railroads should do much that they have not done to improve their condition without any Government help at all. They should promptly be freed of all unnecessary restrictions on the doing of it. It has been estimated that less than a 20 per cent increase in traffic would put most of them on an earning basis. In view of the narrowness of this margin of loss and of the very great savings possible in railroad operation, we regard their outlook as far from hopeless.

(a) Railroads should adopt the competing methods of which they complain.

(b) Railroads should cooperate to reduce competitive expenses.

(1) Unnecessary services should be abandoned.

(2) Metropolitan terminals should be consolidated and unnecessary facilities scrapped.

(3) Circuitous haulage should be eliminated.

(c) Financial management should be improved.

(d) Transport methods and equipment should be brought up to date.

(e) In view of what could be done by better management, the general outlook seems far from hopeless.

IV. Regulatory jurisdiction should be extended to the whole national transportation system, but applied only to the extent necessary for public protection. The existing regulatory mechanism of the Interstate Commerce Commission is inadequate and should be improved by reorganization without expansion or increased expense.

V. Emergency recommendations.

(1) Corporate reorganization can and should be facilitated by revision of the bankruptcy procedure.

(2) The recapture clause should be repealed retroactively.

(3) The statutory rule of ratemaking should be revised.

(4) "Adequate security" does not necessarily mean "marketable collateral."

THE REPORT

I. The railroad system must be preserved. Changed conditions require new policies but not abandonment of railroad regulation. The development of regulation and of new methods of transport make it unnecessary for government further to create and foster competition with or among railroads as a defense against monopoly. That is an expensive and ineffective attempt to do indirectly what the Government has shown its ability to do directly. Regulation is sufficient. Government policies should be freed of any purpose either to favor or to handicap any form of transportation with relation to any other form. We can not solve the problem on the theory upon which horses are handicapped in a race. In a fair field and no favor, competition should be permitted to decide the result. Regulation should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination and extortion and on requiring the most efficient service at the lowest competitive cost.

At the foundation of our system of communication is the railroad web. It is the most important single element in our social and economic life. Its rapid extension enabled us to cover the greater habitable part of a continent with a cohesive form of liberal government of 125,000,000 people united in a common language, purpose, and ideal and to maintain national solidarity through periods of stress. Both security and material welfare are involved in its continued efficient existence. The public interest is deeper than its investment or its need of good service. We are addressing a matter of national concern of the first magnitude. The railroad system must be continued and its efficiency preserved because of national necessity—economic, social, and defensive.

(a) *Governmental fostering of competition is no longer necessary as a defense against monopoly*

Above all other enterprises, railroads are, therefore, "affected with a public interest" and, under an ancient doctrine of our law, peculiarly subject to Government regulation. In earlier development the railroad franchise created an effective and complete monopoly against which industrial and social segments had no defense. Rigorous governmental control was inevitable. It took two forms: First, an effort to foster competition among different railroads and to create and maintain by Federal financial aid other forms of competing transportation, such as waterways; second, an intense regulatory control of the railroads themselves. The latter has been practiced long enough and sufficiently extended to prove that it dominates competition or any other influence as the governing law of railroad practice. To the extent that the monopoly inherent in the railroad franchise was a menace, it is of the utmost importance to recognize that current railroad regulation safely controls it. Other safeguards have appeared. With increasing effect new methods of transport are invading customary fields of railroad patronage. On a basis of economic efficiency, independent of Government aid, pipe lines, motor transport, and airways are all making bids for business which the railroads can retain only by offering equivalent service at competitive rates. In these areas of competition there is no longer complete monopoly. These two developments—perfection of regulation and appearance of competing methods—have created a new principle, viz:

In so far as Government policies have been designed by Federal intervention to create and maintain competition with or among railroads as a defense against monopoly, they should be abandoned as wasteful and unnecessary. Regulation is sufficient.

(b) *Regulation should provide a fair field and no favor*

The railroads complain that they are shackled by regulation while their competitors are free and unduly advantaged by various forms of discrimination in their favor. To the extent that this is true, it is unfair. But it must be equally clear that, notwithstanding the deep public interest in our railroads, the Government can not stand in the way of progress. Certain regulation of competitive methods is necessary. They can not be permitted to escape their just burdens. They ought not to be artificially advantaged by subsidy or otherwise. But regulation of them must arise from its own necessity, and burdens upon them must derive from justice. The Government can not, for the sake of the railroads, invent and apply to their competitors either regulation or burden on the theory upon which horses are handicapped in a race. A similar principle applies to railroads, and to the extent that they are handicapped by burdens for which the reason is obsolete or nonexistent, Government has a positive duty to remove them. The guiding rule of the whole matter seems to us quite clear:

With the danger of railroad monopoly going or gone and (whether going or gone) completely controlled by regulation, Government has a positive duty to see to it that neither the railroads nor their competitors are either unduly handicapped or unduly advantaged. Thereafter, in a fair field and no favor economic competition must decide the question of survival under private ownership and operation.

PUBLIC PROTECTION SOLE PRINCIPLE

(c) Regulation should not be abandoned. It should be put on the simple basis of public protection.

There is respectable opinion that the development of effective competitive methods argues for the abandonment of all railroad regulation. The committee can not concur. Competition of parallel methods is as yet limited and localized and, while it is a powerful and growing force against monopoly, it does not relieve the necessity for railroad regulation and, because of other aspects of public interest and dependence already mentioned, in our opinion, it never will. On the contrary, we regard regulation as necessary in the interest of both the railroads and the public and we think that it should be extended to other forms of transportation.

But, for the reasons stated hereinafter, more care must be taken to maintain managerial initiative. Regulation, whether of railroads or other forms, should not attempt to "run the business" of transportation. It should concentrate on protecting the public against discrimination, extortion, and other abuses of monopoly and on insuring the most efficient service at the lowest competitive cost.

If these conclusions on general principles are correct, several changes in policy flow inevitably therefrom, viz:

(1) Parallel lines and systems are wasteful and unnecessary. Regional consolidations should be hastened and, where necessary, enforced, looking eventually to a single national system with regional divisions and the elimination of all excess and obsolete

lines and equipment. Neither holding companies nor any other device should be permitted to hinder consolidation or evade the letter or the spirit of regulatory law.

The policy of maintaining parallel and competing lines or systems on the theory that thus extortionate rates and discrimination may be restrained is wasteful and, of course, untenable under a system which controls rates and practices to the ultimate.

Duplication and unnecessary overheads, facilities, and services, inherent in the present multiplicity of railroads, are very expensive and consolidations should be hastened. In plans for this, consideration should be given to creating a single efficient system (rather than competing systems) for each natural trade area, even to the ultimate extent of a single national network with regional divisions. It has been estimated by good authority that several hundred million dollars, or enough to pay interest on a large part of the outstanding railroad bonds, can be saved. Consolidation is so vital to the public welfare that, unless it is voluntarily accomplished within a reasonable time, the Government should compel it. Neither holding companies nor any other device should be permitted to hinder consolidation or to evade the letter or spirit of regulatory laws.

(2) Unprofitable railroad services should be replaced by cheaper alternative transport methods.

In view of the rapid development of automotive and other transport, there is no justification for maintenance by railroads of losing services and lines, and there devolves upon regulatory bodies and controlling interests something more than a negative duty to hasten their replacement by alternative methods, such as motor transport, which can render adequate service on a profitable basis in cases where rail transportation can operate only at a loss.

(3) Railroads should be permitted to own and operate competing services, including water lines, but regulatory jurisdiction should be extended to water rates and practices in coastal, intercoastal, and lake shipping to relieve commerce of present chaotic conditions. Congress should promptly clarify its intention on the long-and-short-haul clause of the transportation act.

Restrictions on the ownership by railroads or water-borne, automotive, or other competing services seem anomalous in a régime which has demonstrated its effective control of both rates and practices.

There are certain competitive situations where railroad rates between two ports are fixed by regulation and unregulated water rates are in chaos. This is disturbing to commerce and unfair to railroads. For this and other reasons we believe that the jurisdiction of the regulating body should be extended to cover intercoastal, coastal, and lake commerce. We do not mean to recommend that water rates, based on actual lower costs, should be regulated upward to equalize traffic in favor of railroads. But we do believe that in such a situation some stabilizing influence should be applied in the interest of commerce generally as well as in fairness to railroads.

The law prohibits a railroad from charging less for a longer than for a shorter haul over the same line in the same direction, the shorter being included in the longer, but permits the Interstate Commerce Commission a discretion to relieve this restriction.

The law is not altogether clear, and the commission's interpretation and decisions have been the subject of long and persistent controversy. Grave consequences affecting wide economic areas are involved, and the situation requires prompt clarification. Two pending suggestions by the Interstate Commerce Commission and one by the House committee might contribute thereto. If jurisdiction of the commission be extended to include intercoastal commerce, or if a new rule of rate making be adopted, the problem would be simplified. But if neither of these things is done, it is important that Congress act at once to declare its intention on this important application of the so-called long-and-short-haul controversy.

(4) Government assumption of all or part of the costs of inefficient competing transport as a defense against monopoly is no longer warranted and should be abandoned. As a general principle inland waterways should bear all costs of amortization, interest, maintenance, and operation of the facilities for their navigation. If they can not bear such charges and compete with other forms of transport, they should be abandoned. The St. Lawrence waterway should be tested by this rule of self-support; and if it fails in that test, the pending treaty with Canada should not be ratified. Governmental commercial operation of the actual facilities of transportation, such as barge lines, should not be continued.

Creation and maintenance by Government of competing methods of transport, where the result is not (as in the Panama Canal) to provide more efficient service at lower cost but only (as in some inland waterways) to maintain at the taxpayers' expense more costly and less efficient service, can no longer be justified as a defense against monopoly.

This Government has long been committed to the improvement and maintenance of shipways and of at least the outer harbors of ports accessible to great naturally navigable waterways. This involves expense defrayed by taxation of the whole Nation but applied at particular points in the development of the instrumentalities of interstate and international commerce. To an extent these waterways are the railroads' competitors, and as far as they go these expenditures favor them. But in respect of accessories to naturally navigable waterways, such as ocean harbors and their approaches and the harbors and channels of the Great Lakes, this is a recognized function of government the world over for naval as well as commercial purposes, and the railroads may be presumed to have been located, financed, and constructed with this in view. We have not heard it decried as an unjust handicap, and with these remarks it passes from our consideration.

But with inland waterways in general the case is otherwise. For the sake of illustration let us imagine a federally constructed canal between, for example, Topeka and Oklahoma City, a stark ditch. If that canal fairly bore the burdens of its cost of construction and operation and yet could furnish transportation at an advantage over rails, nobody could complain, regardless of the extent to which it diverted railroad traffic. But if such was not the case and the canal could compete only if the public paid enough of these charges to undercut the cost of rails, it seems too obvious for argument that its creation and maintenance would be a direct impairment of the railroad system by public subsidy and distinctly inimical to the national interest.

Exactly the same principle of self-support seems applicable to any natural waterway upon which improvement and engineering devices are necessary to provide effective navigation. We think it is the very touchstone of the whole vexed problem and that every existing or projected improvement should be tested by its application. Any project which fails to answer that test should be abandoned without hesitation as an unwarranted waste of public money.

(a) The Great Lakes waterway

The connecting channels of the Great Lakes were not navigable in the modern sense in their natural state, but the Great Lakes waterway now stands as a fully created, implemented, and efficient system of navigation which in many respects falls under the considerations governing Federal improvement of ocean ports, harbors, and shipways.

(b) The St. Lawrence seaway

There are obviously not at present any facilities for navigation by ocean-going vessels of the restricted waterways connecting the Great Lakes with each other and with the sea. The project to create such a shipway to the head of Lake Superior is a major engineering project of stupendous magnitude and very great cost. There is diversity of opinion as to whether the project is practicable. It is clear from our studies that the peculiar type of lake bulk carriers is far more efficient than any ocean freighter, and from this fact that the area of economy is restricted practically to savings in cost of transshipment. But our studies also show that in no reasonable probability could this minor saving be enough to approximate even the carrying charges on this project.

In conformity with one of the general principles already announced, if this seaway could be shown to be the march of progress and if cheaper and more efficient transportation can thus be achieved, no barrier should be imposed against such a development. But we think that, before ratification of the pending seaway treaty with Canada bargaining away valuable American rights, this project should be fairly tested on the rule of self-support and, if it fails, the treaty should not be ratified.

(c) Government barge lines

Argument for and against Government operation of barge lines was strongly pressed before us. In this case not only is the waterway itself provided and maintained at public expense but the actual business of transportation thereon is in part financed by Government. The claim is made, and in our judgment sustained, that, if the methods of accounting used by the Government in respect of the Panama Canal were applied, they would reveal operating losses which are charged to the taxpayer. We think that actual Government operation of the facilities of transportation, wholly or partly at public expense, is unjust to the vast majority of people and unwarranted by any argument that has come to our attention.

(d) Inland waterways in general

We recommend that the Congress give consideration to the formulation of a consistent policy on inland waterways. We think that the test of self-support should be applied to every existing or proposed inland waterway.

Unbearable tax burdens are generally recognized as a principal hindrance to economic recovery. Our waterway policy for the past few years has averaged a cost of about $100,000,000 annually, and tremendous projects involving hundreds of millions are being considered. Our studies show no commensurate economic benefit resulting from much of this spending. In such circumstances we think that a large part of this activity should be abandoned or at least suspended. It bears heavily on the taxpayer as a direct burden and even more heavily on the whole community in its contribution to the postponement of prosperity. At a time when the very stability of our system depends on the balancing of Federal expenditures with revenue and the sources of taxation seem almost dry, we find it difficult to justify this wasteful outpouring of hundreds of millions of dollars for results so barren of economic returns.

BASIS STATED FOR TRUCK CONTROL

(5) Automotive transportation should be put under such regulation as is necessary for public protection. It should bear its fair burden of tax but only on a basis of compensation for public expenditure on its behalf, plus its share of the general tax load. Neither tax nor regulation should be applied for any purpose of handicapping the march of progress for the benefit of the railroads.

The problem of the automobile is very difficult. Its roadbed is provided at public expense, and it requires few, if any, terminal or similar facilities. It need not—as must railroads—load any part of its cost of operation with a charge for this construction

and maintenance. It can make rates which do not involve charges for depreciation and amortization. It can pay whatever scale of wages and exact whatever hours of labor it can make effective. It can bargain closely and instantly and can walk away with business while the railroads are involved in a prescribed process before their regulating overseers. It is not attached to rails and can furnish a swift door-to-door service which railroads as such can not even approximate. It may be a common carrier, a contract carrier, or a private operator. It moves intrastate and interstate and may change its character in these matters instantly. It need not maintain continuous schedules and service. It can pick its business and is prone to take the cream of the traffic and leave the rest for the railroads, which must receive whatever is tendered. It can be permanently or sporadically in business and competition. With these advantages it has made inroads into railroad business and the difficulties are only partly suggested by this short recitation of complexities.

The problem thus presented has been regarded as serious in every important country and commissions similar to this committee have been convened in several of them. The difficulty is not solely in the amount of tonnage diverted but resides also in the chaotic rate conditions presented to commerce in general and in many new necessities for public protection. It has been a matter of primary concern to our Interstate Commerce Commission, to State commissions everywhere, to the Congress, to the highway users themselves, and to all who have given great study to the transport problem.

One thing is certain. Automotive transportation is an advance in the march of progress. It is here to stay. We can not invent restrictions for the benefit of railroads. We can only apply such regulation and assess such taxes as would be necessary if there were no railroads, and let the effect be what it may.

On the question of whether public financing of roadbeds operates as a subsidy, there is a vast variety of circumstance. The automobile itself, its fuel, lubricants, and operations are all heavily taxed. Does the total of these assessments bear its share of the general tax load and also sufficiently reimburse the public expenditure on the roads it uses? If it does, the circumstance that the charge is not comparable in amount to railroad costs of construction and maintenance of terminals and roadbeds is immaterial. The purpose is not to handicap automotive competition, but only to do justice.

These questions are of mixed State and Federal bearing and very difficult of determination. Both taxes and regulation on motor transport vary among the States and, while it has been strongly urged as the only solution, the committee believes it impracticable to get uniformity by any plan for concert of State action. Our studies clearly indicate that in some States automotive vehicles do not bear their full burden of taxes. We think they should pay the carrying charges and cost of maintenance of the highways they use and also their share of the general tax load. The Interstate Commerce Commission recommends regulation of interstate busses and extension of their jurisdiction to include interstate trucks. The committee believes that the situation requires general Federal jurisdiction of motor transport. It recognizes that no such intricacy of regulations as characterizes railroad supervision can ever be extended to this field, but it is convinced that a broad measure of Federal and uniform State control can and should be applied.

A valuable advance is registered in the recent report of the joint committee of railroads and highway users on the regulation and taxation of highway transportation recommending principles governing the subject which have been agreed to by these diverse interests. This kind of public-spirited cooperation is one of the most hopeful aspects of this difficult problem.

WAGES OUTSIDE INQUIRY SCOPE

6. Wages and working conditions of labor in transportation are determinable by established procedure in another forum and are not within the scope of this inquiry. There should be no heavier burdens on the railroads in employing labor to operate automobiles than on their competitors. In the railroads, as in other industries, rates, capitalization, salaries, and wages must all follow changing economic conditions, but none should be sacrificed for the benefit of others.

It is asserted in behalf of the railroads that certain restrictions imposed on them in the matter of hiring labor for truck and bus operation which automotive transport escapes, unfairly prejudice the railroads, and that labor in this competing industry is not properly protected. The committee thinks that the railroads should be under no greater restrictions in employing labor for automotive operation than are other automotive users, but it would prefer to see equalization by improving conditions in automotive labor rather than by impairing conditions of employment in railroads.

The committee regards the particular wages and conditions of labor generally as beyond the scope of its inquiry. It merely offers the suggestion that, while governments can not and should not attempt to regulate the use by owners of their own automotive property, they might, in assessing taxes or issuing licenses, impose conditions of employment on vehicles not operated by owners.

The committee believes that a permanent and universal liquidation and downward adjustment of values and incomes of all kinds have occurred in this country and that railroad rates, capital structures, salaries, and wages must all respond to this generally changed condition, but that none should be sacrificed for the benefit of others.

A considerable number of obsolete rules governing overtime, hours constituting day's work, and restrictions on service survive in the railroad wage structure. The committee does not wish to see labor lose any of its hard-won improvement in conditions, but it believes that the just substance of them can be retained without adherence to obsolete forms, and that labor is as eager as railroads to modernize and simplify the structure of wages and working schedules.

We regret that the labor organizations did not see fit to avail themselves of the committee's invitation to submit their recommendations on the general subjects of our investigation. We had hoped to have the benefit of their wide knowledge concerning railroad labor conditions and also their views on the best methods of protecting labor in railroads from conditions in competing methods and of improving conditions in the latter field. It is only fair to call attention to the fact that our material does not include any presentation by the labor organizations of any facts that might have seemed pertinent from their point of view.

(7) Beacons, weather service, and similar auxiliaries to air traffic should be maintained at public expense, and air transport should be encouraged during its development stage, but we believe that every such service should ultimately pay its own way.

Air service is diverting some traffic from railroads and threatens greater inroads. Here again the railroads are confronted with a development of human progress. It can not be handicapped in their behalf. The most that they can ask is that it be not unfairly advantaged and, for reasons stated herein, we think that the real railroad remedy against this competition is to enter and help develop it.

Existing American airways are unquestionably subsidized at public expense. Various forms of flying aids are maintained. Mail contracts, paying much more than receipts from air postage, are in effect with a deliberate purpose of subsidy, and there is no doubt that lower rates on all air service are thus made possible at public expense.

The committee believes that beacons and flying aids are like lighthouses and navigation aids at sea and can not be abandoned or charged for. The railroads were themselves subsidized in their developemnt period. We can not condemn Government aids to the inauguration of this valuable service. But, however much subsidy may be justified in a development period, we feel that every established transport service should ultimately be self-sustaining, that air service has a definite place, that it will inexorably take that place without the continuing necessity for the subsidy granted in the early stages of development, and that the necessity for such aid is even now decreasing. It is of the utmost importance that such aid as is given should be fairly and economically distributed.

8. The committee has no recommendation to make on pipe lines. There are projects for a wider use of pipe lines as a transportation agency, but at present they do not constitute a problem. They are not subsidized, and they are effectively regulated. The subject has been ably and exhaustively studied by the House Committee on Commerce in a forthcoming report. From our own studies we do not recommend further present affirmative action.

VALUATION POLICY IS QUESTIONED

II. The policy of trying to appraise railroad properties on some selected basis of valuation and then saying that they are entitled to earn a fair return on this appraisal should be reconsidered. Where competition with trucks and other methods exists, it will determine rates. In other cases rates must be regulated, but the basis of costs of operation under efficient management is a better general guide than any attempt to preserve capital structures regardless of economic trends. We see no reason why the rate-making rule should not say in plain English that railroads are entitled to make a reasonable profit based upon costs of efficient operation and that they are not entitled to earnings merely to preserve present structures if overcapitalized.

Notwithstanding social and economic dependence on railroads—right or wrong—we have, since the beginning, relied on private initiative for their development and financial support. Profit is the only incentive to private investment. Unless the railroads are permitted reasonable earnings on the cost of efficient operation, there is no alternative to Government ownership and complete socialization of our railroad system. But that does not mean that railroads, any more than other industries, are entitled to a guaranty of earnings on their investments in property. In early periods of railroad development and unregulated monopoly, the profit incentive was overemphasized and resulted in unconscionable abuse. Extravagant profits, or the hope of them, contributed to the rapidity of the extension of the system, but they also got a sharp rebuke in certain instances of attempted confiscatory rate regulation. The courts intervened with an opinion that rate making must be limited by the right to a "fair return" on the value devoted to public service. Though originally probably intended as a protection against confiscation in individual cases, this principle, by a process of evolution, became a rule governing the general level of rates.

We think this rule should be abandoned. Nobody ever thinks of saying that the cost of bricks and mortar in an industrial plant should determine what it shall charge for its products. If it can keep its costs low enough to earn a profit on what its product is worth to the public in competition with other products, then it is worth ten to twenty times what it can earn. If it can not do that, it is as apt to be a liability as an asset.

In this sense, the present railroad rule puts the cart before the horse. It tends to ununiformity of results, perpetuation of debt and of obsolete and exaggerated capital structure, insufficiency of allowance for obsolescence and depreciation, inadequacy of surplus and reserves and maintenance of unnecessary properties and facilities. The results are unjustifiably high rates in some cases and low rates in others. It evolved on the theory that, if not so restricted, the railroad monopoly would earn inordinately. That theory is becoming obsolete. The day is not far distant, if, indeed, it has not already arrived, when, even if wholly unregulated, some of our railroads may have difficulty in earning a "fair return" on asset values, no matter by what rule such values are defined. These competitive developments are inexorable. The public is entitled to all benefits of the march of progress and nothing will prevent that consummation. We think that the right principle of rate-making is as follows:

Wherever there is fair economic competition it will decide the rate question and it should be permitted to do so freely. Where there is no such competition, the problem of rate regulation arises, but costs of service under efficient operation are a better general guide than some arbitrary determination of asset values.

If, on that basis, a railroad can not earn enough to support its capital structure, the remedy is not to raise rates. It is to revise the structure. And if on no reasonable revision can the capital structure be maintained, it is an economic misfit. Parts of it that can not live should be abandoned and the rest either set up in a new system or consolidated with other groupings.

Fixed railroad indebtedness is not commonly retired. It is refunded. It is a universal rule of financing that any debt for purchase of productive facilities should be amortized during the lives of those facilities out of returns from their use. Railroads are not exempt from this well-established principle and rates should be subject to no restriction which contravenes it. A cause contributing to the present crisis is the unwieldy proportion of interest-bearing debt in railroad capitalization, much of it representing facilities long ago scrapped. We distinctly do not believe that past mistakes as represented by present unwieldy debt structures should be salvaged by increased rates. The present debt structure must be revised and losses written off. But, as to the future, we do think that rate-making should look to the retirement of new debt incurred for purchase of productive facilities during their lives and out of returns from their use.

The Interstate Commerce Commission petitions for "A simple rule which shall make it clear that, in regulating the general level of rates, we shall always keep in mind and be guided by the need for producing, so far as possible, revenues which are sufficient for the maintenance of an adequate national railway transportation system and also recognize the principle that the railroads may justly earn a surplus in time of prosperity to offset deficiencies in time of depression."

The Interstate and Foreign Commerce Committee of the House of Representatives recommends the following: "In the exercise of its power to prescribe just and reasonable rates the commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic, to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide such service."

It will thus be seen that those who have given the subject of rate making the closest attention have abandoned the theory of making rates on some basis of valuation. It is said that the principles just discussed are implicit in both of these suggested rules. If so, we approve them, but the committee sees no reason why a rule for rate making should not say in plain English that railroads are entitled to make a reasonable profit on costs of efficient operation and that they are not entitled to preserve overcapitalized corporate structures.

ROADS FAILING TO HELP THEMSELVES

III. The railroads should do much that they have not done to improve their condition without any Government help at all. They should promptly be freed of all unnecessary restrictions on the doing of it. It has been estimated that less than a 20 per cent increase in traffic would put most of them on an earning basis. In view of the narrowness of this margin of loss and of the very great savings possible in railroad operation, we regard their outlook as far from hopeless.

The effect of protracted depression is to reveal the underlying trends of an era. While part of our transport difficulties are, like other troubles, no more than reflections of depression, continued traffic stagnation has uncovered organic difficulties. It by no means follows, however, that this condition was either caused, or can be cured, by Government. In this time of extreme stress on everybody, the public has a right to expect the railroads to do what they can for themselves before they call on the rest of us and we are convinced that there is a great deal which the railroads have left undone. It has been said by experienced and informed observers that—because of enforced reduction in expense—a 20 per cent or even a lesser increase in traffic volume would put most of the railroads on an earning basis and that less than a 50 per cent increase would restore them to net earning levels of 1929. Passing the question of strict accuracy in these broad assertions, the fact is that, here as elsewhere, there has been such liquidation of the general extravagance of the 1929 delusion, that a very moderate movement on the upward business spiral would dissipate much of the seeming cloud on the solvency of many railroads.

The committee is not proceeding on conjectures of unwarranted optimism, but it does seem that, if the margin of loss is as scant as this, it is narrow enough to invite some robust action in railroad administration to improve earning statements, not by increased traffic or Government intervention, but by economies and improvements in operation, and perhaps by a reduction in rates to attract more business. That has been the universal action in sister industries and that is the view of some of the leading authorities in railroad management.

Against this view it is urged that railroads have been prevented by statutes and regulations from acting freely or that, where they have been permitted to act, restrictions legally imposed upon them as railroads have been extended to them in new fields. While we believe that this argument is too much emphasized, we have found some substance in this complaint. The committee believes that railroads should be permitted to act along the lines suggested herein subject to no more and no heavier restrictions than their competitors and that the Congress and regulatory bodies owe them a positive duty to relieve them promptly of any handicap whatever in this regard.

(a) Railroads should adopt the competing methods of which they complain.

Much of the difficulty which the railroads ascribe to automotive and potential air and pipe-line competition should and could have been relieved by an alert and aggressive railroad policy. We believe that if the railroads had regarded themselves more accurately as purveyors of transportation rather than as guardians of a monopoly, they would have been more alert to take advantage of every development in their field and that a more progressive policy might have turned to their own distinct advantage the very things they now regard as a burden and a threat.

Resort to government as an alternative to self-help is to be deplored. The early transport pioneers did not go to Washington to have their ferries and steamboats protected against rails. They developed the rail service and became controlling figures in the new field. We think it is quite clear that the railroads have been distinctly remiss in not getting the most out of the new methods. It seems to us that the truck, in local and terminal service, motor-drawn equipment on rails and highways in many cases, and the airplane, where rapid transit is required, afford a way to a beneficent transport revolution; that the railroads themselves owed a duty to the public to have led, and that the quicker they do so now the better it will be for all concerned. After they have taken this logical step, we wonder whether they will be so eager to restrict these other forms of transportation as they are now.

REDUCTION OF COMPETITIVE COSTS

(b) Railroads should cooperate to reduce competitive expense.

(1) Unnecessary services should be abandoned.

We think that there has not been sufficient cooperation among the railroads. As an example we quote from the Interstate Commerce Commission's 1932 report, p. 37:

"The expenses so chargeable to passenger and allied services for the year 1931 before taxes, rentals, and interest were 110.82 per cent of the revenues from those services. For the freight service the corresponding figure was only 68.62."

The public is familiar with the spectacle of "crack" passenger trains shuttling back and forth across the country empty or nearly so and perhaps, also, with the explanation that this "is necessary to retain the competitive reputation for service"—in other words, for sales promotion or advertising. The committee believes that agreements in good faith and within the law could relieve this expense. We think empty trains should either be filled by reduced rates or taken out of service. With our whole economic structure at stress, sympathy with such extravagance is difficult.

(2) Metropolitan terminals should be consolidated and unnecessary facilities scrapped.

Terminal expenses constitute an astonishing proportion of railway costs. Great economies and much improved service are possible through the use of trucks in terminal areas, and further large savings by unification of railway and other terminal facilities. Railroads have insisted on separate terminals in metropolitan areas for purely competitive advantage. The resulting multiplicity has imposed high costs, poor service, and great waste. This burden upon shippers in indefensible. Reform is as necessary to modern metropolitan convenience as to railroad economy. It is impossible to deal effectively with the manifold problem of a modern city without a unified plan of development for all forms of transportation. This problem differs in different cities, and there are legal and other difficulties involved, but much could be accomplished at once by cooperation among railroads, and a complete solution would be greatly facilitated if all forms of transportation were placed under a single regulatory agency and if railroad consolidation were worked out along regional lines.

These improvements would entail wholesale scrapping of some facilities. We can not follow the argument against the writing off of obsolete, nonearning and unnecessary properties. We think that there are thousands of miles of trackage and many other facilities, both in terminals and elsewhere, which serve no necessary purpose and which do not now earn and never can. They are handicaps on efficient operation and burdens on the public. Their elimination would reduce capital assets, but it would result in lower rates, better earnings, and improved service.

(3) Circuitous haulage should be eliminated.

Circuity in haulage to keep traffic on the rails of a single system entails great waste for which the committee can find no sufficient excuse. As in all attempts to apply general principles to the

infinite variety of circumstance in a great nation, a flat rule requiring freight to be routed by the most direct route, letting the revenue fall where it may, would result in some hardship, but the present practice leads to grotesque results. It is not easy to reduce the effect to figures, but the unnecessary haulage of freight has been estimated at a large percentage of total ton-mileage. Until the railroads are willing, by cooperation, to eliminate this kind of waste, it is difficult to share their apprehension of competing methods.

(c) Financial management should be improved.

We have discussed our view of the contribution of existing rate-making rules to present financial distress, but we also question the policy of some railroads in applying too great a proportion of earnings to dividends and too little to the retirement of debt and the accumulation of surpluses and reserves—a practice which we regard as responsible, at least in part, for the existing unfortunate condition of some roads.

(d) Transport methods and equipment should be brought up to date.

We acknowledge the restrictions on railroad initiative through regulation of appliances and on railroad resources through rate regulation. We are also aware of the progress that has been made in speed, quality of service, and increase in the radius of use of material equipment. Nevertheless, it can not be fairly said that railroad advance in applied science is abreast of that in other industrial fields. For example, the improvements in Germany with streamline Diesel and electric trains of very light tonnage maintaining schedules of 96 miles per hour to offset motor transport have no counterpart here. The committee has not found it practicable to make exhaustive studies on this subject but offers the suggestion that the Interstate Commerce Commission authorize, and the railroads set up, one or more central research and engineering organizations to which all railroads in certain groups shall contribute—their products to be available to all contributors.

(e) In view of what could be done by better management, the general outlook seems far from hopeless.

Generally speaking, it must be recalled that, in railroads—almost alone among sister industries—rates remain at boom-time levels. Adjustment to new economic horizons lags. It is hard for us to believe that whole-hearted cooperation and vigorous application of contemporary principles of industrial management and control, within the various railroad companies themselves, along lines just discussed, would not do more than can Government or any other outside force to rehabilitate this most important of American industries.

In depths of depression, as at peaks of prosperity, fundamental values become distorted by the fog of gloom, on the one hand, and the rosy haze of hope on the other. These opportunities for aggressive policy and management, coupled with at least some of our suggestions in aid of the transportation situation as a whole, seem to us to indicate a distinctly hopeful (rather than a despairing) project for the railroads, and we think that both regulating agencies and others having interest and influence in the railroads should act promptly to overcome what seems to us a degree of inertia in this regard.

IMPROVEMENT IN I. C. C. MECHANISM

IV. Regulatory jurisdiction should be extended to the whole national transportation system but applied only to the extent necessary for public protection. The existing regulatory mechanism of the Interstate Commerce Commission is inadequate and should be improved by reorganization without expansion or increased expense.

The work of the Interstate Commerce Commission is a contribution to the advancing science of political economy. One has only to read its most recent report to realize the sympathy and intelligence with which it addresses the problems confronting it. It has pioneered a complex subject and, if it has recently operated on principles which this committee regards as in part obsolete, it is important to remember that they are statutory principles. We think that if critics would give more attention to the legal limitations upon the commission and its own repeated recommendations thereon, they would find less ground for complaint.

The studies of the committee clearly indicate the advisability of extension of regulatory jurisdiction to the whole transportation system. The committee feels that a judicial type of organization, such as the commission now has, is inappropriate to its present work and wholly inadequate to a wider jurisdiction. In extending its powers, it is not necessary to expand its personnel and expenditures. What is needed is to reorganize its functions, divide its work, and give it a form and method more appropriate to the tasks before it.

At present they include rate making, and that is at least a quasi legislative function; decisions in conflicting causes, and that is distinctly judicial; and supervision of administration, and that is certainly executive. From another angle of analysis we find it attempting to plan, and that is a staff duty, and to carry plans into execution, and that is purely operative. For all these inconsistent purposes it must finally act in a body on many questions, with no sufficient latitude for delegation, and that is utterly inconsistent with any modern theory of operation except for legislative and judicial action of the very highest order.

The data before us indicate that (whatever may be the limits to which actual regulation or administration is extended) the necessity for planning and for comprehensive information on the whole transport problem is absolute. A cogent railroad argument is to the effect that the Government has regulated the initiative out of the railroads and that by reason thereof they are in their present plight. While there is a tendency to overemphasize this, three facts remain: First, that the Government, principally through the agency of the commission, has for many years assumed to dominate railroad administration; second, that railroad policy and management are not abreast of sister industries; and, third, that some railroads are in a perilous condition. Nobody can assume authority without accepting responsibility. The existing railroad condition speaks for itself to say that regulation by the commission has left something to be desired.

The lack of incentive or authority in the commission to plan and to act affirmatively is evident throughout its most recent report. It hopes that "efforts have been or will be made to bring the rival transportation agencies into some measure of agreement." It thinks that "no rival transportation agency should be given unfair advantage," but complains that "there is no adequate information * * * nor do we know of any comprehensive and definite plan for a cure * * *." It believes that the public "safety and convenience" should be protected by regulation of automotive agencies, but asks for "a thorough investigation under authority of Congress." It says of regulation of port-to-port rates, "We have not investigated this subject, but are convinced that it merits serious consideration by Congress."

Speaking of restrictions on railroad ownership of water-carrier lines. "If the railroads wish this prohibition removed, they should so request the Congress without further delay. Until the reasons for such a change have been fully presented we have no opinion to express upon it." On the question of stifling of railroad initiative, there is the suggestion that the railroads "ask the appropriate authorities for definite relief." Without unduly extending these quotations, it is fair to say that the whole report is eloquent of a somewhat passive attitude toward acknowledged evils and also of grave difficulties that have arisen from drastic regulation verging on administration by an authority which sits and hears but has only a limited scope in which to inquire and plan and act.

If, as we think it should, the regulating body should pass on railroad corporate reorganization, there would be a new and expert function for which we think the commission is not now equipped or organized. There should be a separate department and an appropriate expert personnel for this work. This is an emergency matter.

The organization should be re-formed without expansion to act along wider and more affirmative lines with less attempt to run the business of transportation and with more concentration on protection of the public, and maintenance of a healthy national transport system. It should have inquisitorial powers and duties to keep constantly abreast of changing developments and should be required to report annually to Congress on the state of the Nation's whole transport system, with its recommendations for betterment.

Its activities should be reorganized with appropriate separate departments, with a chief at the head of each, for its legislative, executive, and judicial functions, and for each major special function such as control of corporate reorganization. It should have also a planning department with a research staff and such other departments as experience indicates. Except in the exercise of its more important legislative and judicial functions, departmental hearings and decisions should be sufficient and action as a body should not be required. While all heads of departments should sit in council on basic policies and important problems, the body should have a vote only on the most important legislative and judicial decisions. Either one man, or at least an executive committee of three, should have exclusive responsibility and authority in all executive functions, and final decision in all but the more important legislative and judicial functions of the separate departments.

This form of organization and method divides, decentralizes, and so speeds work, permits specialization, yet assembles special views on general policies. It retains the advantage of the committee form for counsel but secures the advantage of a compact responsible group for action. All these attributes will be needed in the tasks inevitably confronting future transport regulation and only a few of them are available now.

RECOMMENDATION FOR EMERGENCY

V. Emergency recommendations.

(1) Corporate reorganization can and should be facilitated by revision of the bankruptcy procedure.

Present railroad distress is sufficiently shown in the current report of the Interstate Commerce Commission, that 122 Class I railways failed to earn fixed charges in the first three quarters of 1932. The financial structures of many railroads carry too much inflexible charges and too few liquid surplus assets to survive protracted nonearning periods. This condition can not be cured by increasing rates to salvage old mistakes or by lending Government money to preserve them. They require realistic reorganization in accordance with the facts. Some railroads can hope to survive only on drastic reorganization and scaling down on fixed obligations.

The Reconstruction Finance Corporation was created to tide over an emergency, in the hope of some recovery, but this use of Federal credit encountered a link between the emergent and the more permanent problems. The fixed charges of some roads are heavier than any fair prospect of restored traffic will bear. The corporation can not pour public treasure into situations where, instead of temporarily supporting operations and loaning to maintain prudent interest payments, there is a wasteful delta of outflowing streams of interest on unsupportable capital structures. That would postpone inevitable readjustments at public loss to

no good purpose. There is need to reform these topheavy structures to make them available for emergency aid before it is too late and the present legal mechanism is too slow and cumbersome to serve.

We recommend revision of bankruptcy procedure to permit prompt and realistic reorganization of overcapitalized corporate structures without destructive receiverships and judicial sales on depressed markets, to the end that the railroads' justifiable borrowing requirements may be met with safety to the lender under adequate protection.

(2) The recapture clause should be repealed retroactively.

The so-called recapture clause of section 15–a of the transportation act is based on an economic misconception and has proved to be an element of uncertainty in railroad financing. We join the recommendation of the commission for its repeal "both for the future and retroactively."

(3) The statutory rule of rate making should be revised.

Reasons and suggestions for amending the present rate-making rule are discussed beginning at page 21. As was there stated, rate making can not be made to preserve unsound capital structures or to "attract capital" regardless of what the service is worth, but if the rule is put on a common sense and forthright basis we can approach the railroads' financial problem with more intelligence. While this is a permanent as well as an emergency reform, we think it is important to a prompt and sound solution of the railroad problem. We understand that both the Interstate Commerce Commission and the House Committee on Interstate and Foreign Commerce recommend a change and regard its necessity as emergent. Indeed, the committee found no opposition to change in any of the evidence or representations before it.

(4) "Adequate security" does not necessarily mean "marketable collateral."

The reconstruction finance act requires "adequate security" for railroad loans. It should do so and we recommend no change in the law. As a matter of interpretation, however, if, upon reorganization of overcapitalized structures or on sound existing structures, a particular loan is sufficiently protected by priority of lien and reasonable prospects of earnings available to its priority of payment, we do not regard marketable collateral as a determining factor. In fact, we believe that, with prompt improvement of capital structures where necessary, private capital will be available for necessitous railroad loans.

BERNARD M. BARUCH,
Vice Chairman.
CLARK HOWELL.
ALEXANDER LEGGE.

NEW YORK, *February 13, 1933.*

SUPPLEMENTAL REPORT OF ALFRED E. SMITH

While I am in substantial agreement with the greater part of the committee's report, this supplementary memorandum states my conclusions in my own language, placing the emphasis where I think it belongs.

EMERGENCY ACTION

As to emergency action, I recommend the following:

1. The recapture clause of the transportation act should be repealed retroactively.

2. A debtor relief act, with a special provision governing railroads, which will have for its object scaling down debts and composing differences without bankruptcy receiverships, should be passed, but its operation should be for the period of the emergency only, which for the purposes of this act should be declared to end on January 1, 1935.

After most careful consideration, I can not recommend as an emergency measure that there is immediate need of action by Congress to make a new statutory rule of rate making, nor that the present powers of the Reconstruction Finance Corporation to make loans to railroads should be extended or materially changed. Specifically, I believe no useful purpose will be served at this time by an extension of the powers of the Reconstruction Finance Corporation with regard to railroads so that they can make additional loans without full collateral, upon the assumption that railroad rates will be adjusted in such a way that these loans are bound to be repaid.

Coming now to the basic troubles which afflict the railroads, I have considered carefully the diagnosis offered by numerous groups and individuals and the corresponding cures. No purpose would be served by extended analysis and comment because this subject is fully covered in the report of the staff. My conclusions are stated herein in summary form.

THE RAILROAD'S COMPETITORS

As to the subject of competition by air, water, pipe, and highway lines, I believe that the effect of competition of these lines upon the railroads has been exaggerated. Drastic regulation of competing services is not the solution of the railroad problem, and such regulation should be established only in the general public interest. Regulation is expensive. It is bureaucratic. Once established it expands and it paralyzes private initiative without offering constructive leadership. I believe that the air lines should be left as they are at the present, with no more regulation than is now provided for. This is a new field, and the less private initiative is interfered with, the better it will be in the long run. The railroads had their day of freedom from restriction coupled with enormous Government subsidies. That day is over and individual initiative in blazing trails and laying ties for railroad lines across the Rocky Mountains and the Sierras is no longer needed. Air lines are an infant industry and are entitled for the present to some Government help without undue regulation.

The pipe lines are built. They serve a very limited purpose. They present no serious menace to the railroads. I see no advantage in extending regulatory control over them.

As to water transportation, with particular reference to inland waterways, I believe that Government subsidies in this field should be curtailed, not primarily because they result in unfair competition with the railroads, but because these subsidies have not proved effective. Certainly the New York State Barge Canal can not be said to compete with the existing railroads, because in spite of construction and maintenance by the State and free tolls, the barge canal carries so little freight that it presents no problem to the railroads. The New York State Barge Canal is an heirloom. Sentiment rather than common sense makes us keep it up. I am opposed at this time to the construction of the St. Lawrence waterway because it would be a waste of public funds. Present rail facilities are more than adequate to provide for everything which the proposed canal can accomplish.

The cost of moving grain would not be lowered by this canal sufficiently to justify the enormous expenditures which it would involve; keeping in mind also that this waterway would be open only for a part of the year and that the railroads would have to be used anyway the rest of the year. I believe that a special investigation should be conducted into the Inland Waterways Corporation to discover exactly what it costs the War Department to operate this corporation and whether or not further expenditures for this purpose should cease.

As to competition by motor trucks and busses, the testimony given before us does not indicate to me that the competition is at this time as serious a menace to the railroads as they claim it to be. Interstate trucks and busses as yet carry only a comparatively small part of all freight and passengers. On the other hand, it is unquestionable that this form of transportation will soon be used more and more, because it is economical and efficient. In a number of cases busses and trucks have actually relieved the railroads of burdens on short hauls and have enabled them to cut down train service where these could not possibly pay.

Extravagant claims are made as to the penalizing of railroad as contrasted with highway transportation by taxes and by numerous regulations affecting service and labor. Trucks and busses are already substantially taxed through license, gasoline, and oil taxes, and these are being steadily raised so that within a short time, in the course of normal events, the users of highways for commercial purposes will be paying their full share of the cost of construction, reconstruction, and maintenance. The tendency in every State is to make them pay their way, and the Federal Government is already taxing them for gasoline. In fact, at the present time in many States of the Union, gasoline and license taxes are being diverted from highway maintenance and construction to other fields of government expenditure.

While there is much to be said for regulation of all common carriers on highways by the Interstate Commerce Commission or some other Federal agency, and by the appropriate State regulatory agencies, it should be noted, however, that such regulation can not reach the individual farmer, merchant, and owner who is not a contract or common carrier. I believe that such regulation should, for the present, be for the purpose of insuring responsibility, and fixing the physical standards for vehicles and for similar purposes, rather than for the fixing of rates. This is practically what the railroad and bus representatives themselves have recently agreed on. The plan for a Federal license tax with a return to the several States of their respective shares, suggested by various witnesses, seems to me to be impractical, undesirable, and at present unjustified. I believe that the railroads should go into the bus and truck business on a larger scale, and that they should be encouraged to do so by appropriate legislation.

GRADE CROSSINGS

As to elimination of crossings at grade of highways and railroads, I believe that the railroads' share of the cost should be materially reduced. In many States the railroads' share is as high as 50 per cent. This is unduly burdensome and unfair to the railroads, and it has naturally resulted in bitter opposition to elimination orders and the general slowing up of the crossing. elimination program. This reduction can not, however, be accomplished by Federal legislation or fiat. It must be brought about by persuasion in the several States.

I can not subscribe to the recommendation made to the committee that Congress should fix a maximum rate of taxation on railroad property beyond which any State and local levies would be invalid.

VALUATION

Coming now to valuation, I have not been able to give this subject sufficient study even to attempt a solution. The questions involved are exceedingly intricate. Members of Congress and experts outside of the Government have been studying them for years without coming to a satisfactory conclusion. From a superficial study, I am not entirely satisfied that the prudent investment theory is unworkable.

The reproduction-cost theory is obviously obsolete and must be discarded. I can not subscribe to the idea of basing railroad rates on ability to attract new capital, on the present cost theory or on the theory of the natural rule of survival. I doubt whether the courts would sustain or the public tolerate the survival theory. The present cost theory would tend to put the seal of approval on existing chaotic and wasteful railroad organization. The theory of fixing rates to attract new capital begs the whole

question. It starts with a conclusion and adjusts all the facts to meet it. Moreover, this theory would defeat itself because the public would not be able to pay the high rates which it would bring about. In the end there would be less traffic and less revenue than before. Moreover, even if the public were able to pay the bill, I believe that the adoption of this theory would perpetuate bad management, write up values of many railroad securities beyond their actual worth, and take away the incentive to consolidation and good management.

A new principle of valuation has recently been proposed by the Committee on Interstate and Foreign Commerce of the House of Representatives which seems to me to have considerable merit, but which is in such general language that it is difficult to see how it can be made the basis for the scientific determination of rates. It seems to me, however, that this is a subject which Congress should decide.

Whatever principle is adopted, I am satisfied that the general public will not tolerate writing up values or increasing rates merely upon the theory that a great many railroad securities are held by savings banks, trustees, and insurance companies as security for widows, orphans, and other beneficiaries of trust. It must be recognized that many railroad bonds are worth less than par in the light of conditions entirely separate from the depression, and that railroad stocks have declined even more in value. These assumptions are based upon any common-sense theory of true valuation, whatever it may be. Similarly, I do not believe the public will approve the proposal that railroad rates should be high enough to retire a substantial part of outstanding bonds, because this will be regarded as just another way of attempting to give present bonds artificial values.

SMITH FAVORS ONE-MAN BOARD

Taking up now the general question of Federal regulation, we are all agreed that effective regulation is an indispensable feature of the solution of the transportation problem. I find, however, little in recent history to justify the continuance of the Interstate Commerce Commission as now organized. This implies no criticism of its members. They have attempted to function under an obsolete and unworkable law, and in the face of conditions which call for intelligent planning and leadership as distinguished from endless debate on details. Everyone admits that more and more of the work of the board must be delegated anyway, and if this is so, the question arises as to why a board is needed at all. I believe that too much emphasis has been placed on the judicial functions of the Interstate Commerce Commission, especially on valuation and rate making, and too little on planning and administration. The complete break-down of the present valuation formula has left the commission in a condition which would be laughable if it were not so serious. The scrapping of the present formula opens up some very interesting questions for taxpayers. What, for instance, becomes of the tons of statistics and other data collected on the basis of the old formula? What of the pay roll army of Federal commissioners, counsel, experts, and clerks? What of the wasted time of local officials, railroad representatives, farmers, business men, and commercial organizations? Suppose that just a little common sense had been substituted for all this scientific hash, this maze of regulation and red tape. I favor the abolition of the Interstate Commerce Commission and the creation in its place of a new department of transportation headed by one man, or a one-man bureau head in the Department of Commerce, determining policies with the approval of the Secretary of Commerce. What we need is a new transportation system, not endless hearings on a system that does not work.

I am convinced that the fundamental problem of the railroads is that of nation-wide consolidation and reorganization to reduce costs and rates and to write off losses. The era of railroad pioneering and competition is over. The roads must reduce overhead and operating expenses. They must scrap unnecessary, competing, and weak lines. They must get rid of obsolete equipment. They must cut out unnecessary services. They must use trucks and busses, eventually air transportation and, if necessary, waterways and pipe lines as a supplement or substitute for rails wherever these new forms of transportation are more economical. The establishment of a limited number of strong regional railway systems would be a start in the right direction. Even this will leave a certain amount of wasteful and unnecessary competition.

Whatever may be the basis of valuation and rate making, there must be a scaling down of many railroad securities. I believe that the banks, trust companies, insurance companies, and other holders of railroad securities must be realistic about this phase of the problem. The public will not stand for making them a preferred class of investors, who must get a hundred cents on a dollar, irrespective of the true value and condition of the business they have invested in, when values in all other fields are being readjusted and cut down.

The question for the railroad executives, directors, and security holders to decide is whether the steps taken in this direction should be compulsory or voluntary. To date voluntary regional consolidation under the auspices of the Interstate Commerce Commission has made little progress. The question has been raised whether compulsory consolidation is constitutional. As distinguished an authority as the late Senator Cummins thought it was, but there is no decision of the United States Supreme Court squarely on this subject. There is much to be said for the theory that we are moving inevitably toward one national railroad system. Upon this theory the major railroad systems might well give serious consideration to the appointment of some sort of an impartial chairman, arbitrator, or director general to coordinate their present activities and to prepare a plan of permanent consolidation.

If the railroads show no willingness to reorganize, reorganization can surely be brought about by some form of condemnation or eminent domain. I believe that the railroads will be unsuccessful in attempts to maintain their present physical, operating, and financial structure at the expense of the general public by penalizing competitors and raising competing transportation costs, inflating securities, raising rates, limiting taxation by States and municipalities through Federal legislation, borrowing Government money without adequate security, and other like devices. Similarly, attempts to bring about economy largely at the expense of railroad labor will prove unsuccessful unless this is part of a logical general reorganization in the interest of the public. Undoubtedly many wasteful and unjustifiable regulations have been made governing railroad wages, hours, and conditions of labor, and others which, however admirable in themselves, the country simply can not afford to-day; but the railroads can not expect public support in changing these regulations merely as a means of retaining and perpetuating other conditions which are equally wasteful. They can not expect to make labor the only scapegoat.

Those who are responsible for present railroad management need not complain of radical or drastic governmental action in the near future if they are unwilling even to attempt to meet their problems in a bold, forthright way through their own initiative and cooperation. They have an unrivaled opportunity to do themselves and the country a great service. They should have the guidance and help of the National and State Governments in this effort.

ALFRED E. SMITH.

APPENDIX 1

LETTER OF INVITATION

HON. CALVIN COOLIDGE.
HON. ALFRED E. SMITH.
MR. BERNARD M. BARUCH.
MR. CLARK HOWELL.
MR. ALEXANDER LEGGE.

GENTLEMEN: The present financial position of the railroads of the United States is a matter of grave concern. Collectively the greatest and most important industry of our country, the railroads have operated in this year at staggering deficits. Only wise and timely Federal aid has averted the financial breakdown of important systems.

This situation touches every citizen. It affects directly the security of wage and employment of the 1,500,000 railway workers. It affects equally the many and important industries supplying railway equipment and supplies. It touches the financial problem of local, State and National Government, to the support of which the railroads contribute over $300,000,000 annually in taxes. It has given rise to a severe decline in the value of the $19,500,000,000 of railroad obligations and shares and has occasioned concern to institutions which hold such obligations among their assets, representing in part the savings of that thrifty portion of our population which is to be found among the policyholders of insurance companies and the depositors in savings banks. The relief that the present emergency has made it necessary to grant to the railroads is a drain on the Federal Treasury, and any ultimate loss will constitute a burden on every taxpayer.

The present deplorable position of the railroads is not due wholly to the stagnation of traffic resulting from the long-continued depression. Many of the present ills are due to governmental, financial, labor, and management policies, some wrong in conception, some wrong in application, and others rendered obsolete by radically changed conditions. As a result, the railroads have not been in a position to adjust themselves, as well as have other industries, to present conditions.

There are many disagreements as to causes, many disagreements as to remedies, but unanimous agreement as to the urgent necessity of some thoroughgoing solution of the problem. No solution, however, will be effective unless the problem of the railroads is considered as an integral part of the entire transportation problem of the United States, whether by rail, highway, waterway, pipeline, or air.

Every industry in the country is entitled to fair treatment—the railroads no less than the others. The public interest must certainly be protected, but regulation should not place the railroads at a hopeless disadvantage with competing agencies and destroy flexibility of operation and management initiative. The railroad workers are entitled to a fair wage and the greatest possible security of employment. The holders of railroad securities are entitled to a fair and stable return on the true value of their investment.

But more important than the interests of any one group, the people of the United States are entitled to the most effective and economical form of transportation to meet their various needs, whether by land, water, or air. Each form of transportation should be unhampered to provide effectively at a reasonable cost and at a fair profit the service for which it is best fitted. No form of transportation should be favored either at the expense of another agency or at the ultimate expense of the people of the United States.

We, the undersigned organizations, representing many of the interests concerned, believe that there is no more important present task than a thorough and satisfactory solution of the railroad problem, as an integral but the most urgent part of the entire

transportation problem. We beg that you examine all phases of the problem and recommend a solution which, with due regard for the public interest, will insure an opportunity for the railroads of this country to operate on a business basis, to the end that there may be a stabilization in employment of wage earners and in the values of investments made in behalf of insurance-policy holders and savings-bank depositors and a general enhancement of the prosperity of the country which to so great a degree depends upon the prosperity of the railroads and of the many lines of business which in turn depend upon them.

Aetna Life Insurance Co., Connecticut General Life Insurance Co., Connecticut Mutual Life Insurance Co., Equitable Life Assurance Society of the United States, Guardian Life Insurance Co. of America, John Hancock Mutual Life Insurance Co., Home Life Insurance Co., Lincoln National Life Insurance Co., Massachusetts Mutual Life Insurance Co., Metropolitan Life Insurance Co., Mutual Benefit Life Insurance Co., Mutual Life Insurance Co. of New York, New England Mutual Life Insurance Co., New York Life Insurance Co., the Penn Mutual Life Insurance Co., Phoenix Mutual Life Insurance Co., Provident Mutual Life Insurance Co. of Philadelphia, Prudential Insurance Co. of America, Travelers Insurance Co., National Association of Mutual Savings Banks, Investment Bankers Association of America, Railway Business Association, American Central Insurance Co., Phoenix Insurance Co. of Hartford, Connecticut Fire Insurance Co., Hartford Fire Insurance Co., Hartford Accident and Indemnity Co., National Fire Insurance Co. of Hartford, Aetna Insurance Co., Caledonian Insurance Co. of Scotland, Columbia Casualty Co., Commerce Insurance Co. of Glens Falls, Glens Falls Insurance Co., Continental Insurance Co., Fidelity-Phenix Fire Insurance Co., American Eagle Fire Insurance Co., Maryland Insurance Co. of Delaware, Niagara Fire Insurance Co., First American Fire Insurance Co., Fidelity & Casualty Co. of New York, Eagle, Star & British Dominions Insurance Co. (Ltd.), Lincoln Fire Insurance Co. of New York, Fireman's Fund Insurance Co., Home Fire and Marine Insurance Co., Occidental Insurance Co., Fidelity and Guaranty Fire Corporation, Glens Falls Indemnity Co. of Glen Falls, Great American Insurance Co., Insurance Co. of North America, Norwich Union Fire Insurance Society (Ltd.), Eagle Fire Co. of New York, Norwich Union Indemnity Co., Northern Assurance Co. (Ltd.) of London, London and Scottish Assurance Corporation (Ltd.), Phoenix Assurance Co. (Ltd.), Imperial Assurance Co., Columbia Insurance Co., United Firemen's Insurance Co., Union Marine & General Insurance Co. (Ltd.), Pennsylvania Fire Insurance Co., Security Insurance Co. of New Haven, Springfield Fire and Marine Insurance Co., Sentinel Fire Insurance Co., Michigan Fire & Marine Insurance Co., New England Fire Insurance Co., SVEA Fire & Life Insurance Co., Hudson Insurance Co., Skandia Insurance Co., Columbia University, Harvard College, University of Chicago, Yale University.

DEPRECIATION OF FOREIGN CURRENCY

Mr. HALE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter appearing in the Bangor Daily News of February 11, 1933, pertaining to the question of equalization of depreciated foreign currencies addressed to the American Newspaper Publishers Association, under the signature of Fred D. Jordan, publisher of the aforesaid paper.

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

The article is as follows:

AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION,
370 Lexington Avenue, New York City.

(Attention Mr. L. B. Palmer, general manager.)

GENTLEMEN: Ordinarily we have great respect for your judgment and opinion on the great public questions, but we are shocked by the narrowness and partisanship displayed in Bulletin No. 146, of January 27, 1933.

Under a heading "Newsprint" you state: "A. N. P. A. Opposes Compensatory Duty Measure." Your supporting arguments are only two in number. First, that the enactment of the proposed legislation "will result in a duty on newsprint paper and its component parts, thereby largely increasing the cost of newspaper production." Second, that a duty would be levied on wood pulp and that a large number (550, you state) of converting or pulp-buying paper mills would be put out of business.

We respectfully submit that this question of equalization of depreciated foreign currencies with our gold-standard basis is one of national importance—far too big to be decided upon by just the two issues you cite, even though one subscribed to your conclusions on them.

The equalization fee or tax provided for in the proposed legislation applies on all imports, with a very few minor exceptions, from all countries of depreciated currencies. The amount of the tax in the case of each importation is determined by the degree of depreciation of the currency of the country of origin. The application of this currency correction tax will merely raise the prices of these foreign goods up to a point where American industry can compete with them in our own domestic markets. The net effect will merely be a restoration of the competitive conditions which existed in our American market prior to the abandonment of the gold standard by practically all of the other nations of the world, beginning with England on September 21, 1931.

We were all geared up in this country to hold our own against foreign competition. Those of our products which required special protection enjoyed it under the provisions of our tariff act. But this was all changed by the general abandonment of the gold standard abroad. To-day the producers in countries of depreciated currency have a distinct advantage in a gold-standard market. To-day ours is the only gold-standard market of any consequence where they can wield their new weapon of competition. Canada, France, and Germany took prompt action to protect themselves and their industries. We have adopted no means of defense. We are wide open to the invasion—defenseless. Tariff protection has been practically wiped out by depreciated currency advantages to foreign producers. These same factors constitute an actual premium on foreign competition with articles on our free list.

The argument has been advanced that, as the currency of a country depreciates, internal prices increase and tend to offset it. That may be fine in theory, but it has not worked out in this case. We have been in this situation now for over 16 months and the condition is going from bad to worse. On the other hand if one grants that this argument is sound, what conceivable objection can there be to a currency equalization levy? As the benefit to a currency depreciation country declines, it will be to its advantage to work back to the gold standard. As it works back, the levy on its goods imported into this country will reduce in proportion, and when its currency gets back to within 5 per cent of the gold standard there would be no levy at all under the proposed legislation. Why make our own American people suffer during the foreign readjustment period? Why be so solicitous of the welfare of foreign peoples, when our own people here at home most certainly are in dire distress?

It is a fact that newsprint paper and its component elements have been on the free list for more than 20 years. They still are, and the contemplated legislation does not propose any specific duty on them. If it becomes a law, they will still be on the free list. True, the imports from countries of depreciated currency would have to bear an equalization charge in common with all other imports from depreciated currency countries during the period of readjustment, but what of it? You apparently fear an increase in the price of newsprint. From what level? All values in this world are relative. We publishers would only be back in the same relative position in American industry that we were in prior to September, 1931. We all know that our situation was better then than it is now. We can not hope to prosper as an industry, or individually in our respective communities, except in proportion to the degree of prosperity of those on whom we depend for our support. Let's not be a party to killing the goose that lays the golden egg!

Another important point from our own selfish standpoint: Do we want to place ourselves in the hands of European producers for our ultimate sole source of newsprint paper? Let's not fool ourselves. We have done nothing to foster the newsprint-paper industry in this country in the past. A major portion of it has migrated to Canada. If the present unbalanced currency situation continues, it will be completely wiped out in this country, and the migration will be from Canada to Europe. The Canadian producers can not compete in this market with $30 Finnish newsprint paper any more than our American mills can. Let's think straight and adopt the good old American policy of "live and let live."

The same situation exists and the same arguments apply with respect to the pulp situation. You devote more space to pulp than you do to newsprint paper. You get yourself tangled up in an attack on the West Coast pulp producers, and much of your argument savors of propaganda disseminated by a certain group of converter mills through the "Temporary Committee Opposing Tariff on Wood Pulp," which is confusing the issue of currency-depreciation correction on all imports from countries off the gold standard with a specific tariff on wood pulp which is nowhere even mentioned, except by them, in connection with the legislation under consideration. We know something of this situation, as Maine is one of the oldest pulp and paper producing States in the Union. And our industry here prospered until the currency-depreciation game got started abroad. Main produces more wood pulp than any other State in the Union. Our pulp industry is in favor of the proposed currency equalization and so are all our pulpwood producers, our timberland owners, our farmers, our fishing industry, our canners, and our other diversified industries. They should know better where the seat of their trouble lies than some few pulp buyers with a selfish interest—though a fallacious one at that—to foster. Our Maine people want relief from increasing imports and depressing price influence of goods from depreciated-currency countries. They should get it.

We doubt very much if this group which is opposing this legislation is really representative of even the converter paper mills. We know that some of the largest and most prominent converter mills take a sane view of the situation and are in favor of the proposed legislation. We know that the American Paper and Pulp Association has made a careful study of the situation, resulting

in its industry from depreciated-currency competition, and has publicly indorsed the corrective legislation. In this connection, it is significant to note that its president is the head of a large and well-known company operating a big group of converter type paper mills and that several members of its executive committee also represent converter mills. Is it not a fact that this opposition to which you subscribe is in reality principally a group of mills making cardboard, in which the content of wood pulp is relatively small?

Your statement that the principal proponents of this legislation is a group of "about 200 manufacturers operating pulp mills" is not borne out by the evidence at hand. The calendar of the hearings just recently held before the subcommittee of the Ways and Means Committee shows the following witnesses from agriculture, labor, and industry who urged passage of this legislation:

1. John E. Dowsing, pottery industry (United States Potters' Association).
2. Brice T. Disque, anthracite coal (Anthracite Institute).
3. Mathew Woll, labor (American Federation of Labor).
4. Michael Flynn, labor (American Wage Earners' Conference).
5. A. M. Loomis, dairymen (National Dairy Institute); fish oil (American Fish Oils Association); cottonseed (Producers of Cottonseed); butter (American Association of Creamery Butter Manufacturers).
6. Chester Gray, agriculture (American Farm Bureau Federation).
7. Charles A. Turner, lace curtains (American Association of Lace Curtain Manufacturers).
8. John Adams, labor (Amalgamated Lace Operatives of America).
9. N. G. Robertson, jr., lace (Scranton Lace Co.).
10. Henry S. Bromley, lace (North American Lace Co.).
11. James A. Farrell, general business (United States Chamber of Commerce), steel industry.
12. William L. Wilson, pulp and paper (Champion Fibre Co.); Florida business (Florida State Chamber of Commerce).
13. T. W. Kennedy, iron and steel (Mystic Iron Works).
14. Stuart B. Copeland, pulp and paper industry (Eastern Manufacturing Co.), American Paper & Pulp Association.
15. W. J. Gillian, pulpwood producers.
16. John R. Joyce, textiles (Philadelphia Textile Manufacturers Association).
17. John Higgins, labor (lever section, Lace Operatives of America).
18. R. H. Goebbel, rubber industry (the Rubber Manufacturers Association (Inc.)).
19. Edward H. Cooley, fishing industry (Massachusetts Fisheries Association).
20. J. F. Callbreath, mining (American Mining Congress).
21. J. Carson Adkerson, manganese industry (Manganese Producers Association).
22. James A. Emery, manufacturers (National Manufacturers Association).
23. John A. Simpson, farmers (National Farmers Union).
24. John E. Walker, plastics industry (Pyroxylin Plastic Manufacturers Association).
25. Charles Green, lumber (Southern Pine Association).
26. Julian W. Curtis, sporting goods (A. G. Spaulding & Bro.).
27. Warren N. Watson, chemical industry (Manufacturing Chemists Association).
28. J. J. Underwood, fishing (Association of Pacific Fisheries; Northwest Salmon Canners Association).

Does your statement "hold water" when the above facts show that agriculture, labor, the Chamber of Commerce of the United States, and the National Association of Manufacturers, besides 15 specific principal industries (other than pulp and paper) are asking for this legislation?

The opposition from industry consisted only of the importers—whose position is so obvious as to require no comment—a certain element of the paper industry (mostly cardboard manufacturers) which opposes a duty on wood pulp and our own association. Witness the following from the Ways and Means Committee calendar.

1. James W. Bevans, importers (National Council of American Importers and Traders).
2. Stevenson Masson, importer and customshouse broker.
3. Elisha Hauson, publishers (American Newspaper Publishers' Association).
4. H. P. Christian, paper industry (temporary committee opposing tariff on wood pulp).

Frankly, the only interest any newspaper publisher can have in opposing legislation to correct the depreciated-currency debacle, is a selfish desire to buy its newsprint paper at a lower price. But what will that profit the newspaper publisher? In the process he is contributing to the ruin of the American industries, agriculture, and business on which he is absolutely dependent for his profitable income—his advertising.

The same fallacy exists with respect to the converting paper mill which wants to buy its pulp cheaper. Paper prices are reduced to the new level and he is no better off. He can not hope to eliminate paper competition from the pulp-producing mills. If the situation goes much further their pulp losses will break them, but they will only reorganize, buy foreign pulp and turn into converter mills, and on a recognized basis would be worse competition than some of the present converter mills now believe them. The only accomplishment would be destruction of industry and loss of employment of labor, besides wiping out tremendous values in timberlands and mill properties.

After taking a definite position in any public question, it requires courage and bigness to admit that one's position is wrong, but everyone admires these qualities. By the stand we have taken in this matter we have labeled ourselves "purely selfish," but worse than that we are shortsighted and are headed for the same calamitous end which we are helping to bring upon others—our friends and those upon whom our own prosperity depends.

It is not too late to make amends. Let's unwind, let's throw in the reverse gear and take the proper stand. Agriculture, labor, business, and industry—our customers and the foundation of our business—need our help to get proper legislation to correct the depreciated-currency situation and give them just the same break they used to have in our American markets. Newspaper publishers, we have the courage and bigness to do it. Let's go!

Sincerely yours,

THE BANGOR DAILY NEWS,
FRED D. JORDAN, *Publisher.*

AN APPEAL FOR WORLD WAR VETERANS

Mr. BROOKHART. Mr. President, I ask leave to have published in the RECORD an address by Senator ARTHUR R. ROBINSON, of Indiana, made over a National Broadcasting Co. network on Saturday night, February 11, 1933, during a program sponsored by the Veterans of Foreign Wars.

There being no objection, the address was ordered to be printed in the RECORD, and it is as follows:

The roll of drums and the steady beat of marching feet marked the departure 16 years ago of more than 4,000,000 lads who were called to the colors. These lads were the flower of the youth in the land. They had nothing to do with the causes that brought on the conflict. "Theirs not to reason why," theirs only to make the sacrifices, the supreme sacrifice in some cases, that the land of their fathers might not be destroyed by the enemy without.

With light hearts and high purpose these young men entered the conflict. The Nation was in peril. Their duty was to save it. Their future or the ultimate cost of the war was not considered. With the cheers and plaudits of their compatriots ringing in their ears they marched away and plunged themselves into the vortex of danger and catastrophe.

Before leaving their homes a grateful citizenry assured them that their jobs would be waiting for them on their return—that a grateful Republic would "take care of them" for saving civilization.

While these lads were at the front or in the States in training camps waiting the call to go "over there," organized wealth and big business were having a golden picnic at home. While the youth of the land sacrificed, Wall Street was having a glorious time of it—4,000 miles behind the fighting front. Organized wealth kept the home fires burning—for itself.

Profiteers rolled in wealth as millionaires were made literally overnight. Munition manufacturers, Hog Island, and cantonment contractors made war pay and pay with a bang.

The real heroes of the war, the "cannon fodder," received only a small fraction of the cost of the war. This conflict cost America some $36,000,000,000, only 4½ billions of which went to the troops—the men who now are veterans of the war. Practically all of the rest went to the great business interests who were working night and day to make war pay.

It is now nearly 16 years since the lads marched away. We seem to have forgotten in a measure the quality of their sacrifice. These lads no longer hear stirring songs and martial music to inspire them to sacrifice. What do they find? They find that big business, organized wealth, and the Wall Street crowd—those who made war pay—are engaged now in a campaign of villification against the men who wore the uniform—against the men whose sacrifices made swollen fortunes possible.

Why this campaign of defamation against the veteran? Why this hue and cry against giving the veterans their just deserts? The reason big business is making such terrible onslaughts on the veteran from coast to coast is that they—big business and the war profiteers—might be relieved of a few paltry dollars in income tax. They do not know the meaning of sportsmanship. Big business and these villifiers not only are unwilling to pay for their share of the war but, to evade this just obligation, would take pennies from disabled veterans, the widows, and the orphans.

Big business bows down and worships the god, money. To add a few sordid dollars to their unwieldy store, big business would deliberately rob the disabled defenders of the American Republic. Through no fault of their own thousands of veterans are unemployed. In this the fourth winter of the depression we find many veterans who, with their families, would become charges on local charity and local taxing units but for small compensation accruing to them from the Government.

In the midst of this adversity big business continues its drive against the veteran with unrelenting fury. But what does big business care for the economic adversities of the man farthest down? Big business would relieve itself of income taxes and transfer its obligations onto the backs of the farmers and small property owners, already taxed to death. In short, we find that organized wealth is in the saddle and riding hard.

But what is the cost of glory, the price of glory to the veterans? More than 60 veterans' hospitals have made their appearance in the last 12 years. In these 60 institutions upward of 50,000

beds, all occupied and with long waiting lists, have hospitalized more than a million cases, practically one-fourth of those who answered the call to arms in 1917. This hospitalization on a large scale has been necessary because the engines of war and of mass destruction wreak human havoc with such tremendous force.

Experts tell us that the peak of disability will not be reached until 1945. During the next 12 years, then, we shall see other thousands and perhaps hundreds of thousands of our men who think they are sound and healthy enter the grim portals of the hospital. This is the price we pay for war to-day.

All of the casualties did not come from the front-line trenches. Many casualties came from those in training camps who suffered as the result of changed environment, disease epidemics, weakened lungs, different modes of life, and the strict discipline of Army regulations to which young men just out of comfortable homes were unaccustomed.

But the cost of the war mounts—we are impressed with the rising price of glory as we look in retrospect at those fateful years. We left more than 60,000 dead overseas and countless thousands others have been laid to rest in cemeteries on this side.

With the booming voices of the "Big Berthas" stilled and the ceaseless fire of destruction in no-man's land extinguished the war was closed. After the fanfare of homecoming and cheers of the welcoming throngs these heroes of '17 were demobilized into the business, commercial, professional, and industrial fields from which they came. Were their jobs awaiting them? They were not. Many of these lads were disabled and maimed. Some one must pay for this wreck and havoc. This is a national responsibility. With this responsibility comes the question of payment of the adjusted-service certificates.

There should be immediate payment of the adjusted-service certificates. I have supported such action in the Senate. I favor this legislation because I believe it is right. If it is right to be thoroughly grateful to those who have defended the country in its time of peril, now that they are needy and ragged and are asking for clothing and food from the Government, then the payment should be made.

I do not like the term "bonus" with reference to this legislation. It is not a bonus; it is a debt due the men who served in the last war, a debt which has been acknowledged to be a debt by the Government itself. Therefore, I think it is wrong to refer continually to the legislation as a "bonus," as if the soldiers of America were seeking to hold up the Treasury of the United States for something that is not right or something they expected in addition to that to which they are justly entitled.

In favoring this legislation I am anxious that our children who come after us may understand definitely that the country is grateful to those who are willing to defend it with their lives.

What a contrast between the two groups of soldiers who marched down Pennsylvania Avenue in 1917 and in the summer of last year. With erect step tuned to martial music these young men swung down the Avenue to begin their first journey in the series of sacrifices of time, labor, and in many cases their lives. Last summer some of these same young men came back; they came back after 15 years. Again they marched down the historic Avenue. But in this march they were not clad in the trim uniform of '17. Many of them were ragged and wore their old war uniforms. Many had insufficient clothing and many were hungry. This ragged band of patriots represented thousands of ex-soldiers, their buddies with whom they had served, and to whom the United States Government owes not only a debt of gratitude but a debt in cold, hard cash. Gratitude pays no rent, buys no food or clothing.

As soon as the war was over the railroads came to Congress and asked for a bonus—a readjustment of earnings to make them square with the world. Congress paid it immediately. They did not have to wait till 1945. The civilian employees were given a readjustment in earnings—in cash on the spot. They did not have to wait till 1945.

Contractors who had built cantonments all over the land at profit and in perfect safety came and in effect said, "The boys ended the war too soon. They did the job too well. Here we are with contracts on our hands and we will lose money. We need a bonus. We need adjusted compensation." Congress paid it. The big contractors did not have to wait till 1945. They were paid in cash and on the spot.

But how about the war veterans? They found themselves in needy economic circumstances, badly off, attempting to rehabilitate themselves—and many of them have been very badly off since their war-time service. May God have compassion on the thousands who can never be rehabilitated. After the war the boys looked for the promised glory. The man with one leg or with no leg at all seeking money for an artificial limb to replace one shot off in the war; a man sightless, earless, noseless, and the family of the man who was mentally dark and blind wondered about the glory part of it—"Where was the glory?"

It is a rather common thing for those who have never seen war and never been in it to say to the veterans, "Why the country does not owe you a cent; it was an honor and privilege to serve your country!" I wonder how many of the critics would go out and accept some of the promised glory at $30 a month—$1 a day—with little hope of continued existence in this world.

I have always felt that readjustment should have come as soon as the war was over. The need for payment is now more acute than ever before. With hunger and want staring the men and their families in the face, we see in a most disturbing manner the need for payment now. Congress said in effect, "We appreciate your sacrifices and realize that you brought everlasting glory to the Nation. But because you have rendered patriotic service to the Nation we are going to ask you to wait until 1945 for the payment of the debt we admit we owe you."

It was a debt; I repeat—a debt due the day the armistice was signed. The veterans have been asking Congress to pay this debt. But the powers of money and of Wall Street oppose this payment. They say the Budget must be balanced. Balance the Budget? How often we have heard these words used to excuse the ingratitude of Congress! It seems to me to be elementary that with a debt of more than $2,000,000,000 due and unpaid, a debt that was due November 11, 1918, hanging over the head of the Government, the Budget can not be balanced; with that arrearage there can be no balancing until the debt is paid. The best way to balance the Budget is to pay the debt owed and get even and square with the board and at the same time do justice to the veterans.

And let me remind those who are reviling the veterans that thus far adequate provision has not been made for the widows and orphans. To paraphrase the words of a great American, the Nation's wounds can not be adequately bound up until we have generously provided for the dependents of those who have made the supreme sacrifice. War is costly; and so long as nations continue to indulge in war, they must pay the price.

In the campaign to discredit the veterans of America we find the National Economy League leading the attack. This is indeed an interesting organization, as the managing director, Henry H. Curran, who receives a salary of $15,000 a year, reveals. The league was begun last May, organized in July, and incorporated in November. The total amount of contributions for this short period in 1932 was about $200,000. The director said in testifying before the joint congressional committee on veterans' affairs that 17 contributors gave a total of $35,100. He gave the committee their names; and if you will examine the list submitted, you will find that those contributors are among the wealthiest citizens of the Republic. With its far-reaching influence, the National Economy League proposes to reduce the benefits of many thousands of disabled veterans to the extent of several hundred million dollars. In short, the Economy League purposes to charge as much as possible of the depression to the defenders of the Nation.

In his testimony before the joint committee Mr. Curran said: "The next thing to stop is the payment of the people's money to hundreds of thousands of men who were lucky enough to have the honor of wearing the uniform in the World War but who came out of the war without a scratch and in better health than they ever were before. Our people should be and always will be generous to a fault in taking care of the veteran who is hurt in the service or because of his service establishment. This is a special dole to special veterans who take sick and get a little old in the piping times of peace, long after the war is over."

Note the magic phrase, "piping times of peace." Mr. Curran in making this statement was apparently oblivious of the fact that we are in the midst of the worst depression in history. With thousands unable to find work, many are largely dependent on the meager allowances received from the Government for their existence. "Piping times of peace!" To hear some of the speeches and to read some of the propaganda of the National Economy League one would think the veterans were a lot of riffraff interested only in raiding the Treasury.

You know that many on the list of that organization are themselves receiving princely gratuities from the Government and some are earning lucrative pay besides from private concerns.

My comrades and friends, we should awaken to what is going on in the ranks of big business. American citizens should arise and in their righteous wrath condemn in unmistakable terms all of those who go up and down the country defaming the Nation's defenders.

It has been the custom of this country to be just to the veterans of all our wars and to their dependents. This policy must be continued. This Republic must show itself mindful of the sacrifices of the soldier, grateful to those who helped preserve the Nation—the veteran must not be relegated to the ranks of the "forgotten man." I go farther. A nation which does not deal generously and considerately with those who have worn the uniform in times of peril does not deserve to be defended if war comes.

In this depression we are looking for means to help alleviate the miserable conditions in which we find the country. One of the greatest needs is more purchasing power and not less. The policy espoused by the Economy League would only prolong the depression and would not help to the slightest degree. The plans and designs of the league are not only unwise, they are unjust and cruel. An aroused public opinion will soon make that fact plain to the propagandists who ply their trade in every State.

The laws under which existing benefits to veterans of all wars are administered are just. We must take no backward step that would endanger the benefits or vested rights of these veterans.

In conclusion, may I say that virile national policy is at stake. In order to have defenders of the Republic in times of danger oncoming generations must be impressed with the fact that when they are called upon to preserve the Republic, they and their dependents will not be forgotten. This is a time when events cry out for justice to the disabled veterans of America—a demand for justice which will be made known far and wide to the Congress and by the people in terms that no man dare challenge.

LABOR CONDITIONS ON HOOVER DAM

Mr. ODDIE. Mr. President, I intend to discuss for a short time a matter of great importance, and that is the opera-

tions and labor conditions at Boulder Dam, or what is now known as Hoover Dam in Boulder Canyon.

HOOVER DAM CONDITIONS DEMAND INVESTIGATION

The principal difficulties which have arisen in the course of constructing Hoover Dam are as follows:

First. Failure of the contractor, the Six Companies (Inc.), to comply with the mine safety laws of Nevada, which has unnecessarily subjected the men employed to extraordinary risks, resulting in serious loss of life and limb and impairment of health.

Second. Failure of the contractor, the Six Companies (Inc.), to pay its just taxes, thus subjecting Clark County and the State of Nevada unfairly to extraordinary expenses.

Third. Monopolization and exploitation of business and "sweating" labor by the contractor, the Six Companies (Inc.), and its subsidiary, the Boulder City Co.

After careful personal investigation of complaints during the summer of 1931 I found these serious conditions to exist, and upon further investigation in 1932 I found them to have become seriously aggravated.

The Hoover Dam project is the largest ever undertaken in the history of the country, and it is vitally important that the work be conducted on the highest plane of American custom and practice and its administration be in strict conformation with the Constitution and laws of the United States.

Furthermore, it is also vitally important that the work should be so administered and conducted as not in any way to infringe upon the sovereignty of the State of Nevada. The American people in the first instance would object if the work were not so administered and conducted, and in the second instance the State of Nevada would be unjustly and unnecessarily damaged, and the good will which should exist between the State and the Nation would be seriously impaired. An immediate investigation should be made as a basis for correcting these conditions.

I. FAILURE TO COMPLY WITH MINE SAFETY LAWS

Because it affects the health and safety of the men employed in the construction of Hoover Dam and works, the most serious condition of which complaint has been made is the failure of the contractor, the Six Companies (Inc.), to conduct the work under the provisions and inspections of the mine safety laws of the State of Nevada. Section 4229, Nevada Laws, 1929, forbids the use of gasoline underground, excepting under certain prescribed limitations. On November 7, 1931, A. J. Stinson, mine inspector of the State of Nevada, ordered the Six Companies (Inc.), the contractor, to cease using gasoline-propelled trucks in the removal of rock from tunnels then being driven. As a result of this order the Six Companies (Inc.) instituted suit on November 13, 1931, to enjoin A. J. Stinson, Nevada State mine inspector, from interfering with the use of gasoline trucks in driving tunnels.

The suit of the Six Companies (Inc.) is predicated largely upon the attempt of the Secretary of the Interior to create a Federal reservation of exclusive jurisdiction—the so-called Boulder Canyon project Federal reservation. Another claim by the Six Companies (Inc.) is that the application of the mine safety laws of Nevada would constitute an interference with a Government instrumentality. There is no apparent adequate constitutional or legal basis for the action of the Secretary of the Interior in attempting to create an exclusive jurisdiction reservation, and it can not seriously be held that the application of the mine safety laws of the State of Nevada would be an interference with a Government instrumentality. Before concluding I shall go into the constitutional and legal aspects of the situation.

The conclusion is inescapable that the Six Companies (Inc.) aided by the Secretary of the Interior, and the Department of Justice, representing the Government as amicus curiæ, by attempts to locate an exclusive jurisdiction reservation and by this suit, sought to delay a settlement of the issue until the work was completed and excessive profits made at the expense of the life and health of the men employed.

In the decision of the court granting a temporary injunction in favor of the contractor, the Six Companies (Inc.) thereby permitting the use of gasoline trucks in the excavation of the tunnels, it is stated that in its complaint the Six Companies (Inc.) contends the delay in using other than gasoline trucks would amount to $1,500,000, exclusive of other material damage. The Six Companies (Inc.) in the complaint, also alleged that its investment in gasoline-propelled trucks amounted to $300,000. I will later on in this statement show the misleading character of the above statements of the Six Companies (Inc.) in which the Secretary of the Interior has concurred.

To prevent further interference with the application of the mine safety laws of Nevada, I introduced a bill on January 7, 1932 (S. 2885). In a letter of April 12, 1932, addressed to Senator JOHN THOMAS, chairman of the Senate Committee on Irrigation and Reclamation, by the Secretary of the Interior, in which he opposed the enactment of my bill, he made the following statement:

> The United States claims exclusive jurisdiction within this reservation, and any interference therewith would hinder the construction of Hoover Dam and might increase its cost. Litigation is now under way in the Federal courts to determine the question of whether the State of Nevada has authority to enforce its mining operation laws within this area. These laws, if enforced, would have radically altered the methods of excavation of the large diversion tunnels and would have materially increased the cost of them and slowed the work.

The Secretary of the Interior was willing to afford the Six Companies (Inc.) every assistance in reducing its cost of construction at the expense of the safety and health of the men employed on construction. Nowhere in the correspondence of the Secretary of the Interior is found a reference which indicates that he had given any thought to the safety and welfare of the labor employed. His great solicitude has been in favor of assisting the Six Companies (Inc.) in increasing their profits by employing cheaper methods of construction. Such excess profits would of course inure exclusively to the benefit of the Six Companies (Inc.), the contractor, which obtained the contract on fixed bid. The Government was in no way benefited by this extraordinary procedure which saved the company funds at the expense of the life and health of the men it employed. Furthermore, there is plenty of evidence to show that the observance of the State mine safety laws would not have necessarily increased materially the cost of or delayed the work, as claimed by the Secretary of the Interior and the Six Companies (Inc.).

Gov. Fred B. Balzar, of Nevada, informed me of the serious conditions prevailing at Hoover Dam because of the action of the Six Companies (Inc.) and the Secretary of the Interior in preventing the application of the mine safety laws of Nevada in a letter of November 24, 1931. I quote the following statements from this letter, which bear specifically upon the question of the safety and welfare of the men employed:

> In addition, may I suggest the desirability, if amendments to the Boulder Canyon project act are proposed, to add provision allowing the State to enforce its safety and industrial insurance laws within the bounds of Federal reservations.
>
> I do not know whether you are advised that the Six Companies have caused an injunction to be served on State Mine Inspector Stinson, restraining him from enforcing mine inspection laws, and the latter is to be heard in the United States district court on December 12.
>
> * * * * * * *
>
> It is quite patent that congressional action should be had in the matter at the earliest possible moment, because under the terms of the restraining order no enforcement of the State labor laws is possible, nor any inspection of conditions looking to the safeguarding of lives.
>
> You are no doubt aware that more than a dozen fatalities have already occurred on the Arizona side, due, so I am advised by Mine Inspector Stinson, to a lack of supervision and inspection as to the safety of men and proper working conditions.
>
> On the contrary, but two fatalities have happened on the Nevada side, although there are more than five times as many employees on our side of the line, due to the close inspection and enforcement of our safety laws.
>
> I know of no reason why specific legislation should not be enacted authorizing the States of Arizona and Nevada to enforce the State laws for the protection of labor and for their industrial protection * * *.
>
> * * * * * * *
>
> I will be glad to keep you advised of the progress of litigation, but hope that the necessary amending legislation can be enacted

which will take the entire matter out of the hands of the court and give the States the right to enforce their laws.

If the hands of the States are to be tied by injunction pending hearings in court, appeals from decisions at the convenience of interested attorneys, awaiting judgments in the matter, one can be very sure that the entire Boulder Canyon project will be completed before a final decision is rendered by the courts.

You have my cordial good wishes for success in the entire matter, and I shall be glad to have you keep me advised of the progress being made.

The contract of the Government with the Six Companies (Inc.) was signed March 11, 1931, and contains no reference to the contemplated efforts of the Secretary of the Interior to create an exclusive-jurisdiction Federal reservation for the purpose of relieving the contractor of responsibility and obligation to carry on the work of construction under the provisions of the Nevada mine safety laws and the supervision of the State mine inspector. Not until May 19, 1931, did the Secretary of the Interior, without any adequate legal authority in the Boulder Canyon project act or other statutes, attempt to take advantage of a general law passed in Nevada in 1921 long before the present Boulder Canyon project act was contemplated. Furthermore, the Six Companies (Inc.) carried on the work under the provisions and inspections required under the Nevada mine safety laws from its beginning up to November 13, 1931, when the company instituted suit to enjoin the mine inspector of Nevada from the enforcement of the laws. From these facts it would seem apparent that the attempt of the Secretary of the Interior to create an exclusive-jurisdiction reservation at Hoover Dam was an afterthought and a subterfuge to relieve the Six Companies (Inc.) from its just and legal obligations to comply with the mine safety laws of Nevada.

It should be pointed out that Nevada is one of the leading mining States. Some of the largest and most successful mining operations in the world have been conducted in the State. Its mine safety laws are based upon the soundest practice, and the mine operators of the State have willingly cooperated in every way with the State mine inspector in carrying them into effect. Among the Nevada mine operators are some of the ablest and most successful engineers and executives to be found in the world. This has resulted in a minimum of accidents and in the highest possible efficiency of operation, as the records will show. Furthermore, there is no valid reason why the Six Companies (Inc.), an outside corporation coming into the State of Navada to develop this huge enterprise, should not only comply with the mine safety laws of Nevada but also should welcome the supervision and advice of the State mine inspector, as have all other operators in Nevada, in order to afford the greatest care in safeguarding the lives and health of the men in its employ.

Since November 13, 1931, when the Six Companies (Inc.), with the assistance of the Secretary of the Interior, secured a temporary injunction forbidding the mine inspector of Nevada from applying the State mine safety laws, the contractor, the Six Companies (Inc.), has not only violated the Nevada mine safety laws but also decision No. 19 of the mine safety board of the United States Bureau of Mines. The Secretary of the Interior should have followed the rules and regulations of the Federal Bureau of Mines against the use of gasoline-propelled engines and gasoline in tunnels under construction and should not have permitted, encouraged, and aided the Six Companies (Inc.), the contractor he selected for this work, to violate this decision. There is, furthermore, no reason why the Six Companies (Inc.), on its own initiative, should not have conformed to this regulation of the United States Bureau of Mines in this great Government enterprise. It is obvious that both the Secretary of the Interior and the Six Companies (Inc.) have, in violating decision No. 19 of the Federal Mine Safety Board, subjected the men employed in the construction of Hoover Dam to extraordinary risks of life and health, and the report of State Mine Inspector A. J. Stinson indicates that far greater casualities and losses were sustained because of the violation of Federal decision No. 19 and the mine safety laws of Nevada.

The following is a copy of the United States Bureau of Mines Mine Safety Board decision No. 19:

CONCERNING INTERNAL-COMBUSTION ENGINES IN UNDERGROUND WORK

In the interest of safety, the United States Bureau of Mines recommends that:

(1) Internal-combustion engines should not be used in any parts of mines and also should not be used in tunnels under construction because of the hazard of carbon monoxide in the exhaust gases, except:

(a) When the air current is more than 100 linear feet per minute and the toxic gases are always less than 0.02 per cent in the air current.

(b) When the percentage of inflammable gas in the air current is less than 0.25 per cent and/or inflammable gas can not be detected in any place by a permissible flame safety lamp.

(2) Gasoline or other highly inflammable liquids should not be used for engine fuel in mines and in tunnels under construction because of the hazard of their transportation and use.

A letter addressed to me on January 5, 1933, by A. J. Stinson, inspector of mines, State of Nevada, reports on the conditions under which the Six Companies (Inc.), carried on the construction work, and includes a list of fatal accidents sustained by the labor employed from May 1, 1931, to November 13, 1931, the period before the injunction was served, and from November 13, 1931, to December 31, 1932, since the injunction was issued. From this table it will be found that for the period May 1, 1931, to November 13, 1931, when the mine safety laws of Nevada were being enforced, only three fatal accidents occurred, and these were all caused by premature explosions.

During the period November 13, 1931, to December 31, 1932, the period in which the Six Companies (Inc.), violated the Nevada mine safety laws and also Decision No. 19 of the Federal Mine Safety Board, there were 22 fatal accidents. Three of these fatal accidents were caused by premature explosions, while the causes of the remaining 19 deaths are so varied as to indicate general disregard of the safety of life and limb and gross carelessness.

In accordance with the records of the Nevada industrial commission for the 8-month period prior to November 13, 1931, when the mine inspector was enforcing the mine safety laws of the State of Nevada, there occurred 121 nonfatal accidents, while for the 14½-month period which has transpired since the mine inspector was enjoined from enforcing the mine safety laws of the State of Nevada, there have occurred 756 nonfatal accidents, or more than six times as many. This is a further indication of the utter disregard for the life and welfare of labor with which the Six Companies (Inc.) is conducting its work at Boulder Canyon, and emphasizes further the necessity for enforcing the mine safety laws of the State of Nevada at the earliest possible date.

I ask to have printed in the RECORD at this point the letter from Mr. A. J. Stinson, inspector of mines for Nevada.

The PRESIDING OFFICER (Mr. FESS in the chair). Without objection, it is so ordered.

The letter referred to is as follows:

STATE OF NEVADA,
INSPECTOR OF MINES,
Carson City, Nev., January 5, 1933.

Hon. TASKER L. ODDIE,
United States Senator, Washington, D. C.

MY DEAR SENATOR ODDIE: Your letter of inquiry with regard to injuries and deaths occurring in the Boulder Dam project operations received and contents noted.

With reference to the above I have had the industrial commission make out a list of all the fatal and serious accidents which have occurred at Boulder Dam since they took over the accident insurance of the Six Companies. I have also checked their list of accidents with the records of this department and find that the two correspond. You will please find this list inclosed.

As you know, this department took over the inspection and the enforcement of the safety laws for Nevada on May 1, 1931. On November 13 the Federal court served a restraining order on me and also placed me under a temporary injunction. This case was submitted to the court several months ago, but as yet we have not received a decision. Our records show that from May 1 to November 13 two fatal accidents occurred in and around the tunnels on the Nevada side, and 12 fatal accidents on the Arizona side. Also, during that period there were 4 to 1 more men working on the Nevada side. Since November 13, the date the injunction was served, you will note that the Six Companies have had 22 fatal accidents.

It appears to me that after a careful study of the records and reports as to the causes of the accidents, that the Six Companies have been very negligent in the proper inspection and enforcement of the laws and regulations. In many, many cases they have disobeyed the safety laws of our State. I will draw your attention to the fatal accident of C. Bennett. This man was employed as a miner in tunnel No. 1, and was working on the swing shift, going off work at 11.30 at night. A round of holes was blasted before the men went off shift, and the evidence showed that the deceased helped load the holes. Next morning one of the engineers was looking for a point, which was situated close or in the muck pile, and while doing so found the body of the deceased. In the case of R. R. Petticrew, who was working as pitman and who was electrocuted by a short on the drag line, the evidence showed that several of the employees received shocks while standing on the ground a distance of 15 feet from the drag line. Similar shocks had been received several days previous to this accident. The body of Ben Johnson, who was drowned in the water tank, was not found until four days after the accident. The reports show that in many other such cases there was evidence of carelessness in the enforcement of the rules and regulations.

Six hundred and twenty-one men have, and are now receiving compensation from the Nevada Industrial Commission as a result of nonfatal and minor accidents

According to a newspaper report, which reached the office on Tuesday, 25 men were injured in a skip crash on the Arizona side.

If you desire any further information please do not hesitate to call on me.

Very truly yours,

A. J. STINSON, *Inspector of Mines.*

Fatal accidents

MAY 1, 1931, TO NOVEMBER 13, 1931, DATE INJUNCTION WAS SERVED

Name	Nature of accident	Burial place
Olsen, Fred (Lewis Construction Co.)	Premature explosion	
Bryant, William (Six Companies).	do	Las Vegas, Nev.
Sweesey, John P. (Six Companies).	do	Do.

NOVEMBER 13, 1931, DATE INJUNCTION WAS SERVED, TO DECEMBER 31, 1932

Manning, Frank (Six Companies).	Premature explosion	Las Vegas, Nev.
Sidmore, M. J., (Six Companies).	Powder explosion	Do.
McDaniel, S. A., (Six Companies).	Fell from scaffold	Frederick, Okla.
Talbert, Joe (Six Companies)	Struck by shovel	Ada, Okla.
Johnson, Ben (Six Companies)	Found drowned in water tank at mixing plant.	Las Vegas, Nev.
George, A. O. (Six Companies)	Working on truck at repair shop, when another truck struck him.	San Diego, Calif.
Bennett, C. (Six Companies)	Powder explosion, No. 1 Tunnel.	Las Vegas, Nev.
Blevins, L. S. (Six Companies)	On way to work, killed in automobile accident.	
McBride, L. N. (Six Companies).	Caught by tag line skip and thrown from cofferdam.	Hyrum, Utah.
Lynch, Albert (Six Companies)	Working on jumbo scaler, large rock fell and struck scaffold, and threw him to bottom of tunnel.	Las Vegas, Nev.
Abercrombie, John (Six Companies).	On way to work on truck, when another truck hit them.	Cushing, Okla.
Joyce, Ben S. (Six Companies)	Entering tunnel No. 1, struck by falling rock from spillway dump.	Sheridan, Wy.
Willis, Hiram A. (Six Companies).	Short on rail, electrocuted	Ely, Nev.
Bishop, E. A. (Six Companies)	Driving dump truck when truck struck a rock and went over the bank.	Las Vegas, Nev.
Girardi, Alexander (Six Companies).	Working as scaler, lost balance and fell from incline.	San Francisco, Calif.
Gammill, E. H. (Six Companies).	Premature explosion	Las Vegas, Nev.
Kemnitz, Vincent I. (Six Companies).	Working as jackhammer man, crushed by falling rocks.	Do.
Millay, James L., also known as Roberts, James (Six Companies).	Struck on head by falling rock	Do.
Goss, Louie (Six Companies)	Working as scaler, slipped and fell.	Cedar Gap, Mo.
Soderstrom, Carl (Six Companies).	Crossing river on raft, which upset. Deceased went down for last time 6 feet from Nevada bank.	Body not recovered.
Petticrew, R. R. (Six Companies).	Short in cable reel of dragline, electrocuted.	Denver, Colo.
Shovlin, Dan (Six Companies)	Struck by truck	

Total of 621 nonfatal accidents, according to Nevada Industrial Commission.

Mr. ODDIE. Mr. President, competent evidence of the violation by the Six Companies (Inc.), of the Nevada mine safety laws and Federal decision No. 19 issued by the Mine Safety Board of the United States Bureau of Mines is contained in a telegram from A. J. Stinson, inspector of mines for Nevada, addressed to me under date of January 10, 1933, which I quote as follows:

In driving tunnels Six Companies did use internal combustion engines and as many as 12 large-horsepower gasoline trucks and 2 gasoline-driven tractors operating at one point at one time in the tunnel. On November 7, 1931, the following recommendation was served on the Six Companies (Inc.), Boulder City, Nev. Notice is hereby given that after careful examination of the premises known as Hoover Dam and operated by said corporation, particularly large tunnel No. 2, in the course of construction on Nevada side, Colorado River, in connection with the construction of Hoover Dam, Boulder Canyon, Clark County, Nev., I make the following recommendations: That gasoline be not used in any manner inside large tunnels or underground workings; that if trucks or other vehicles propelled by gasoline or by use of gasoline in any manner whatsoever are being used in the construction of said tunnels, then and in that event the use of all such trucks and vehicles so propelled be discontinued at once for the reason that the use of such trucks or vehicles inside said tunnels or underground workings is in clear violation of the laws of the State of Nevada, particularly section 4229, Compiled Laws, Nevada, 1929 and 1931 Statutes, Nevada, chapter 167, pages 274–275. Without delay cause these recommendations to be carried out in order to make said premises safe for employees. Six Companies (Inc.) did and are now violating the above section of the State law, which means a detriment to the lives and limbs of the men employed therein. The following telegram was received from the Bureau of Mines engineers: "Oppose the use of fuel-burning engines or locomotives in mines and tunnels, signed O. P. Hood, Acting Director." The affidavit of Fred Lowell, mining engineer and inspector California Industrial Accident Commission, and that filed by Philip Samuel Williams, state that at a point 500 feet from the portal of lower No. 2 tunnel the air contained 0.3 per cent carbon monoxide. The affidavit of Duschak states that 0.2 per cent carbon monoxide was recorded at the top of the muck pile two and one-half hours after round of holes had been blasted. If the air containing 0.2 per cent carbon monoxide were breathed continuously for a period of 30 minutes, the result would probably be fatal. John Dougherty *v.* Six Companies (Inc.) complained that for many weeks prior to and on the night of March 31 the defendant negligently caused many large gasoline trucks to be run in and out of said tunnel No. 2, discharging large quantities of carbon monoxide through the motor exhausts in quantities sufficient to and did actually endanger the health of the plaintiff by being overcome with carbon monoxide gas, etc.

With reference to the claim of the Secretary of the Interior that conformance with the Nevada mine safety statutes would increase the cost of the dam to the Government in accordance with a letter previously quoted, I submit for the RECORD a telegram of January 12, 1933, from A. J. Stinson, inspector of mines for Nevada, setting forth the facts, as follows:

Replying to your wire of to-day, the claim of the Secretary of the Interior that economy to the National Government was effected by preventing the application of State mine safety laws as to gasoline-propelled trucks in tunnels in the so-called Boulder Canyon project Federal reservation is absolutely ridiculous, because contract between the Six Companies and the Federal Government specifying definitely the entire contract price for construction of the entire project, including tunnels, was signed long before the controversy arose, and the price therein specified was not subject to increase, and because haulage in and from the tunnels was largely done by rented trucks and under yardage contract price made after the Six Companies knew the use of gasoline under ground in tunnels was prohibited by State law, and because the Six Companies could have purchased and rented electrically propelled haulage equipment instead of gasoline-propelled trucks and operated the same as economically as it operated gasoline-propelled trucks. Unquestionably the National Government could not have been injured and the cost of construction would not have been increased by the enforcement of State laws. If the Six Companies had rented or purchased electrical haulage equipment instead of gasoline-propelled equipment in the beginning, there would have been no additional cost even to it and certainly none to the National Government.

As evidence that the Secretary of the Interior had obtained the cooperation of the Department of Justice in behalf of the Six Companies (Inc.), a private corporation, I submit a letter addressed to me by the Attorney General, January 26, 1933, from which I quote the following:

In reply to that letter and on November 27, I advised the Secretary of the Interior that the United States attorney would be directed to render all possible assistance to the contractors in this case.

The entire letter is as follows:

JANUARY 26, 1933.

Hon. TASKER L. ODDIE,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Your secretary has inquired concerning the circumstances with respect to the attitude of the United States

in connection with the action now pending in Nevada brought by the Six Companies for the purpose of restraining the officials of Nevada from various acts.

This matter was referred to me by the Secretary of the Interior in a letter under date of November 23, 1931, and in that letter the Secretary of the Interior requested that the United States attorney for Nevada be directed to appear as amicus curiæ, or to take such other measures as may be advisable for the protection of the interests of the United States. In reply to that letter and on November 27, I advised the Secretary of the Interior that the United States attorney would be directed to render all possible assistance to the contractors in this case. Thereafter, and on December 2, the United States attorney was instructed to keep in touch with such litigation, but not in any official capacity. He was instructed to make no official appearance in the litigation. Thereafter, and on December 28, 1931, he was advised that there was no objection to the filing of an amicus curiæ brief by the United States attorney.

The position of the United States, therefore, in this litigation is as above indicated, and it is not a party to the litigation itself. I have no recent information as to the status of this matter. I trust this will give you the information you desire.

Respectfully,

WILLIAM D. MITCHELL,
Attorney General.

It will be noted in the foregoing letter from the Attorney General that the Secretary of the Interior finally obtained the consent of the Attorney General to the filing of an amicus curiæ brief in the case of the Six Companies (Inc.), the private contractor, against A. J. Stinson, Nevada State mine inspector. In this way the Secretary of the Interior provided Federal counsel to assist in defending the Six Companies (Inc.) without any cost to the company, or, to put it another way, at the expense of the American taxpayer. Since the Bureau of Reclamation is in the Department of the Interior it was a simple matter for the Secretary of the Interior to order the counsel of the Reclamation Service to file an amicus curiæ brief in this case and further aid the Six Companies (Inc.), the private contractor, by supplying Government legal assistance at no cost to the company, the bill being paid by the American taxpayer.

Furthermore, the Secretary of the Interior, in attempting without adequate legal authority to create the Boulder Canyon project Federal reservation, and the court, in issuing the injunction which prevented the enforcement of the mine safety laws of the State of Nevada within the reservation and in violating decision No. 19 of the Federal Mine Safety Board, are jointly responsible with officials of the Six Companies (Inc.) for the heavy loss of life and impairment through accident or health which the men employed in the construction of Hoover Dam have suffered because of a failure to comply with the provisions of the mine safety laws of the State of Nevada and decision No. 19 of the Mine Safety Board of the United States Bureau of Mines. Attention has already been called to the fact that 22 deaths have occurred since the injunction went into effect, and in addition 756 men have sustained nonfatal accidents and injuries and are now receiving compensation from the Nevada Industrial Commission.

In not having been compelled to comply with the provisions of the mine safety laws of the State of Nevada which call for frequent inspections of the work and careful supervision of the methods employed, it is obvious that the Six Companies (Inc.) has utterly disregarded safeguarding the lives and health of the men employed by them in the construction work. It is, therefore, very important that this question be investigated immediately and the Six Companies (Inc.) be compelled to comply with the mine safety laws of the State of Nevada. Unless this is done promptly thousands of lives will be unnecessarily subjected to extreme risks and hazards, and it can be safely assumed that unless this is done promptly further lives will be unnecessarily lost; that many more accidents will occur; and that the health conditions will become still more serious, as a large part of this gigantic enterprise has not yet started. In allowing these conditions to prevail the contractor, the Six Companies (Inc.), will be permitted through cheaper and far more dangerous methods of construction to continue to create huge excess profits wholly at the expense of the life, health, and welfare of the labor it employs.

It is time that Congress should take up this important matter without delay and prevent the Federal Government from further participating in conditions which constitute a serious blot on the Government's record and which the American people will not tolerate and at which they will rebel when the facts are brought to their attention.

II. FAILURE OF SIX COMPANIES (INC.) TO PAY TAXES

The second serious condition which has arisen in connection with the construction of Hoover Dam is the failure of the Six Companies (Inc.) to pay its just taxes to Clark County and the State of Nevada.

The contract to do certain construction work at Hoover Dam was let by the Secretary of the Interior representing the Federal Government to the Six Companies (Inc.), the lowest bidder, on March 11, 1931. The specifications, advertisement for bids, and the contract contain no provision that the contractor would not be called upon to pay the necessary and just taxes to Clark County and the State of Nevada, and it therefore becomes apparent that the contractor included such taxes in the bid submitted to and accepted by the Secretary of the Interior.

Reference in the specifications is made to a payment by the contractor to the Federal Government of $5,000 a month for the rental of ground, the installation of the water supply, and the contractor's share in the cost of administering the town of Boulder City. This can not be construed as a payment by the contractor in lieu of county and State taxes, as the payment is confined to municipal affairs and is largely for ground rental and reimbursement to the Government for the installation of the water supply.

Not until May 19 did the Secretary of the Interior, without any adequate statutory authority, attempt to take advantage of a Nevada law passed in 1921, before the Boulder Canyon project act was considered by Congress, to create a reservation of exclusive Federal jurisdiction. It would seem from these facts that the question of attempting to relieve the Six Companies (Inc.) of the payment of taxes was an afterthought, and it is obvious that the Six Companies (Inc.) and not the Government would benefit by the excess profit created through relief from tax payments to Clark County and the State of Nevada.

In the injunction suit filed by the Six Companies (Inc.) to restrain the assessor of Clark County from the assessment on its property within the county, principally located at Boulder City, two principal grounds are cited:

First. That the State of Nevada has relinquished jurisdiction over certain territory in the said county of Clark designated by the Secretary of the Interior as Boulder Canyon project Federal reservation, within which territory the property sought to be taxed is situated and its employees reside.

Second. That plaintiff is an instrumentality or agency of the Federal Government, hence its property used for the purpose of the construction of such dam, plant, and works is not subject to taxation by the authorities of the State of Nevada.

In regard to the question of relinquishing jurisdiction, the act of the State of Nevada which is cited in this case was passed in 1921, many years prior to the enactment of the Boulder Canyon project act, and therefore the Legislature of the State of Nevada could not have passed upon the question of jurisdiction of the land withdrawn by the Secretary of the Interior and which he has attempted to create as a reservation of exclusive jurisdiction. In the second place, there is no provision made either in the Boulder Canyon project act or in the reclamation laws or otherwise which gives the Secretary of the Interior authority to take advantage of a State statute. Where the land has not been acquired by the Government since the State entered the Union, as in this case, the general procedure, in accordance with precedent, demands independent action by the Congress of the United States in accepting a State's offer to cede jurisdiction and on the part of the State in providing for a cession of jurisdiction with regard to a specified area.

In order to expedite consideration, I addressed a letter to the Legislative Reference Bureau of the Senate on July 20, 1932, requesting that during the summer a thorough investigation be made of the constitutional and legal premises upon which the attempted creation by the Secretary of the Interior of the so-called Boulder Canyon project Federal reservation might be predicated. I submit this letter for the

RECORD at this point and ask that it may be printed as a part of my remarks.

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

JULY 20, 1932.

Mr. CHARLES F. BOOTS,
Chief Legislative Reference Bureau,
United States Senate, Washington, D. C.

DEAR MR. BOOTS: Inclosed herewith is a copy of S. 2885, which I introduced on January 7 for the purpose of conserving the jurisdiction of the State of Nevada in the Boulder Canyon project Federal reservation with regard to taxation, the franchise, labor and mining laws, and penal laws of the State.

In my testimony before the Committee on Irrigation and Reclamation I eliminated section 2 of the bill, and during the summer I shall greatly appreciate your cooperation in causing an investigation and report to be made with reference to the legal aspects of the bill which I have introduced, as above, showing as fully as possible the limitations under which the Secretary of the Interior may operate constitutionally to create a reservation under the Boulder Canyon project act which would in any way interfere with the application of State laws as above outlined to such reservation.

In connection with this investigation I am inclosing herewith the briefs which have been submitted by the United States Government as amicus curiæ, the State of Nevada, and the plaintiff, The Six Companies (Inc.), which have been filed in cases now pending before the District Court for the District of Nevada.

You are already familiar with the hearings which were conducted before the Committee on Irrigation and Reclamation and the testimony which was submitted, and this should be taken into consideration in your investigation of the subject.

It is my intention to press for early action on S. 2885 at the beginning of the next session of Congress, and it will be very helpful if your report can be made available at that time.

When they have served your purpose, I shall greatly appreciate your returning the briefs submitted by the State of Nevada.

Sincerely yours,

TASKER L. ODDIE.

S. 2885

A bill providing for the application of State laws within the Boulder Canyon project Federal reservation

Be it enacted, etc., That the establishment by the Federal Government of the Boulder Canyon project Federal reservation shall in no way interfere with the sovereign powers of the States of Nevada and Arizona (including their political subdivisions) within their respective boundaries with respect to (1) the taxation of persons and property, (2) the regulation and control of mining and other industries and employment therein, or (3) the service of process, civil or criminal, and the arrest and punishment of persons charged with offenses against the laws of such States, or with the right to vote of qualified residents on such reservation; and all persons and property within such reservation may be taxed and all industries and industrial employment within such reservation may be regulated and controlled by such States and their political subdivisions to the same extent as if such reservation had not been established: *Provided*, That nothing in this act shall be construed to permit interference with the operations of the Secretary of the Interior in carrying out the provisions of the Boulder Canyon project act.

Mr. ODDIE. In response to the above letter, a report was made under date of December 20, 1932, by the legislative reference bureau of the Senate, which I also submit for the RECORD. I ask that it be printed as a part of my remarks without reading.

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

MEMORANDUM IN RE STATUS OF BOULDER CANYON PROJECT FEDERAL RESERVATION

This memorandum is submitted in response to your request for a report upon the legal status of the Boulder Canyon project Federal reservation, with a view to a consideration of the applicability therein of the tax, police, and other laws of the State of Nevada.

The Boulder Canyon project Federal reservation was created under the authority of the Boulder Canyon project act (45 Stat. 1057) out of lands within the public domain of the United States and owned by the United States at the time of admission of the State of Nevada into the Union. These lands have been reserved from entry, and purporting to act pursuant to authority claimed to be vested in him by the reclamation laws and the Boulder Canyon project act, and the Nevada statute (post) relating to the ceding of exclusive jurisdiction to the United States of lands within the State, the Secretary of the Interior has filed with the Governor of the State of Nevada a description and plat of the lands. By virtue of these acts the Secretary of the Interior claims that the United States now enjoys exclusive jurisdiction over the area included within the reservation. This contention has been challenged by the State.

TRANSFER OF POLITICAL JURISDICTION NECESSARY

Mere ownership by the Federal Government of lands within the Territorial limits of a State does not entitle it to more than the rights of an ordinary proprietor (United States *v.* Bateman (1888), 34 Fed. 86; Surplus Trading Co. *v.* Cook (1930), 281 U. S. 647), except that the State can not interfere with the use of the lands for governmental purposes (Pundt *v.* Pendleton (1909), N. D. Ga. 167 Fed. 997; United States *v.* Hunt (1927), D. Ariz. 19 F. (2d) 634). Unless there is a retention of political jurisdiction over such lands at the time of the State's admission into the Union such jurisdiction passes to the State, and thereafter the Federal Government can not recover political jurisdiction over such lands unless there is a transfer of such jurisdiction from the State to the United States; nor without such a transfer can the Federal Government acquire jurisdiction over new lands subsequently purchased by the United States (Fort Leavenworth R. R. Co. *v.* Lowe (1885), 114 U. S. 525).

A transfer of political jurisdiction from a State to the United States over lands within the State may be effectuated either (1) in accordance with the provisions of the seventeenth clause of section 8 of Article I of the Constitution, granting to the Congress the power to exercise exclusive legislative authority "over all places purchased by the consent of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;" or (2) pursuant to the recognized power of a State and the Federal Government to deal with each other in any way they may deem best to carry out the purposes of the Constitution. (Fort Leavenworth R. R. Co. *v.* Lowe, supra; Chicago & Pacific Ry. Co. *v.* McGlinn (1885), 114 U. S. 542; Benson *v.* United States (1892), 146 U. S. 325; Palmer *v.* Barrett (1896), 162 U. S. 399; Battle *v.* United States (1908), 209 U. S. 36; Western Union Telegraph Co. *v.* Chiles (1909), 214 U. S. 274; Arlington Hotel *v.* Fant (1929), 278 U. S. 439; United States *v.* Unzeuta (1930), 281 U. S. 138; Surplus Trading Co. *v.* Cook, supra.)

(1) Transfer under seventeenth clause of section 8 of Article I

The seventeenth clause of section 8 of Article I has been construed to cover only those cases where there has been an actual purchase of lands by the United States with the consent of the State in which they are located. This restricted construction was given to the clause by the Supreme Court nearly half a century ago in the case of Fort Leavenworth R. R. Co. *v.* Lowe, supra, and, with the possible exception mentioned below, the construction adopted by the Lowe case has been uniformly indorsed. (Chicago & Pacific Ry. Co. *v.* McGlinn, supra; Benson *v.* United States, supra; United States *v.* Unzeuta, supra.) In the case last mentioned, which was decided in 1930, the court, in deciding whether the Federal Government had jurisdiction over a certain right of way through the Fort Robinson Military Reservation, in Nebraska, recognized this limitation placed upon the provision. The court said:

When the United States acquires title to lands, which are purchased by the consent of the legislature of the State within which they are situated "for the erection of forts, magazines, arsenals, dockyards and other needful buildings" (Const. Art. I, sec. 8), the Federal jurisdiction is exclusive of all State authority. With reference to land otherwise acquired, this court said in Fort Leavenworth Railroad Co. *v.* Lowe, 114 U. S. 525, 539, 541, that a different rule applies, that is, that the land and the buildings erected thereon for the uses of the National Government will be free from any such interference and jurisdiction of the State as would impair their effective use for the purposes for which the property was acquired. When, in such cases, a State cedes jurisdiction to the United States, the State may impose conditions which are not inconsistent with the carrying out of the purposes of the acquisition. (Citing cases.) The terms of the cession, to the extent that they may lawfully be prescribed, determine the extent of the Federal jurisdiction (p. 142).

If it were not for a single sentence in the case of Arlington Hotel Co. *v.* Fant, supra, there apparently would not exist even the slightest doubt but that this constitutional provision does not include a case where land is owned by the United States prior to the creation of the State. The Arlington Hotel case involved the following set of facts: The plaintiff lost property in the Arlington Hotel fire. The hotel was located within the Hot Springs Reservation. The plaintiff claimed that the State statute destroying the common-law liability of hotel keepers did not apply to the Arlington Hotel Co. because it was under the jurisdiction of the United States. The Arkansas statute ceding jurisdiction reserved to the State the right of taxation, and the defendant claimed that therefore the cession was a nullity because not exclusive. In upholding the plaintiff's contention the court relied upon the distinction set forth in the Lowe case, affirmed the principle of the case to the effect that reservations can be made in the ceding statute in cases not arising under the seventeenth clause of section 8 of Article I, declared that the case before it was covered by that principle, that therefore the cession of jurisdiction was valid, and then throws in the following observation: "This justified acquisition of the springs and hospital for the exclusive jurisdiction of the United States under clause 17, section 8, Article I of the Constitution" (p. 455). But since this statement is clearly out of line with Supreme Court decisions before and since and inconsistent with the rest of the opinion in the case itself, it would seem reasonable to conclude that the court did not thereby intend to overthrow a well-recognized principle applicable for many years to the relations of the Federal Government and the States; and that in any case where the lands involved are not actually purchased by the Federal Government subsequent to the admission of the State, transfer of jurisdiction over such lands from the State to the Federal Government can not be effectuated in accordance with the seventeenth clause of section 8 of Article I, but must be

pursuant to the general power under the Constitution of the two sovereignties to deal with each other for any constitutional purpose. It has even been held that a case does not fall under the seventeenth clause even though there be an actual purchase by the Federal Government, if the consent of the State is not obtained until after the acquisition of the land (Palmer *v.* Barrett, supra).

It would seem therefore that, since the Boulder Canyon project Federal reservation is composed of lands originally owned by the United States and not purchased subsequent to the admission of the State, transfer of jurisdiction over such lands from the State to the Federal Government can not be held to have been effectuated in accordance with the seventeenth clause of section 8 of Article I, but, if at all, must have been pursuant to the general constitutional power.

(2) Transfer under general constitutional power

In determining whether or not there has been a transfer under the general constitutional power two major questions must be answered:

1. Has there been a cession of jurisdiction by the State? and
2. Has there been an acceptance of jurisdiction by the Federal Government?

1. Has there been a cession of jurisdiction by the State? The answer to this question depends upon the construction of the Nevada statute of February 24, 1921, which provides as follows:

"SECTION 1. The consent of the State of Nevada is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in this State which has been, or may hereafter be, acquired for sites for customhouses, courthouses, post offices, arsenals, or other public buildings whatever, or for any other purpose of the Government.

"SEC. 2. The exclusive jurisdiction in and over any land so acquired by the United States shall be, and the same is hereby, ceded to the United States for all purposes, except the service upon such sites of all civil and criminal process of the courts of this State, but the jurisdiction so ceded shall continue not longer than the said United States shall own such lands: Provided, That an accurate description and plat of such lands so acquired, verified by the oath of some officer of the General Government having knowledge of the fact, shall be filed with the governor of this State.

"SEC. 3. The jurisdiction hereby ceded shall not vest until the United States shall have acquired the title to the said lands by purchase, condemnation, or otherwise; and so long as the said lands shall remain the property of the United States when acquired as aforesaid, and no longer, the same shall be and continue exempt and exonerated from all State, county, and municipal assessment, tax, or other charges which may be levied or imposed under the authority of this State.

"SEC. 4. Those certain acts entitled 'An act ceding the jurisdiction of this State over certain lands owned by the United States,' approved January 18, 1883, and 'An act ceding the jurisdiction of this State over certain lands to be acquired by the United States,' approved February 24, 1885, are hereby repealed."

It is submitted that by reason of the ambiguity in the statute no very definite conclusions can be drawn upon its application to the Boulder Canyon project Federal reservation. Nor are we benefited by any suggestion arising in the course of the legislative history of the statute; whether any records from which the history of the legislation may be traced exist, does not appear. It has been seen that since the reservation is composed of lands originally owned by the United States, the transfer of jurisdiction could not be effectuated in accordance with the seventeenth clause of section 8 of Article I. If, therefore, the statute is construed to be limited to cases falling within clause 17, except in so far as it expressly includes cases falling outside of clause 17, it is clear that no cession of jurisdiction over the reservation has been effectuated, since there is no express inclusion within the scope of the statute of cases involving lands within the State owned by the United States prior to the admission of the State. Although the statute is expressly extended beyond the limits of clause 17, in so far as it applies to lands acquired prior to the enactment of the statute (see Palmer *v.* Barrett, supra), it is limited to lands acquired with the consent of the State; and it would seem hardly justifiable in any event to construe this provision to apply to acquisition of land by the Federal Government prior to the existence of the State, when the State as such had no capacity to give or withhold consent.

If, on the other hand, the statute is construed to include any case falling within the general constitutional power, which construction would seem to require either that the reference in the statute to the seventeenth clause be treated as a nullity or that the statute be construed as if it had been expressed in the alternative, dealing with cases falling either under the seventeenth clause or under the general power, then it is equally clear that a cession of jurisdiction to the Federal Government has been effectuated by the Nevada statute, so far as the requirements on the part of the State are concerned.

Arguments may be propounded in favor of either interpretation, but, like most cases involving the interpretation of ambiguous statutes, the proper interpretation will remain a matter of conjecture until the statute is passed upon by the courts. On the one hand, it might be argued that although reference is made in the statute to the seventeenth clause, the fact that the rest of the statute openly disregards the recognized limitations of that clause is sufficient to prove lack of an intention to restrict the scope of the statute by reference to that clause; and that although in form the statute is not set forth in the alternative, nevertheless as a whole it indicates that the legislature contemplated cases of governmental operations within the State generally, whether carried on on lands acquired by the United States before the creation of the State or thereafter.

In favor of the more limited construction, however, equally as forceful arguments can be propounded, and perhaps more tangible. It is an accepted canon in the construction of powers between the Nation and the State that the rights of sovereignty are never to be taken away by implication. (See In re Kelly (1895) 71 Fed. 545.) From this it may well be argued that since the intention of the State legislature to include all cases arising under the general constitutional power is not expressed, the statute can not be given the effect of including such cases. Moreover, adoption of the broader interpretation in the face of such a principle of construction becomes even more questionable in view of the results that might flow therefrom in this particular instance. It is estimated that nearly 90 per cent of all the land situated within the State of Nevada belongs to the Federal Government. Under the provisions of the Nevada statute, an administrative officer of the Federal Government (acting within the scope of his authority) may file the documents required by the statute, with respect to any such lands, and, other provisions of the statute having been complied with, the United States would acquire exclusive jurisdiction of such lands. In effect, such a construction of the Nevada statute would impute to the legislature of the State an intention to throw almost 90 per cent of the area of the State open to the possible acquisition of exclusive jurisdiction by the Federal Government, by virtue of a simple ministerial act, and thus place the State almost at the mercy of the Federal Government with respect to the regulation of the State's internal affairs and the exercise of its police and taxing powers.

The danger in any such construction is at once seen if we consider the powers of the officer whose action has been challenged with respect to the Boulder Canyon project Federal reservation. The Secretary of the Interior under section 3 of the reclamation act of 1902 is given authority to withdraw lands needed for irrigation projects, and section 10 of the reclamation act authorizes the Secretary to perform any and all acts which may be necessary and proper for the purpose of carrying out the provisions of the act. It is assumed that the Legislature of Nevada was cognizant of this provision of Federal law when it enacted the statute of 1921; and it would seem to be flying in the face of the principle that sovereignty is not to be taken away by implication to impute to the Legislature of Nevada an intention to give the Secretary of the Interior authority by the act of filing certain maps to assume jurisdiction over the greater part of the area of the State, however remote may be the probability of any such action being taken.

It is therefore believed that since there is no express inclusion in the statute of cases involving lands within a State owned by the United States prior to the admission of the State, exclusive jurisdiction over the Boulder Canyon project Federal reservation has not been ceded to the United States under the Nevada statute.

However, whatever may be the correct interpretation of the Nevada statute with respect to action by the State, there still remains the other side of the equation, namely, the question of acceptance of jurisdiction on the part of the United States.

2. Has there been an acceptance of jurisdiction on the part of the United States? In the light of decided cases it can not be argued that a Federal statute of acceptance is necessary where the State ceding statute is unconditional. Since the statute confers a benefit, acceptance on the part of the United States is to be presumed in the absence of dissent on its part. (Fort Leavenworth R. R. Co. *v.* Lowe, supra; Chicago & Pacific Ry. Co. *v.* McGlinn, supra; Benson *v.* United States, supra.) It does not follow, however, that Federal legislation is never necessary in order to complete the transfer. For example, where the State statute requires acceptance on the part of the Federal Government, it seems clear that the Federal Government must act in order to complete the transfer. (See State ex rel. Grays Harbor Construction Co. *v.* Department of Labor and Industries (Wash., 1932), 10 Pac. (2d) 213.) Or if the State statute provides that jurisdiction will not be ceded until a plat of the lands is filed by a duly authorized Federal official, it is clear that such action would have to be taken by an authorized official before the transfer could be completed.

The cession, then, of the State of Nevada, if there was a cession, can not be said to be unconditional. It requires an act of acceptance on the part of the Federal Government. It has been seen that the provisions of the reclamation law give to the Secretary of the Interior broad authority to withdraw lands for the purpose of those laws, and section 10 of the reclamation act authorizes the Secretary to perform any and all acts necessary for the purposes of that act. Also section 14 of the Boulder Canyon project act provides that the reclamation laws shall apply to the construction of the project.

Do these provisions give to the Secretary authority to go so far as to bring about the establishment of a reservation subject to the exclusive jurisdiction of the United States, or in other words, to accept exclusive jurisdiction on behalf of the United States in accordance with Nevada law? In the first place, it would seem that on such extreme action would be necessary so as to justify resort to the doctrine of "necessity" to sustain the action of the Secretary of the Interior. No case has been found in the 30 years' administration of the reclamation act of 1902 where the Secretary of the Interior has felt justified in resorting to any such attempted exercise of power, and projects at least approaching in

magnitude the Boulder Canyon project have been prosecuted successfully under the reclamation laws. Moreover, it must not be forgotten that even in the absence of any exclusive jurisdiction in the Federal Government a State can not interfere with the use of Government lands for governmental purposes. So that no act that might be taken by the State of Nevada with respect to the Boulder Canyon project act, which in any way interfered with the operations of the Government, could be sustained. See cases cited, supra. No question has apparently been made as to the authority of the Secretary to establish a reservation, not under exclusive jurisdiction of the United States. The law can easily be construed to justify such action, obviously a necessary step in a vast reclamation project. The only dispute arises as to whether, in so doing, the Secretary may vest exclusive jurisdiction over the area in the United States.

Referring again to the principle that the rights of sovereignty will not be taken away by implication, this principle should be just as applicable as a limitation upon the acceptance of jurisdiction on the part of the Government as upon the cession of jurisdiction on the part of the State. Broad general language in statutes authorizing a course of action by administrative officers with respect to arid lands and seeking to permit carrying out of minute details of finance, engineering, agriculture, and what not, over a period of many years, would not seem to grant any authority to that officer to go so far as to accept, if he deems it wise, exclusive jurisdiction for the Federal Government over lands within the boundaries of a sovereign State; and certainly there was no express language in the reclamation laws or the Boulder Canyon project act which granted any such authority.

Mention should be made of the case of United States *v.* Watkins (1927, D. C., N. D., Cal., S. D.), 22 F. (2d) 437, in which it was held that a provision of the California statute requiring recordation of a map as a condition of cession of exclusive jurisdiction of certain lands to the United States was complied with by recording by a judge advocate of the United States Army of an official map of the War Department. It was stated that the condition of the cession (filing of the map) might be complied with by a subordinate officer under the general authority given the Secretary of War to conduct the business of the War Department in such manner as the President shall direct, and that in the absence of a statute or regulation to the contrary the acts done would be presumed to have been done at the direction and by the authority of the President. It appears from the decision in that case that the Congress had subsequent to the cession declared by law that the United States had exclusive jurisdiction and this had been acquiesced in and accepted by the action of the State of California; so that the case is not a final decision upon the sufficiency of the recordation under a general act as an acceptance of the State cession. Further the case involves the case of a military reservation, peculiarly the subject for exercise of exclusive jurisdiction, and accordingly acceptance is more easily to be presumed. This is quite a different situation than that present in the instant case where is involved immediately jurisdiction over a comparatively large area, and potentially jurisdiction over nearly 90 per cent of the area of the State of Nevada.

It is accordingly believed that, assuming a valid cession on the part of the State of Nevada, the cession would obviously be a conditional one, requiring acceptance on the part of the United States; and that such an acceptance was not consummated by the acts of the Secretary of the Interior above described, there being no authority in that official to act in that regard for the United States.

With respect to the application of State laws within Federal reservations the law is fairly well settled.

Thus, should it be held that the United States enjoys exclusive jurisdiction over the Boulder Canyon project Federal reservation, that jurisdiction must be exclusive of all State action; except that laws intended for the protection of private rights (affecting the possession, use, and transfer of property and designed to secure good order and peace in the community and promote its health and prosperity) would remain in force after the transfer of jurisdiction unless inconsistent with existing Federal laws or thereafter superseded by Federal law. (Chicago & Pacific Ry. Co. *v.* McGlinn (supra); Western Union Telegraph Co. *v.* Chiles (supra); Surplus Trading Co. *v.* Arkansas (supra); Crook, Horner & Co. *v.* Old Point Comfort Hotel Co. (C. C., E. D., Va., 1893), 54 Fed. 604.) Congress has already enacted an extensive criminal code for places under the exclusive jurisdiction of the United States providing that where an offense is not specially provided for by any law of the United States, it shall be prosecuted in the courts of the United States and receive the same punishment prescribed by the laws of the State in which the place is situated for like offenses committed within its jurisdiction. (Criminal Code, secs. 272, 282, 311, U. S. C., title 18, secs. 451, 468, 511.) It has, however, provided no laws for the Government in civil matters of the inhabitants of such areas. Accordingly, they are without laws in civil matters, except such general laws as may have been in force in the States from which the United States acquired them at the time of acquisition. (See Old Point Comfort case (supra).)

On the other hand (and in view of the conclusions reached in this memorandum the general principles stated here must apply), since there is no exclusive jurisdiction over the area in question, it is a part of the territory of the State and her laws, civil and criminal, have the same force and effect there as elsewhere within her limits; except that such laws can have no operation which would interfere with or impair the effective use of the reservation for the purposes for which it is maintained (see cases cited above, and on the latter point, cases cited in preliminary discussion under "Transfer of Political Jurisdiction Necessary"). It should be noted here that it apparently has not been contended, nor, having in mind the language of the Nevada statute, could it be, that there has been any cession by Nevada short of exclusive jurisdiction.

In view of these considerations, with the exception above noted to the effect that the area within the reservation must be free from such interference or exercise of jurisdiction by the State of Nevada as would impair its effective use for the purposes for which set apart by the Federal Government, the portion of the Boulder Canyon project Federal reservation lying within the State of Nevada is territory of the State of Nevada and over it the power of the State is as full and complete as over any other territory within her boundaries.

Respectfully submitted.

CHARLES F. BOOTS,
Legislative Counsel.

HON. TASKER L. ODDIE,
United States Senate.

DECEMBER 20, 1932.

Mr. ODDIE. This report indicates that the Secretary is acting without precedent and without adequate constitutional and legal authority.

One of the strongest points brought out in this brief is the fact that the land in question which the Secretary of the Interior seeks to create as an exclusive Federal jurisdiction reservation belonged to the Government prior to the admission of the State of Nevada into the Union. When the State of Nevada was created this land immediately became subject to the sovereignty of the State. If the Secretary of the Interior were acting under adequate constitutional and statutory authority he could have in his discretion included all of the Federal domain in the State of Nevada in this reservation, and, according to the construction placed upon this act by the Secretary, all private property within this area would not be taxable by the counties and State in which the land is situated. Approximately 90 per cent of the State of Nevada is in public domain and this fact further emphasizes the absurdity of the Secretary's position. One is forced to conclude that the attempt by the Secretary of the Interior to create an exclusive Federal jurisdiction reservation was made in the interest of relieving the Six Companies (Inc.), of the necessity for paying taxes to Clark County and the State of Nevada, and, therefore, of aiding a private enterprise to unjustly fatten itself at the expense of the public welfare.

The second ground upon which the Six Companies (Inc.), relies in evading the tax laws of the State of Nevada is the fact that the company constitutes an instrumentality or agency of the Federal Government and that hence its property used for the construction of such dam, plant, and works is not subject to taxation by the authorities of the State of Nevada.

The Secretary of the Interior has stated that it was not his intention to create a permanent tax-exempt reservation at Boulder City, and I quote from his letter to Senator THOMAS of May 5, 1932, as follows:

> The question of the power of the State of Nevada to tax personal property for franchise within the reservation, and to impose its own mining regulations on the construction of the Government diversion tunnels, is now before the Federal courts. Pending the outcome of this litigation, we have suggested that the question of taxation remain in abeyance. This has given rise to some purported fears by local residents that we intend to create a permanent tax-exempt reservation which will attract industries which otherwise would locate in taxable areas of Nevada. The status of the reservation after completion of construction can be determined at that time by Congress. Obviously the purpose of creating the reservation was to facilitate the construction of the dam and not to exempt from taxation permanent industries not connected with the task of construction or the furnishing of supplies.

The Boulder Canyon project act has been tested in the case of Arizona against California and was held by the Supreme Court to be constitutional as a project for the improvement of navigation.

It has been held by the Supreme Court that the property of a company which is brought within a jurisdiction solely for the purpose of performing a contract with the Federal Government for the improvement of navigation may be taxed by such jurisdiction and that such taxation is considered not to be an unconstitutional interference with the

operations of a Federal instrumentality. (Gromer *v.* Standard Dredging Co., 224 U. S. 362, 371.)

Since the Boulder Canyon project act was considered constitutional as a project for the improvement of navigation, and since the case above cited was also predicated upon an improvement in navigation, the circumstances under which the Boulder Canyon is being improved are similar.

The principal factor to emphasize in the case of Gromer against Standard Dredging Co. is that the Supreme Court upheld the right to tax a company and did not regard the exercise of this right as an unconstitutional interference with the operation of a Federal instrumentality.

Even under the general rules governing statutory interpretation, there would seem to be no basis for construing the Boulder Canyon project act as containing any authorization, but since in this case the question of interference with State sovereignty is involved, no such authority can be implied unless such an implication were to appear as clearly intended by Congress. Had Congress intended to relieve the Six Companies (Inc.), of the payment of State and local taxes, it would have been necessary for Congress clearly to have expressed such an intention in the Boulder Canyon project act.

In assuming the position that the Secretary of the Interior has enunciated in his letter of May 5 to Senator THOMAS, it seems obvious that (1) he disagrees with the Supreme Court in holding that the taxation of a company does not constitute an interference with a Federal instrumentality, or (2) he agrees with the Supreme Court but is frankly operating in behalf of the Six Companies (Inc.). In either event, the Secretary would seem to be acting without adequate statutory authority.

The Las Vegas Chamber of Commerce, in a brief filed with the Senate Committee on Irrigation and Reclamation as of August 29, 1932, on the question of taxation of private property on the Boulder Canyon Project Federal Reservation, set forth the valuation of the Six Companies (Inc.), and the amount of taxation due thereon for the years 1931 and 1932. The actual valuation of the Six Companies (Inc.), for the year 1931 was $406,534. The assessed valuation was 50 per cent, or $203,267, and at the tax rate prevailing in 1931 there was due $6,880.58. The Six Companies (Inc.), in 1932 had an actual valuation of $4,659,138 and an assessed valuation of $2,329,569, and at the rate of taxation charged in 1932 there would be due in taxation $79,088.86. None of the above taxes have been paid, the Six Companies (Inc.) having procured an injunction against the county assessor and tax collector, with the aid of the Secretary of the Interior, the Federal court for the district of Nevada, the counsel representing the Attorney General, and the Reclamation Service, each as amicus curiæ, restraining his collection of the same.

At the same time that Clark County, the city of Las Vegas, and the State of Nevada were deprived of the above taxes from the Six Companies (Inc.), additional costs due to the large influx of labor, a large part of which could not secure employment, and the need for providing schools were met by Clark County and the city of Las Vegas, as quoted from the brief of the Las Vegas Chamber of Commerce of August 29, 1932, as follows:

PUBLIC SCHOOLS

Upon the assurance of the Department of Interior that the dam workers would use the facilities of the city of Las Vegas for housing and schooling, the city caused to be constructed a school building at the expense to the city and county of $350,000. Prior to the determination of the Government to build the dam, the present school facilities in the city and country were adequate to take care of local school conditions. During the fiscal year ending July, 1932, the Boulder City school children used the Las Vegas school facilities. The proportionate share of the cost for such residents of Boulder City exclusive of any building cost or maintenance or amortization charges was for the high-school pupils $13,000, and for the grammar-school pupils $16,000. The fact that Boulder City has inadequate school facilities or that the proposed tuition may be too burdensome, we will probably have to continue to care for many of the Boulder City school pupils in future years.

PUBLIC EXPENSE

The influx of people attracted by the dam has necessitated the increase of the police department from 2 to 12 men at a monthly salary of $175 per man. This means $21,000 annually additional burden upon the city. This does not take into consideration the extra equipment and facilities such as four motor vehicles used by the department, etc., and the expense of maintaining such equipment which would probably exceed $5,000 per year.

Conditions in the community are pretty accurately reflected by the comparative expense of the police department for the year 1929 and the fiscal year commencing July 1, 1931, and ending June 30, 1932. For instance, the cost of the department, including the care of prisoners for the year 1931, was $18,023.35; for the fiscal year ending June 30, 1932, it was $40,032.04, an increase of $22,008.69. Assuming this condition will continue six years, the duration of the construction, it will cost the city in excess of $132,000 additional for policing alone.

INDIGENTS

The police tell us that, based upon a very conservative estimate, there is an average minimum of 4,000 unemployed male persons in Clark County attracted by the dam construction, many of them looking for employment, many of them common vagrants and what not; that 75 per cent of these people are entirely destitute and look to the community for their support; that 40 cents a day is a minimum amount upon which one can subsist whether he steals it, begs it, or receives it through voluntary donations, which results in an added expense to the community in excess of $73,000 per annum, exclusive of the financial burden heretofore and hereafter mentioned.

In 1929 there was a total indigent cost to the county of $14,339.83. For the year 1931 this expense had increased to the sum of $39,471.01, making a total increase of $25,131.18. During 1931 the county of Clark was required to borrow $20,000 as an emergency indigent fund. In addition to the foregoing the local chapter of the Red Cross, supported entirely by local subscription, expended during the months of November and December, 1931, the sum of $2,948.37, at the monthly rate of $1,474.

It must be borne in mind in connection with the subject of indigents that the publicity given the project has attracted to the community many thousands of persons, some of whom are honestly looking for employment. However, it matters not how honest they are; if they are destitute, they must live. It has attracted many undesirables, racketeers, and what have you who usually follow projects of this kind and who might be termed as "leeches" upon the community. It has attracted many infirm and indigent people who must be supported by the community, and it is important to bear in mind that the reservation shares none of these detriments, because he can not enter the reservation without he has employment or has a pass, and secondly, when his employment ceases if he does not leave the reservation he is ejected therefrom, thereby pouring all of these people—good and bad—upon our civil community for support.

ELECTION EXPENSE

The total number of registered voters in Clark County is 8,034. Twenty-three per cent, or 1,858, live in Boulder City. It is estimated that the primary and general election will cost $8,000, or Boulder City's share of expense of $1,840.

HIGHWAY MAINTENANCE

During the year 1931 the county of Clark, State of Nevada, expended the sum of $7,067 upon the maintenance of the highway leading from Boulder City to Las Vegas, which was $5,000 in excess of the amount expended the preceding year.

COUNTY JUDICIAL (THIS INCLUDES CRIMINAL PROSECUTIONS AND COURT EXPENSES IN CRIMINAL CASES)

In the year 1929 this item amounted to $8,801.92. The corresponding item for the year 1931 was $24,245.03, making a net increase on account of this department of government of $13,443.17. The residents of Boulder City have enjoyed the benefits of the courts and government agencies and facilities, thereby enhancing the expense of this department of the local government.

PROTECTION (SHERIFF'S OFFICE IN ADDITION TO POLICE DEPARTMENT)

Protection cost the county, in the year 1929, $15,768.58 and in the year 1931, $22,803.75, making a net increase to administer this department of the government $7,035.17.

INQUESTS

During the period intervening since the Six Companies started operations on their contract there have been 20 coroner's inquests held by the coroner of Las Vegas Township, Clark County, over the bodies of persons residing upon the reservation, at a total expense to Clark County of $1,074.05.

These additional expenses totaled $241,522, an amount which must be added annually to the financial burden of Clark County and the city of Las Vegas. This amounts to an increase of approximately 31.5 per cent in the tax rate, which illustrates the great extent to which Las Vegas and Clark County have been subjected to unjust expenses through the failure of the Six Companies (Inc.) to pay its legal taxes to the county and the State.

The injunction suit to restrain the mine inspector of the State of Nevada from enforcing the mine safety laws of Nevada was presented before the Federal court for the district of Nevada, comprised of Wilbur and Sawtelle, circuit

judges; Norcross, district judge, as a statutory court; and Norcross, district judge. In reviewing the decision of the district judge, Frank H. Norcross filed May 31, 1932, in the case in which the Six Companies (Inc.) asked for an injunction against the assessor of the county of Clark from collecting the taxes on its property, I quote the following statements:

> The two questions of law involved in this case were also presented in the case of Six Companies (Inc.) *v.* Stinson, as inspector of mines, et al., instituted in this court and recently decided by a statutory court of three judges upon the question of the issuance of a temporary injunction. * * *
>
> While not as clear as in the Stinson case, the court is of the opinion that a temporary injunction should issue as prayed for, pending trial and determination upon the merits. The defendant, and the interests he represents, can be fully protected by bond. The fact that this case involves questions raised in the Stinson case is a further reason why the application for a temporary injunction should be granted. The case has been set for a definite date for trial.

From these statements it is clear that District Judge Norcross very largely predicated his action in granting the motion of the Six Companies (Inc), for a temporary injunction against the tax collector on the findings by the district court in the Stinson case.

It would appear that this attempt, without adequate constitutional and legal authority by the Secretary of the Interior, to create a reservation of exclusive Federal jurisdiction had been made for the purpose of aiding the Six Companies (Inc.) to escape the payment of its just taxes to the county of Clark and the State of Nevada. It is obvious that these cases, thrown into court, will require time to adjudicate, possibly the entire period the Six Companies (Inc.) will be engaged in the construction of the Hoover Dam, and the State will ultimately and through these devious legal processes, be substantially deprived of its rightful tax income. It is also obvious that whatever the county of Clark and the State of Nevada lose because of the tax income of which it has been deprived will result in an excess profit to the Six Companies (Inc.) to which it is not justly entitled. In no way will the loss to the State result in a benefit to the Federal Government. The contract was entered into by the Government and the Six Companies (Inc.) on March 11, 1931, and the estimates submitted at that time included costs of labor and material which have been greatly reduced since then. In considering the gains which the company would make through the nonpayment of taxes to Clark County and the State of Nevada, it would, because of economic conditions which have changed, net a superprofit far in excess of the one upon which the company predicated its bid.

Under these conditions, and considering the heavy expenses which the city of Las Vegas and Clark County and the State of Nevada have been compelled to bear because of the additional responsibilities involved in connection with the construction of Hoover Dam, it is doubly important that the resolution which I have introduced to investigate conditions at Hoover Dam (S. Res. 293) be immediately acted upon and the investigation begun in order to prevent a continuation of these evils. Not only is the State of Nevada damaged by this procedure adopted by the Secretary of the Interior in attempting without adequate statutory authority to create an exclusive Federal jurisdiction reservation, but a precedent is being established upon which the future development of a large number of Federal projects will be affected, together with all of the States in which they are located.

Furthermore, the attempt of the Secretary of the Interior to aid the Six Companies (Inc.), on the basis that it is a Government instrumentality creates another precedent which would affect the entire status of Federal construction work in the United States, whatever its nature might be.

It is therefore very important, from a national standpoint, to stop this procedure at the earliest moment and rectify the conditions in so far as possible.

III. BUSINESS MONOPOLY AND "SWEATING" LABOR

Many complaints have been made of the methods and policies of the Six Companies (Inc.) and its subsidiary, the Boulder City Co., in creating a business monopoly and exploiting and "sweating" the labor in its employ. Boulder City is located within the area which the Secretary of the Interior has attempted to set aside as an exclusive Federal jurisdiction, and is fenced in and guarded by Federal police officers, so that no one can either enter or leave without permission and knowledge of the manager of the city, appointed by the Secretary. Under the contract with the Six Companies (Inc.) the Secretary of the Interior authorizes that company to operate a commissary to supply the men in its employ with living necessaries, to lease ground, and to erect houses for their occupation. In addition, the Secretary of the Interior, under his control over the management of Boulder City, licenses business of all kinds to operate.

The Six Companies (Inc.) issues paper scrip and token coins which its employees are forced to accept between regular pay days and which are redeemable at face value in merchandise only at the department store owned and operated by its subsidiary, the Boulder City Co., organized April 6, 1931. Complaint has been made by the business houses licensed by the Secretary of the Interior to do business in Boulder City that this scrip operates to their disadvantage and destroys competition, thereby establishing the Boulder City Co. as a powerful monopoly in winning all the available trade of the employees of the Six Companies (Inc.).

Complaints have been made also by the business men of Las Vegas that the issuance of scrip by the Six Companies (Inc.) also enables the Boulder City Co., its subsidiary, to take a large part of the business which they would otherwise get and to which they are entitled. Las Vegas, the county seat of Clark County, has borne the brunt of the fight from the beginning in securing the enactment of the Boulder Canyon project legislation and is, therefore, entitled to a fair opportunity to benefit from the increased business. Las Vegas is only 22 miles distant from Boulder City, and if this scrip was redeemable in cash at its face value, the stores at Las Vegas would be able to compete for a good share of the business of the employees of the Six Companies (Inc.) engaged in building Hoover Dam.

That the Six Companies (Inc.) will not redeem the scrip it issues at par except in merchandise at the store of its subsidiary, the Boulder City Co., is evidenced by a letter addressed to the manager of Boulder City by the president of the Boulder City Commercial Association, under date of April 28, 1932, which I herewith present for the RECORD.

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

BOULDER CITY, NEV., *April 28, 1932.*

MR. SIMS ELY,
Manager Boulder City, Nev.

DEAR MR. ELY: Referring to the letter from Mr. Felix Kohn, of the Boulder City Co., proposing a scheme which would supposedly relieve the scrip situation for the independent merchant in Boulder City, we regret to advise you that we see no relief whatsoever in this proposed procedure for the following reasons:

(1) Accounting difficulties of Boulder City Co. tremendously increased.

(2) Intimidation or embarrassment of employees.

(3) Actual difficulty of operation of such a scheme.

(4) Gives the Boulder City Co. too close a scrutiny of our prices.

(5) Eliminates entirely from relief such business as that of Mr. Laubach, where purchases are exceedingly small and extemporaneous.

Summing up the proposal seems to us exceedingly impractical and almost impossible of application.

It has been said that the major objections on the part of the Boulder City Co. toward the redemption of scrip for cash are: (1) The added accounting difficulties entailed in checking it back and paying for it. (2) The increased danger of having to contend with counterfeit scrip tickets.

We submit here below a proposal which we sincerely believe substantially minimizes one objection and entirely eliminates the other. Our proposal is this:

We will delegate one of our number or a responsible person of our selection to act as a clearing agent for all of the scrip which we may be called upon to accept for merchandise or service in the conduct of our business, this agent to act as a depository for scrip for all of us; to carefully count and bundle this paper and on stipulated days of each month to take said scrip to the cashier of the Boulder City Co., check it in to them, and receive their check for the amount.

This would, as you can readily see, reduce their accounting in this regard to an absolute minimum.

In order to protect them in so far as the scrip which we handle against counterfeiting, we would agree that each of us would indorse with his own stamp such scrip as we may have received, thereby accepting individually the responsibility for its validity, which would as you can readily see relieve the Boulder City Co. of any danger of counterfeit scrip's getting back to them through our operation.

We would further agree that should at any time any member of this organization be proven to be trafficking in scrip by discounting it in Las Vegas or obtaining it in any other manner than the legitimate conduct of his business, said member would be immediately expelled from this organization and denied the privilege of clearing any scrip through this agency.

We sincerely hope that you can see the fairness of this proposal and will use your influence in helping us have it adopted. We are all enthusiatic about our small town and are convinced that with an even break we are going to be able to make a reasonable living here.

Thanking you for your cooperation in this matter, we are

Yours very truly,

BOULDER CITY COMMERCIAL ASSOCIATION,
By BILL HARRISON, *President*.

Mr. ODDIE. Mr. President, there are five objections to the issuance of this scrip by the Six Companies (Inc.), cited in the foregoing letter, as follows:

First. Accounting difficulties of Boulder City Co. tremendously increased.

Second. Intimidation or embarrassment of employees.

Third. Actual difficulty of operation of such a scheme.

Fourth. Gives the Boulder City Co. too close a scrutiny of prices of independent merchants.

Fifth. Eliminates entirely from relief business where purchases are exceedingly small and extemporaneous.

Further complaint of the business men operating under licenses of the Secretary of the Interior against the issuance of limited scrip by the Six Companies (Inc.) is evidenced by a letter addressed to the Secretary of the Interior by the president of the Boulder City Commercial Association under date of May 6, 1932, which I now place in the RECORD:

BOULDER CITY, NEV., *May 6, 1932*.

Hon. RAY LYMAN WILBUR,
Secretary of the Interior, Washington, D. C.

SIR: Prior to the recent organization of permittees of Boulder City, individual letters have gone out to Members of Congress, complaining of the refusal of Six Companies to redeem scrip brought in by the merchants of Boulder City for cash.

Since that time Mr. Ely, in a very persuasive letter, requested that consideration be given the merchants of Boulder City in that regard. This request was denied by Mr. Felix Kohn, chairman of the Boulder City Co. This refusal makes it generally and definitely clear that their policy is unfavorable.

At this time we wish clearly to state that at the time of application for permits in our various lines of business applicants were given to understand through bulletins accompanying application blanks that the contractors were operating boarding houses, a recreation hall, and a commissary, and that they were issuing scrip. Little did we realize, however, that the commissary, providing for the necessities of employees, would expand rapidly into an enormous department store and concession stand, containing not less than 32 departments, with the apparently very definite object of supplying as much of their merchandise as possible to their own employees or any one else in the market for merchandise of any kind. A recent advertisement carried a notice: "Parking space for out-of-town customers"; so their policy seems to be one of exploitation, with no particular limitations as to where their trade may come from.

Their prices to-day are fair. But they are materially lower on numerous items than they were before the permittees commenced to operate, which indicates that competition was instrumental in lowering their prices, rather than a desire on their part to serve employees on as small a margin of profit as possible.

In addition to subsistence facilities at the regular boarding house, which seems very satisfactory and complete, meals are served at the recreation hall and at the counter in the drug store. These lunch counters also accept scrip, which naturally gives them a tremendous patronage, and which in turn seriously affects the business of restaurants and eating places operating under permits.

Our association has only praise for the officials of the Reclamation Bureau on this project. They have worked with zeal in the interest of permittees. Their efforts in our behalf are not to be minimized in so far as their power to interpret the contractor's contract is concerned. We realize that a suitable policy to all is no small task on their part.

A point we feel necessary to express at this time is that the paramount purpose of Six Companies is to build the Hoover Dam. Their profits should come from this source. Their policy, the exploitation of their subsidiary company, the Boulder City Co., with the advantages of having control of the pay roll, and of the issuance of scrip, redeemable only at company owned and controlled counters, is manifestly unfair, and must be regulated and restricted with a firm hand, for we do not believe that the Government intended, in entering into a contract for the construction of Hoover Dam, that the clause providing for the commissary should be so elastic and so broad as to reach the size of the present institution they now operate.

Picture, if you will, this model Government construction city; within its limits a huge department store and recreation hall selling drugs, ladies' ready-to-wear, dry goods, men's and women's dress shoes, men's work clothing, ready-to-wear men's suits, jewelry and jewelry novelties, furniture, hardware, shoe repairing, electrical supplies, Frigidaires, meats, groceries, tailoring and cleaning shop, soda fountain and lunch, two cigar stands, two lunch counters, soft-drink bar, laundry agency, barber shop, pool tables, an ice depot, and other departments found in a huge store. We believe that this store has expanded far in excess of original intention of a commissary, and that their activities should be curtailed within a reasonable limit.

A contract that is unfair is unsatisfactory, and should be revised. In article 15 of the Government's contract with Six Companies (Inc.) we read: "Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under the contract shall be decided by the contracting officer or his duly authorized representative, subject to written appeal by the contractor within 30 days to the head of the department concerned, whose decision shall be final and conclusive upon the parties thereto as to such questions of fact." This clause indicates to us that the chief engineer has the authority to decide just what the interpretation of the word "commissary" shall be and to what extent the Boulder City Co. shall enlarge upon it.

We are willing to compete with Boulder City Co. on an even basis. In our letter of April 28 to Mr. Ely our proposal in method of handling scrip covers fully any objections that may be made against it; there are no other objections of merit. Only the desire of having every cent of scrip issued spent at the company owned or controlled counters keeps the Boulder City Co., subsidiary of Six Companies (Inc.), from accepting in full our proposal. The Six Companies' employees will have a better feeling if they can be free in selecting their own shopping store. Our request to you to make this possible is a minor one for Six Companies to grant. You have power to arrange it, and the responsibility of the success or failure of the permittees here will largely rest on what relief can be given in the immediate future.

A matter of great importance, which was called to the attention of Doctor Mead and has on various occasions been brought to the attention of Mr. Ely, is that of intimidation, both of employees and sources of supply of merchandise. Intimidation of employees is a difficult matter to prove except at the expense of some man's job. Intimidation of purveyors of merchandise into refusing to do business with the independents has been practiced in various instances of which we have unqualified proof. This we know you will agree is unfair practice.

At a meeting of our association with Doctor Mead on his last visit to the project he personally learned from us of the situation here, so he is in a position to know every angle, and we trust you will find in conference with him that our request for relief has a solid foundation and that we may have your cooperation in bringing about these changes in fairness to us all.

As we have written some time previous to Senators KENDRICK and CAREY and Representative CARTER, from Wyoming on the subject, if you feel so inclined, suggest a copy of this letter be sent them for their information.

Thanking you in advance for your interest, we are,

Very truly yours,

BOULDER CITY COMMERCIAL ASSOCIATION,
By BILL HARRISON, *President*.

To show the unfairness of what is going on at Boulder City, and the intimidation of the labor employed, I wish especially to quote two paragraphs from the foregoing letter, as follows:

A point we feel necessary to express at this time is that the paramount purpose of Six Companies is to build the Hoover Dam. Their profits should come from this source. Their policy, the exploitation of their subsidiary company, the Boulder City Co., with the advantages of having control of the pay roll, and of the issuance of scrip, redeemable only at company-owned and controlled counters, is manifestly unfair, and must be regulated and restricted with a firm hand, for we do not believe that the Government intended, in entering into a contract for the construction of Hoover Dam, that the clause providing for the commissary should be so elastic and so broad as to reach the size of the present institution they now operate.

* * * * * * *

A matter of great importance which was called to the attention of Doctor Mead, and has on various occasions been brought to the attention of Mr. Ely, is that of intimidation both of employees and sources of supply of merchandise. Intimidation of employees is a difficult matter to prove except at the expense of some man's job. Intimidation of purveyors of merchandise into refusing to do business with the independents has been practiced in various instances, of which we have unqualified proof. This we know you will agree is unfair practice.

Expressing the opposition of the American Federation of Labor to the issuance of scrip redeemable for merchandise at par only at the company stores is exploitation of the

most reprehensible character, William Green, its president, wrote me under date of October 3, 1932, and I submit his letter for the record.

WASHINGTON, D. C., *October 3, 1932.*

Hon. TASKER L. ODDIE,
Reno, Nev.

MY DEAR SENATOR: I am amazed at the statement made by Doctor Mead, Commissioner of Reclamation, that the payment of wages in scrip not transferable and redeemable only in merchandise at company stores is a common practice in construction operations throughout the country. Such a practice is most reprehensible and unjust. It is a form of exploitation which ought to be condemned by all just-minded people. The miners fought against this practice in the bituminous-mining regions in Pennsylvania, Ohio, and elsewhere. Payment in scrip redeemable only in merchandise at company stores means coercion of a most vicious kind, exploitation of a most reprehensible character, and a reduction in wages which is unjust and unfair.

Labor is opposed to such a practice and joins heartily with you in the efforts you are putting forth to stop it. We will gladly cooperate with you when you present your resolution dealing with this wicked practice at the short session of Congress.

Sincerely yours,

WILLIAM GREEN,
President American Federation of Labor.

The practice of the Six Companies (Inc.) in issuing scrip redeemable at face value in merchandise only at its own store not only leads to an insidious intimidation of the men in its employ but constitutes wage "sweating" of a most pernicious and unfair character. Men who go to Boulder City and are put to work between pay rolls have almost immediate need for cash to send to their families who are in need. When scrip is paid them at the end of the week the workers are compelled to peddle it in Boulder City or Las Vegas for what it will bring, usually from 75 to 80 cents on the dollar. This results in a reduction of from 20 to 25 per cent in the payment of wages which can be construed only as "sweating" labor.

The aggregate amount of scrip paper and coin paid out by the Six Companies (Inc.) in a month is reported to be about $40,000, as the records of the Commissioner of Reclamation will show, so that this "sweating" process and intimidation is conducted on a grand scale. For the Government to stand idly by and permit these unfair practices to go on is a national evil which will result in a serious public reaction when the facts are known. These conditions demand immediate investigation by the Committee on Irrigation and Reclamation of the Senate, provided for in the resolution which I have introduced.

In a bill of complaint in equity filed in the District Court for Nevada December 22, 1932, the Boulder City Co., a subsidiary of the Six Companies (Inc), the private contractor, asked for an injunction to prevent the tax assessor of Clark County, Nev., from assessing its property and collecting the tax. Notwithstanding the fact that the Boulder City Co. runs the department store, which is a great mercantile monopoly, for the Six Companies (Inc.) and should on this private business return taxes to Clark County and the State of Nevada, it filed a bill of complaint in the district court to be relieved from the payment of these taxes. No clearer case of private business than that operated by the Boulder City Co. could be found.

While the Attorney General and the Reclamation Service filed amicus curiæ briefs in the former case against the State mine inspector, neither of these Federal agencies filed briefs or participated in the Boulder City Co. case. The bill of complaint is based upon the action of the Secretary of the Interior in attempting without adequate constitutional and legal authority to create an exclusive jurisdiction Federal reservation. Evidently the Boulder City Co. was willing to rest its case on this premise, which was the principal one presented by the district court in the case of the Six Companies (Inc.) against A. J. Stinson, State mine inspector.

The complaint of the Boulder City Co. not only asked for relief from the payment of taxes to Clark County on its own account but also included all other "persons, firms, or corporations owning personal property" within the so-called Boulder Canyon project Federal reservation. A temporary order restraining the assessor of Clark County from assessing and collecting taxes on the property of the Boulder City Co. and all persons, firms, or corporations owning personal property within the reservation, was filed on December 22, 1932. This action unjustly deprives Clark County and the State of Nevada from taxes on persons, firms, and corporations doing private business at Boulder City, to which they are legally entitled and should have, in order to help meet the extraordinarily heavy burden of additional expense to which they have been put because of the influx of large numbers of workers and their families to build the dam.

Previously I have set forth in detail these numerous additional expenses of Clark County and it is not necessary to repeat them here. Suffice it to say that in the aggregate up to August 29, 1932, these additional expenses amounted to $241,522, an increase in the tax rate of Clark County of 31.5 per cent over and above its constitutional limit.

These serious conditions can not continue without irreparable damage to Clark County and the State of Nevada and they should be investigated immediately and the necessary remedies adopted. The enactment of S. 2885, which I introduced and which is now before the Committee on Irrigation and Reclamation, to conserve the taxing power of Clark County and the State of Nevada in the so-called Boulder Canyon Project Federal Reservation, would afford complete relief from a continuation of these tax payment evasions.

COLLECTS BUT DOES NOT REMIT POLL TAX

The Six Companies (Inc.), the private contractor, ever since the work began at Hoover Dam has been deducting a poll tax from the wages of every worker on the pay roll. Until February, 1932, an official receipt was given for the payment of this tax, but since about that time a special receipt supplied by the company without the authority of the tax authorities of the State or county has been issued the worker.

The tax assessor of Clark County, F. C. DeVinney, reports to me that the Six Companies (Inc.) issued in 1931 2,856 official Clark County receipts making a total of $8,568; in 1932, 2,774 official receipts were issued by the company making a total of $8,322; and since about February the company has issued approximately 5,907 poll-tax receipts of its own making and without official authority totaling $17,721. The Six Companies (Inc.) has impounded in its treasury since the commencement of construction work in 1931 a total of about $34,611.

None of the money collected from the wages of the workers by the Six Companies (Inc.) has been paid to the County of Clark and the State of Nevada. Without any legal authority these poll taxes have been collected and impounded by the Six Companies (Inc.). I submit for the RECORD a telegram from F. C. DeVinney, assessor of Clark County, Nev., under date of February 1, 1933, setting forth the facts concerning these poll-tax collections:

The Six Companies (Inc.) issued 2,856 official Clark County, Nev., receipts for the year 1931 at $3 each, which makes a total of $8,568, which money is impounded by the Six Companies (Inc.) and has not been paid to Clark County, Nev. Six Companies (Inc.) also issued 2,774 official Clark County, Nev., receipts for the year 1932 at $3 each, making a total of $8,322, which money is impounded by the Six Companies (Inc.) and has not been paid to Clark County, Nev.

Since about February, 1932, the Six Companies (Inc.), without any authorization or permission from Clark County officials, have been collecting $3 poll tax from their employees and giving to them a receipt of their own make and issue and not giving to them official receipts of Clark County, Nev. Six Companies (Inc.) has issued approximately 5,907 poll-tax receipts of their own make covering $17,721 deductions made from the wages of their employees since February, 1932. This money is impounded by the Six Companies (Inc.) and has not been paid to Clark County, Nev.

In a telegram from F. C. DeVinney, dated February 1, 1933, the receipt which is now being given for the poll-tax payment without any official authority is described as follows:

This is a copy of receipt given to employees by Six Companies (Inc.) after $3 has been deducted from their wages for poll tax: "Name of employee and identification number. This is to advise you that Six Companies (Inc.) has withheld from your salary the amount of poll tax which the State of Nevada claims is payable to it by you. Six Companies (Inc.) will hold this amount of poll

tax for your account until a final determination of the question of whether or not the State of Nevada has authority to levy this poll tax upon you. In the event it should be determined that the State of Nevada has no right to collect said tax, the amount so withheld will be paid by Six Companies (Inc.) to you, but in the event it should be determined that said tax is due the State of Nevada the amount withheld will be used by Six Companies (Inc.) for the payment of said tax. In withholding said tax, Six Companies (Inc.) is not in any way acting for the State of Nevada, or as the agent or other representative of Clark County, Nev., or the assessor of Clark County, Nev. Boulder City, Nev. Date. Six Companies (Inc.), by (officer). Poll tax for the year issued. Receipt number."

The above form receipt is given without any authority or permission from Clark County, Nev.

Before the tax case now before the district court is finally adjudicated in the Supreme Court many years probably will have passed and the poll-tax collections by the Six Companies (Inc.) and impounded by them probably will have grown to many times the $34,000 to which it amounts at present. Many of the workers leave the company's employ, and yet this $3 poll tax is deducted from their wages. Other workers have met with fatal or nonfatal accidents and have been severed from the pay roll after short periods of employment. The labor turnover is very heavy and this results in greatly increasing the number of poll-tax collections and correspondingly increasing the amount of money impounded by the company.

While the Six Companies (Inc.), in its unauthorized receipt now being given the worker for his poll-tax payment, promises to return the amount in the event that the final decision of the tax question by the courts is in favor of the company, it will be practically impossible to make the return of this money to workers whose location many years hence will not be known and to the estates of those who have met with fatal accidents. It is obvious that the company's treasury will benefit to a large extent by failure to make such returns, as the workers, the majority of whom are ex-service men, are from practically every State in the Union.

This unauthorized collection of the poll tax by the Six Companies (Inc.) is indefensible and the most high-handed method of "sweating" the wages of labor that has come to my attention. To think that such a practice should be permitted on a Federal enterprise of first magnitude is particularly obnoxious to those who believe in and support the American policy of fair play and justice.

This condition is so serious that it demands immediate investigation with a view to bringing about a discontinuance of this unjust practice at the earliest moment. A company which will indulge in such unfair practices without obtaining the authority of the officials of the State charged with the responsibility of collecting poll taxes is indeed subject to question as to all of its policies.

INVESTIGATION DEMANDED

The complaints which have been made of the company's business conduct to which I have referred are more than justified and demand immediate investigation as provided for in Senate Resolution 293, now before the Senate Committee on Irrigation and Reclamation, and which I now submit for the RECORD, as follows:

Senate Resolution 293

Resolved, That the Committee on Irrigation and Reclamation, or any duly authorized subcommittee thereof, is authorized and directed to investigate conditions existing in the Boulder Canyon Project Federal Reservation and the operations of the Six Companies (Inc.) and the officers of the Department of the Interior, with respect to the construction of Hoover Dam, and particularly with a view to ascertaining all facts relating to (1) the store operated by the Six Companies (Inc.), (2) contracts for the housing and feeding of employees of the Federal Government and the Six Companies (Inc.), and (3) the taxation of property and incomes within such reservation. The committee shall report to the Senate as soon as practicable the results of its investigations, together with its recommendations, if any, for necessary remedial legislation.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-second Congress until the final report is submitted, to employ such clerical and other assistants, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, 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. The expenses of the committee, which shall not exceed $5,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

In order to expedite consideration of Senate Resolution 293, I wrote to Senator JOHN THOMAS, chairman of the Committee on Irrigation and Reclamation, on December 30, 1932, and herewith submit for the RECORD this letter, together with Senator THOMAS's reply of January 7, 1933.

DECEMBER 30, 1932.

MY DEAR SENATOR THOMAS: For the purpose of authorizing the Committee on Irrigation and Reclamation or any subcommittee thereof to investigate conditions in the Boulder Canyon Project Federal Reservation on December 7, 1932, I introduced Senate Resolution 293, copy of which I herewith inclose.

Before this resolution can be considered by the Senate it will be necessary for it to be referred also to the Committee to Audit and Control the Contingent Expenses of the Senate, and I therefore will appreciate any action which you may take to expedite a favorable report by your committee.

Very sincerely yours,

TASKER L. ODDIE.

JANUARY 7, 1933.

DEAR SENATOR ODDIE: I have your letter relative to the Boulder Canyon project investigation and wish to advise that some members of the company have asked to be heard before Senate Resolution 293 is finally passed.

As the time is so short now, I am wondering if it is worth while to go ahead and hold hearings in the matter.

Yours very truly,

JNO. THOMAS.

In the letter from Senator THOMAS I want particularly to call attention to the statement "and wish to advise that some members of the company have asked to be heard before Senate Resolution 293 is finally passed." The resolution referred to provides for an investigation of the officers of the Six Companies (Inc.), the private contractor, and officers of the Interior Department with respect to the serious conditions which I have just presented to the Senate. It would be quite contrary to the general policy of the Senate to permit the company whose conduct is subject to question to appear before a committee on a resolution providing for its investigation. If this were the custom and practice of the Senate none of the extremely necessary investigations would have taken place, as the adoption of resolutions providing for these investigations would have been obstructed by the parties to be investigated.

If and when the resolution I have introduced is adopted and the investigation begun the officers of the Six Companies (Inc.) and the officers of the Interior Department will be given full opportunity to come before the investigating committee—in fact, they will be subpœnaed to appear before the committee.

Every Member of the Senate, which, of course, includes the members of the Committee on Irrigation and Reclamation, who has heard my statement of the serious conditions at Hoover Dam would certainly favor, if not demand, that a thorough investigation be made, and would unanimously join in adopting Senate Resolution 293, the resolution which I have introduced providing for the investigation.

The Secretary of the Interior on November 23, 1931, requested the assistance of the Attorney General in the case of the Six Companies (Inc.) against A. J. Stinson, State mine inspector of Nevada. Attorney General Mitchell in his letter to me of January 26, 1933, previously placed in the RECORD, states that in reply he advised the Secretary of the Interior that the United States Attorney would be directed to render all possible assistance to the contractors in this case. The intervention of the Secretary of the Interior was, therefore, accountable for uniting the executive and judicial branches of the Government in support of the efforts of a private corporation in its attempt to undermine and destroy the sovereignty of the State of Nevada and to deprive the county of Clark and the State of tax revenues to which they are justly entitled. This leaves the State of Nevada almost entirely dependent upon the legislative branch of the Government for relief and the Senate will be performing its important fundamental function in the American plan of government in conducting this in-

vestigation and in recommending the necessary remedial action to remove these serious conditions.

Since I have presented to the Senate some of the most important complaints of the conduct of the work at Hoover Dam, hearings before the Committee on Irrigation and Reclamation should be unnecessary, and I request that Senate Resolution 293 be promptly reported by that committee. The amount specified in the resolution of $5,000 is nominal, and I request the Committee to Audit and Control the Contingent Expenses of the Senate to report the resolution promptly so that it may be adopted and the investigation begun without delay. Even though the time to the end of this session is short, ample opportunity is left for the investigation.

I am also hopeful that when the committee of investigation studies the facts herein set forth and obtains additional information in the course of the investigation, that a favorable report will be made by the Committee on Irrigation and Reclamation on S. 2885, which I introduced for the purpose of conserving the taxing power of the county of Clark and the State of Nevada. With such a favorable report it would still be possible to have this bill enacted in this session.

AMENDMENT TO THE CONSTITUTION—REPEAL OF PROHIBITION

The Senate resumed the consideration of Mr. BLAINE's motion that the Senate proceed to consider the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Cutting	Kendrick	Sheppard
Austin	Dale	Keyes	Shipstead
Bailey	Davis	King	Shortridge
Bankhead	Dickinson	La Follette	Smith
Barbour	Dill	Lewis	Smoot
Barkley	Fess	Logan	Steiwer
Bingham	Fletcher	McGill	Stephens
Black	Frazier	McKellar	Swanson
Blaine	George	McNary	Thomas, Idaho
Borah	Glass	Moses	Thomas, Okla.
Bratton	Glenn	Neely	Townsend
Brookhart	Goldsborough	Norbeck	Trammell
Bulkley	Grammer	Norris	Tydings
Bulow	Hale	Nye	Vandenberg
Byrnes	Harrison	Oddie	Wagner
Capper	Hastings	Patterson	Walcott
Caraway	Hatfield	Pittman	Walsh, Mass.
Clark	Hayden	Reed	Walsh, Mont.
Connally	Hebert	Robinson, Ark.	Watson
Coolidge	Hull	Robinson, Ind.	White
Costigan	Johnson	Russell	
Couzens	Kean	Schuyler	

Mr. WALSH of Montana. I desire to announce that my colleague [Mr. WHEELER] is absent on account of illness.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present. The question is upon agreeing to the motion of the Senator from Wisconsin.

Mr. ASHURST. Let us have the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). I transfer my pair with the junior Senator from Nebraska [Mr. HOWELL] to the senior Senator from Louisiana [Mr. BROUSSARD] and vote "yea."

Mr. FESS (when his name was called). On this question I have a pair with the senior Senator from New York [Mr. COPELAND]. I understand if he were present he would vote "yea." If I were permitted to vote, I would vote "nay."

Mr. NORRIS (when Mr. HOWELL's name was called). I desire to announce that my colleague the junior Senator from Nebraska [Mr. HOWELL] is absent on account of official business of the Senate. He has a general pair with the senior Senator from New Mexico [Mr. BRATTON]. If present, my colleague [Mr. HOWELL] would vote "nay."

Mr. STEPHENS (when his name was called). On this vote I am paired with the junior Senator from Wyoming [Mr. CAREY]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay."

Mr. THOMAS of Idaho (when his name was called). I have a general pair with the junior Senator from Montana [Mr. WHEELER]. Therefore I withhold my vote. If permitted to vote, I would vote "nay."

Mr. THOMAS of Oklahoma (when his name was called). On this question I have a pair with the senior Senator from Rhode Island [Mr. METCALF]. I understand if he were present he would vote "yea." If permitted to vote, I would vote "nay."

The roll call was concluded.

Mr. TYDINGS. I wish to announce that the junior Senator from North Carolina [Mr. REYNOLDS] has a pair with the junior Senator from Oklahoma [Mr. GORE]. If the junior Senator from North Carolina [Mr. REYNOLDS] were present, he would vote "yea."

Mr. FRAZIER. On this question I have a pair with the junior Senator from Louisiana [Mr. LONG]. If permitted to vote, I would vote "nay." I understand the Senator from Louisiana [Mr. LONG] would vote "yea."

Mr. WAGNER. I wish to announce that my colleague the senior Senator from New York [Mr. COPELAND] is absent because of the death of his father. If present, he would vote "yea."

Mr. BINGHAM. I desire to announce that the senior Senator from Rhode Island [Mr. METCALF] is necessarily absent. If present, he would vote "yea."

Mr. FESS. I was requested to announce that the Senator from Wyoming [Mr. CAREY] is absent on business of the Senate.

Mr. SHEPPARD. The Senators from Louisiana [Mr. BROUSSARD and Mr. LONG] are necessarily absent. If present, they would each vote "yea."

The result was announced—yeas 58, nays 23, as follows:

YEAS—58

Ashurst	Davis	Kendrick	Shipstead
Austin	Dill	Keyes	Shortridge
Bailey	Fletcher	King	Steiwer
Bankhead	Glass	La Follette	Swanson
Barbour	Glenn	Lewis	Trammell
Barkley	Goldsborough	Logan	Tydings
Bingham	Grammer	McKellar	Vandenberg
Black	Hale	McNary	Wagner
Blaine	Harrison	Moses	Walcott
Bratton	Hastings	Oddie	Walsh, Mass.
Bulkley	Hayden	Patterson	Walsh, Mont.
Byrnes	Hebert	Pittman	Watson
Clark	Hull	Reed	White
Coolidge	Johnson	Robinson, Ark.	
Couzens	Kean	Schuyler	

NAYS—23

Borah	Costigan	McGill	Russell
Brookhart	Cutting	Neely	Sheppard
Bulow	Dale	Norbeck	Smith
Capper	Dickinson	Norris	Smoot
Caraway	George	Nye	Townsend
Connally	Hatfield	Robinson, Ind.	

NOT VOTING—15

Broussard	Frazier	Metcalf	Thomas, Idaho
Carey	Gore	Reynolds	Thomas, Okla.
Copeland	Howell	Schall	Wheeler
Fess	Long	Stephens	

So Mr. BLAINE's motion was agreed to.

The VICE PRESIDENT. The Chair lays before the Senate the joint resolution.

The Senate proceeded to consider the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the resolving clause and to insert:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

"SEC. 3. Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

"SEC. 4. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

Mr. ROBINSON of Arkansas. Mr. President, I desire to submit the following amendment and ask that it be read, printed, and lie on the table.

The VICE PRESIDENT. It will be read for the information of the Senate.

The CHIEF CLERK. On page 3, line 2, strike out the words "the legislatures of" and insert the words "conventions in," and on page 3, line 16, strike out the words "the legislatures of" and insert the words "conventions in."

The VICE PRESIDENT. The amendment will be printed and lie on the table.

Mr. ROBINSON of Arkansas. Mr. President, I submit another amendment and ask that it be read, printed, and lie on the table.

The VICE PRESIDENT. The amendment will be read for the information of the Senate.

The CHIEF CLERK. The Senator from Arkansas offers the following amendment:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States.

"ARTICLE —

"SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission thereof to the States by the Congress."

The VICE PRESIDENT. The amendment will be printed and lie on the table.

Mr. BLAINE obtained the floor.

Mr. FESS. Mr. President, I submit an amendment and ask that it may be read and printed.

The VICE PRESIDENT. Does the Senator from Wisconsin yield for that purpose?

Mr. BLAINE. I yield.

The VICE PRESIDENT. Let the amendment be read.

The CHIEF CLERK. On page 3, at the end of line 13, it is proposed to strike out the period and insert a comma and the following words:

And/or to employ such other methods deemed necessary to carry into effect the purposes of this resolution.

The VICE PRESIDENT. The amendment will be printed, and lie on the table.

Mr. BLAINE. Mr. President, I desire to address myself to the resolution in explanation of the action of the committee, but before doing so I first want to submit a request for unanimous consent. I ask unanimous consent that no Senator shall speak upon Senate Joint Resolution 211, proposing an amendment to the Constitution of the United States or any amendment thereto or any motion relating to any amendment or to the joint resolution itself more than once or for longer than 20 minutes on the joint resolution or longer than 15 minutes on any amendment or any motion in relation thereto.

The VICE PRESIDENT. Is there objection to the request of the Senator from Wisconsin?

Mr. BROOKHART. Mr. President, I have had to sit in this Chamber and listen to arguments of the Senator from Wisconsin on this question for hours, and I shall have to object to his request.

The VICE PRESIDENT. Objection is made.

Mr. BLAINE. Mr. President, as I advised the Senator from Iowa yesterday, I have scarcely consumed any time debating the prohibition question while I have been a Member of the Senate. I want to say, Mr. President, that it is my desire to continue the consideration of this joint resolution until we can obtain a vote on it sometime to-day. I am reliably informed, or at least I have been informed by a great many Members of the Senate, that we can obtain a vote upon the resolution within a reasonable time, and so I hope the Senate will retain a quorum and remain in session until we can obtain a final vote on the resolution and dispose of it.

Mr. President, speaking in behalf of the report of the committee I shall be very brief. The committee in submitting this joint resolution——

Mr. BINGHAM. Mr. President, before the Senator begins will he not——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. BLAINE. I yield.

Mr. BINGHAM. Will not the Senator suggest a unanimous-consent agreement limiting the debate on the part of each Senator to one hour? Perhaps such a request might be granted.

Mr. BLAINE. I think perhaps, Mr. President, that that would be too long a time.

Mr. President, the question before us has had the consideration of the two major political parties. At their national conventions last year they resolved very emphatically upon the question of amending the eighteenth amendment. The Republican Party, referring to an amendment to the eighteenth amendment, resolved:

Such an amendment should be promptly submitted to the States by Congress, to be acted upon by State conventions called for that sole purpose.

The Republican platform asked for a prompt submission of the question.

The Democratic Party in convention assembled resolved—I will read just a brief portion of their platform declaration:

We advocate the repeal of the eighteenth amendment. To effect such repeal we demand that the Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal.

I read these two party declarations for the purpose of calling the attention of the Senate to the fact that both the great political parties resolved for immediate action upon this question. Moreover, Mr. President, I think——

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Arkansas?

Mr. BLAINE. I yield.

Mr. ROBINSON of Arkansas. The Senator has just read the two clauses in the political platforms of the Democratic and the Republican Parties which call for the submission of a proposed constitutional amendment for ratification by conventions. I wish to point out to him now that an amendment is pending designed to make the joint resolution conform to the platforms of both parties, and I should like to ask the Senator from Wisconsin, who has worked so long and diligently on the pending joint resolution, why it was that the committee reporting it disregarded the declaration of both political parties in favor of ratification by conventions?

Mr. BLAINE. Mr. President, during the course of my brief remarks I will undertake to set forth the committee's position on that question. I read a portion of the two platforms merely for the purpose of pointing out that both political parties resolved for immediate action upon repeal. That was the only purpose I had.

Each of the two parties took perhaps a different attitude respecting the substance of an amendment providing for the repeal of the eighteenth amendment, but before proceeding to discuss that proposition I come now to answer the question submitted by the Senator from Arkansas.

I think I accurately state the opinion of the committee when I point out that it must be perfectly obvious to those of us at least who have attended national conventions or any political party conventions that resolutions are adopted the purpose of which is to set forth the party's stand upon certain fundamental questions; and the fundamental question involved in this issue is whether or not the eighteenth amendment shall be repealed. The question of the mode

of repeal is not the essence of the question at all; it merely goes to the method by which the Congress may submit the question for ratification; and in the consideration of that proposition the committee felt that consideration was not given by the conventions primarily to the question of the mode of repeal but rather to the substantive elimination of the eighteenth amendment from the Constitution.

Moreover, it must be obvious to everyone that the conventions, either in the committee on resolutions or on the convention floor, gave practically no consideration to the problem of the expenditures involved in case the convention method was chosen as the mode of ratification. I call the attention of the Senate to the fact that we have been struggling along during all the present session and during a great portion of the last session of the Congress endeavoring to save a few dollars here and a few dollars there, a few hundred dollars or a few thousand dollars and as many million dollars as we could save in public expenditures in order to balance the Budget. Now we must face the fact that the convention system is going to be an expensive method for ratification. Take, for instance, in a so-called wet State where it is obvious that the legislature would immediately upon the presentation to it for ratification of the proposed constitutional amendment adopt a resolution to ratify the amendment. There is no necessity, in my opinion, to put those States to the expense of holding a convention.

The holding of a convention means a campaign. It means first, however, that the legislature must provide for holding an election at which delegates would be elected to attend the convention to pass upon the proposed constitutional amendment. That means a preliminary campaign in which both sides, no doubt, would participate, during which campaign enormous sums of money would necessarily be expended because of the particular character of this question and the zeal that is exhibited on the wet side and the dry side alike.

Then would come the holding of an election to select delegates in every precinct of the United States, or in those States that would provide for a convention and would set up the legal machinery for the purpose of holding it. There would be enormous expense in the conduct of that election. I presume for my own State that the expenditure would run into hundreds of thousands of dollars. So as the committee viewed the proposition they thought the States ought not to be compelled to expend those enormous sums of money, when we have a constitutional and an available system for ratification of any proposed constitutional amendment.

Moreover, the committee took the view that a legislature which would authorize the holding of a convention and provide machinery by which the delegates were to be elected and a convention held would in all probability ratify the amendment.

Furthermore, it was the view of the committee that this question has been thoroughly discussed throughout the country. In every hamlet and every city it has been so thoroughly discussed that I doubt if at the election held in 1932 there was a single polling place in the United States where the prohibition question was not injected respecting the election of members to the respective legislatures.

It has been suggested—and the suggestion was discussed by the subcommittee and also by the whole committee—that the Federal Government might pay the cost of holding an election for the purpose of electing delegates to the conventions in the respective States. I think it was the consensus of opinion of the committee that there was no constitutional authority for the Federal Government to set up machinery generally throughout the United States for the conduct of this election. However that may be, it must be obvious to everyone that because of certain factors that enter in, the Congress of the United States in all probability never would set up that machinery, even though the Congress may have the power.

Those are the considerations that were weighed by the committee; and due to those considerations the committee came to the conclusion that ratification by the legislatures would mean saving all of the expenditure and all of the turmoil and all of the disorganization that necessarily would take place in a campaign between the wets and the drys, and struggles to elect delegates to the respective conventions, all of which ought to be avoided in these times, if possible. So, since the legislatures in about 41 or 42 States, as I recall, are in session now, and all of them will be in session until after the 4th of March, it is my opinion that if a joint resolution were passed by this Congress providing for ratification by State legislatures, from the practical standpoint of one who does not believe in the eighteenth amendment, we would be assured of an earlier repeal of the eighteenth amendment.

So much on that proposition, Mr. President. Then we come to the next controversial question.

Section 1 is a straight, outright repeal of the eighteenth amendment. Section 1, if it is incorporated in the joint resolution, submitted by the Congress, and ratified by the necessary States, will entirely eliminate the eighteenth amendment from the Constitution. I need not discuss that section.

Then we have suggested and offered section 2, which provides as follows:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited.

Mr. President, in agreeing to that section I think the committee was unanimous that the language used would effectuate the purpose that is obviously designed by section 2. It is claimed, however, and I think with some degree of assurance for the future, that Congress now has the power to pass laws to protect the so-called dry States in regulation of interstate commerce over intoxicating liquors. A great many laws on that subject have been enacted.

I will not review those laws in detail. First, however, we had what is known as the Wilson law. That law was treated in the case of Rhodes *v.* Iowa (170 U. S. 412); but the Supreme Court in that case gave rather a restricted construction of the language used by the Congress, and held that under the Wilson Act the interstate character attached to the liquor until it had actually been delivered to the consignee. In other words, the court held that the interstate-commerce clause—that is, the power of Congress to regulate interstate commerce—attached to that commodity not only before it entered the State but after it entered the State so long as it was in process of transportation either by rail, by express, or by any other method, until the commodity or the intoxicating liquor was in fact delivered to the consignee.

Then came an amendment to the Wilson Act, known as the Webb-Kenyon Act. The Webb-Kenyon Act was interpreted by the Supreme Court of the United States in the case of Clark Distilling Co. *v.* Western Maryland Railway Co. (242 U. S. 311). The language of the Webb-Kenyon Act was designed to give the State in effect power of regulation over intoxicating liquor from the time it actually entered the confines of the State; and the Supreme Court held that it was following the doctrine laid down in the case of Rhodes against Iowa, and necessarily must follow that doctrine in order to sustain the decision it was making in the case of Clark against Maryland Railway Co.

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

Mr. BLAINE. I see my able friend from New York shaking his head. I yield to him.

Mr. WAGNER. I do not want to enter into a controversy, because it really is not very important, but I do not think the Senator meant to say that by this act Congress delegated to the States the power to regulate interstate commerce; Congress itself regulated interstate commerce to the point of removing all immunities of liquor in interstate commerce.

Mr. BLAINE. I thank the Senator. I think he has given the correct statement of the doctrine. My understanding of the question was identically the same—that it was the action

of the Congress of the United States in regulating intoxicating liquor that protected the dry State within the terms of the law passed by the Congress.

Then, following the Webb-Kenyon Act, was the Reed "bone dry" amendment. That went somewhat further. I need not discuss that. That amendment was sustained by the Supreme Court in the case of United States *v.* Hill (248 U. S. 420).

In the case of Clark against Maryland Railway Co. there was a divided opinion. There has been a divided opinion in respect to the earlier cases, and that division of opinion seems to have come down to a very late day. So, to assure the so-called dry States against the importation of intoxicating liquor into those States, it is proposed to write permanently into the Constitution a prohibition along that line.

Mr. President, the pending proposal will give the States that guarantee. When our Government was organized and the Constitution of the United States adopted, the States surrendered control over and regulation of interstate commerce. This proposal is restoring to the States, in effect, the right to regulate commerce respecting a single commodity—namely, intoxicating liquor. In other words, the State is not surrendering any power that it possesses, but rather, by reason of this provision, in effect acquires powers that it has not at this time.

The committee felt that since the Congress had acted and had definitely legislated upon this question, while that legislation had been sustained by the Supreme Court, yet it was sustained by a divided court, and that we could well afford to guarantee to the so-called dry States the protection designed by section 2.

I am opposed to the dry States interfering with the so-called wet States in connection with this question of intoxicating liquors; and so, by the same token, I am willing to grant to the dry States full measure of protection, and thus prohibit the wet States from interfering in their internal affairs respecting the control of intoxicating liquors.

Now, Mr. President, I think I have set forth briefly, perhaps inadequately, the view of the committee as expressed in this joint resolution.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. BLAINE. I yield.

Mr. WALSH of Massachusetts. I notice that the Senator keeps using the phrase, "The view of the committee." Has the Senator a different personal view from the committee?

Mr. BLAINE. I have not on that proposition.

Mr. WALSH of Massachusetts. Has the Senator on any of the propositions connected with this matter?

Mr. BLAINE. I have. I will come to the next proposition presently.

Mr. WALSH of Massachusetts. Therefore the Senator, at some stage in his speech, is going to distinguish between the committee's views and his own views?

Mr. BLAINE. I am.

Mr. President, when I say that I am expressing the views of the committee I am doing so because I have been directed by the committee to report this joint resolution, and I am endeavoring to express what I believe to be the view of the committee as a constituent part of the Senate of the United States and not expressing the individual views of the members of the committee. I want that distinctly understood. I do not speak for the individual members of the committee.

Mr. WALSH of Massachusetts. Were there record votes in the committee on these various propositions?

Mr. BLAINE. There were.

Mr. WALSH of Massachusetts. Will the Senator put them in the RECORD at this juncture?

Mr. BLAINE. I think I have them. Let me finish the third proposition and then I will put them in the RECORD, if I have the record.

Mr. WALSH of Massachusetts. All votes of the committee on the various aspects of this proposal.

Mr. BLAINE. I shall.

Now coming to the third section, it reads as follows:

> Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

The committee, in considering that proposition, in my opinion, indulges in language that will effectuate the purpose designed. The purpose designed by that section is to give Congress the power to prevent the restoration of the saloon.

As I say, I am not expressing the viewpoint of individual Members of the Senate, nor am I expressing my viewpoint. I am endeavoring to express the viewpoint of the committee as a committee, rather than individual viewpoints. I apologize for repeating that statement; but I want to call attention to the party platforms on this proposition, which the committee had before it, and which the committee had a right to consider, and did consider.

The Republican platform on this particular question resolved as follows—I will read only the paragraph that has particular reference to the saloon:

> We, therefore, believe that the people should have an opportunity to pass upon a proposed amendment the provision of which, while retaining in the Federal Government power to preserve the gains already made in dealing with the evils inherent in the liquor traffic, shall allow States to deal with the problem as their citizens may determine, but subject always to the power of the Federal Government to protect those States where prohibition may exist and safeguard our citizens everywhere from the return of the saloon and attendant abuses.

Mr. President, that section, of course, carries into effect the purposes or designs of the resolution.

Now, turning to the Democratic platform upon the same subject, reading only that which has reference to this question, I find the following:

> We urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

The difference between the Republican platform and the Democratic platform on this question of preventing the return of the saloon is merely a question of procedure. They both propose to prevent the return of the saloon. There is no question about that. The Republican platform proposes to do it by leaving in Congress some power, if you please, because after the eighteenth amendment is repealed the Congress will have no police powers respecting this question of intoxicating liquors. So, as I view it, the Republican platform proposes to repose the power not only in the States, but also in the Congress, to prevent the return of the saloon, and to regulate the alleged abuses and evils in reference thereto.

Mr. WAGNER. Mr. President, will the Senator yield to me?

Mr. BLAINE. I yield.

Mr. WAGNER. I could not quite comprehend what the Senator meant when he said "some power." When we analyze the provision in detail is it not a fact that we find that it confers all power? In the analysis I hope to make as to the legal phase of the matter, I think I can show that it confers almost all the power that now exists as a result of the adoption of the eighteenth amendment. There is very little difference.

Mr. BLAINE. I submit that the Senator's statement is correct in so far as that power relates to intoxicating liquors to be drunk on the premises where sold. That obviously means the saloon, does it not? That is, it means a public drinking place; it may be a saloon, it may be a hotel, it may be a restaurant. I am not undertaking to analyze the minds of those who adopted the platform. I am just trying to make this point, that the Republican platform proposes to prevent the return of the saloon by retaining in Congress power which it now has under the eighteenth amendment on that question, and that single question.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield to me?

Mr. BLAINE. I yield.

Mr. WALSH of Massachusetts. Is not the difference between the two party platforms in substance this, That the Democratic Party platform declares for the States and the States alone determining the manner in which intoxicating liquors shall be manufactured, sold, and distributed, while the Republican Party platform holds to control over the method of sale in part by the Federal Government and in part by the State governments?

Mr. BLAINE. Mr. President, I hope the Senator will not understand that I am endeavoring to defend either platform on that question.

Mr. WALSH of Massachusetts. Is not that the distinction?

Mr. BLAINE. I am simply endeavoring to present that which the committee took under consideration when it drafted the particular language I am discussing. I am, in a way, a referee in this matter. I did not support either the Republican platform or the Democratic platform. I have no partisan viewpoint in the matter.

Mr. WALSH of Massachusetts. This clause which the committee reports supports the Republican platform and not the Democratic platform.

Mr. BLAINE. I have not yet approached an analysis of the Democratic platform on this subject, as the committee views it, and given my opinion of it, though I want to do that. I think it is only fair I should do that before I conclude.

Mr. WALSH of Massachusetts. The Senator does not want to make his concluding statement at this time?

Mr. BLAINE. Oh, no.

Mr. WAGNER and Mr. FESS addressed the Chair.

The VICE PRESIDENT. Does the Senator from Wisconsin yield; and if so, to whom?

Mr. BLAINE. I do not want to get into a controversy as between Democrats and Republicans. I am quite indifferent as to what their attitude was on the question.

Mr. WAGNER. Mr. President, will the Senator yield to me?

Mr. BLAINE. I yield.

Mr. WAGNER. I have not thus far, nor will I, discuss with the Senator any political considerations. I am concerned with the legal effect of the proposal the Senator is now discussing.

I understood the Senator to say specifically that section 3 limits the power of Congress to deal with a specific subject. But I am sure the Senator has followed the history of the legislation in relation to the eighteenth amendment and knows that Congress, according to the interpretation or sanction by the United States Supreme Court is permitted to deal with subjects which do not relate exactly to the powers or go beyond the powers specifically delegated by the Constitution, and permit the adoption of measures which have for their purpose hedging in the particular powers, so that they may be more effectively enforced.

If I may state a specific case——

Mr. BLAINE. Mr. President, I think the Senator is perfectly clear on that. I agree with him as to his abstract proposition.

Mr. WAGNER. I wanted to give a concrete example, to show just what I mean. It will take only a second.

The eighteenth amendment authorized Congress to deal only with intoxicants to be used for beverage purposes, and everyone assumed, of course, that that was a limitation upon Congress to deal only with intoxicants to be used for beverage purposes. But in order to carry out the power thus delegated, Congress dealt with liquor used for medical purposes, and in one instance absolutely prohibited the use of malt liquor for medical purposes, although specifically no such power was given Congress; and that was upheld by the courts.

Mr. BLAINE. Of course, there is no disagreement between the Senator and myself upon the application of that general principle. Our difference is this: Under the eighteenth amendment Congress was given power over the subject of intoxicating liquors, without any restrictions whatever. The grant embraced all power, power over transportation, importation, manufacture, and sale of intoxicating liquors for beverage purposes. There is no doubt about that. Under section 3 the subject is intoxicating liquors to be drunk on the premises where sold. I doubt very much whether the general principle set down by the very able lawyer, counselor, and Senator from New York is applicable to the broad extent to which he would undertake to apply that principle.

However that may be, it was the view of the committee that section 3 related only to the question of the saloon, that is, the public drinking place; that the Federal Government would have concurrent power with the States to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold. That was the conclusion and opinion of the committee.

Mr. FESS. Mr. President, will the Senator yield to me?

Mr. BLAINE. I yield.

Mr. FESS. Section 3 is the one section about which I am concerned, and it is to that section that I offered an amendment a while ago.

Conceding that there is a desire to avoid a return of the old drinking place—and everybody seems to want to do that—I thought we could not go further than to legislate so as to forbid the product being drunk where it is sold, on the premises. As far as it goes, that seems to me one of the effective methods proposed to prevent the return of the saloon, if that can be prevented. But, in the discussion of this matter for months before the conventions met, a lot of methods were proposed. One was that the object might be accomplished by a State or National dispensary system, if that were thought wise. Others thought that it might be arrived at by a system of licensing. Others thought it might be accomplished through the exercise of the taxing power.

I wondered whether the Senator would not agree to broaden the authority, so that Congress would not be limited to just this one thing, forbidding the drinking of the product where it is bought, but might be willing to extend broad power so that whatever might be necessary to prevent the return of the saloon Congress would have the authority to enact, if we thought it was wise. The amendment I offered was designed to broaden this authority.

Mr. BLAINE. Mr. President, as the Senator in charge of the joint resolution, I have no authority to modify the amendment proposed by the committee, and I want to state that the committee, in drafting the resolution, undertook to employ language sufficiently broad to do that which was obviously designed to be done, and the committee thought that section 3 would give Congress power over intoxicating liquors drunk on the premises where sold, and that it would give such implied powers as are necessary in such premises.

For instance, under this power, Congress could pass a law divorcing the sale of hard liquor, spirituous liquor, from the sale of malt and vinous liquors, or divorcing the sale of hard liquors from the sale of milder liquors; that is, providing that hard liquor should not be drunk on the premises where sold, and permitting wine and beer to be drunk on the premises where sold, for instance, at a hotel, at a restaurant, in a public garden, or, for that matter, in any public place. The Congress would have the power to pass legislation respecting that question generally.

Mr. FESS. Mr. President, if the Senator will permit, I voted against taking up the joint resolution, and the Senator might infer that I am opposed to anything being done. I voted against it simply because I thought this was not the time to act. But if we could get the broad power in section 3 to do what the Senator admits we all want to do, I should vote for the resolution when we come to a vote. But if all power is denied, of course I shall vote against it.

Mr. SHORTRIDGE. Mr. President, will the Senator yield to me?

Mr. BLAINE. I yield.

Mr. SHORTRIDGE. In aid of the thought expressed by the Senator from Wisconsin, and answering some suggestion

of the Senator from Ohio, I would like to have appear in the RECORD the last subdivision, subdivision 18, of section 8, of Article I of the Constitution of the United States, which reads:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof.

So that, without going into detail, here is a conferring power to make any law necessary to carry into effect the foregoing or any other power.

Mr. BLAINE. Mr. President, I was proceeding along the line of endeavoring to point out the attitude of the committee. I have endeavored to point out how the committee was attempting to meet the situation as the political parties had resolved.

Under section 3, in the absence of any Federal law respecting liquor that is to be drunk on the premises where sold, every State, of course, could legislate upon that question, and that legislation would be supreme. If the Congress of the United States legislated upon that question, yet the States would have, of course, power to legislate along the same lines.

Mr. SHORTRIDGE. Which would be supreme?

Mr. BLAINE. I do not want to get into a discussion of that matter. That is a field in which we can get into all kinds of misunderstanding.

Mr. WAGNER. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Wisconsin yield to the Senator from New York?

Mr. BLAINE. I yield.

Mr. WAGNER. Suppose there is a conflict between the Federal law and the State law, what happens, in the opinion of the Senator?

Mr. BLAINE. In my opinion, the Federal law would prevail, of course, as it does under the eighteenth amendment.

Mr. WAGNER. So the word "concurrent" is meaningless?

Mr. BLAINE. That was to assure that there would be power in the States and power in the Congress. That is the only purpose in using the words "concurrent power." I doubt if it is necessary language, but the committee thought it was. I appreciate the Senator's technical position on the matter. I think it has all been discussed and very well threshed out by the Supreme Court in the national prohibition cases and in other cases interpreting the eighteenth amendment. It is unnecessary, of course, to discuss that question in connection with this matter. It is admitted that the Congress would have the power to legislate, to prohibit, to regulate liquor to be drunk on the premises where sold. The States would have that power, of course.

Mr. President, the Democratic Party resolved to carry out the intent of section 3 of the committee report. It said:

> We urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

There is no difference as between the two political platforms as to the purpose they designed to accomplish. The only difference is in the method of accomplishment. The Republican platform demands reservation in the Congress, the Democratic platform proposing to do the same thing solely through State legislatures.

I submit, without intending to be controversial, that I know of no way by which the Congress of the United States could carry out the design of either party except by giving the Congress some power in the premises. Certainly the Congress will have no power over the legislatures in the absence of this authority to tell the legislatures of the several States that they must enact laws to outlaw the saloon. Therefore it was the view of the committee that section 3 would carry out the designed purpose of the declarations of the two political parties.

Mr. President, I do not agree with either of the parties upon that proposition.

Mr. WAGNER. Mr. President, will the Senator yield again?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from New York?

Mr. BLAINE. I yield.

Mr. WAGNER. I was unable to comprehend the Senator's statement when he said the Democratic platform could not be carried out without lodging some power in Congress to deal with the liquor question.

Mr. BLAINE. I said it could not be carried out through the Congress unless some power was lodged in the Congress. The Democratic proposal could be carried out only by the respective States.

Mr. WAGNER. That is true.

Mr. BLAINE. Mr. President, my own personal viewpoint upon section 3 is that it is contrary to section 2 of the resolution. I am now endeavoring to give my personal views. The purpose of section 2 is to restore to the States by constitutional amendment absolute control in effect over interstate commerce affecting intoxicating liquors which enter the confines of the States. The State under section 2 may enact certain laws on intoxicating liquors, and section 2 at once gives such laws effect. Thus the States are granted larger power in effect and are given greater protection, while under section 3 the proposal is to take away from the States the powers that the States would have in the absence of the eighteenth amendment. My view therefore is that section 3 is inconsistent with section 2, and the two sections are incompatible, and that section 3 ought to be taken out of the resolution. I made myself clear before the subcommittee and before the full committee, and made a reservation to that effect.

I have now concluded my remarks so far as they relate to the purpose and design of the committee. I have undertaken to set forth my viewpoint respecting section 3 of the resolution. Now, I want to conclude respecting my own personal viewpoint and attitude upon the whole question.

The eighteenth amendment is an inflexible police regulation which might be appropriate in a municipal ordinance in those sections of our country where the people desire a bone-dry local régime. The eighteenth amendment does not give to the Congress a general grant of power to regulate. It is strictly a prohibition, a mandate. It is specifically a prohibitive provision of the Constitution.

Surely, Mr. President, it was never designed that our Constitution would be a compilation of local ordinances regulating the lives, the customs, and the habits of our people. But that is exactly the character of the eighteenth amendment. It has no place in the Constitution. Its inflexibility was demonstrated in the Congress when it was undertaken to pass a revenue act providing for a tax upon beer. The inflexibility of the eighteenth amendment was emphasized before the subcommittee and the full Committee on the Judiciary of the Senate when it had under consideration that revenue proposal, which had been passed by the House, respecting the question of its constitutionality. I submit, Mr. President, that it took some time, some study, some consideration before the committee could recommend amendments to the proposal in order to bring it within the eighteenth amendment and yet to accomplish the purpose designed by the House of Representatives and as has been resolved upon time and time again by political parties in many of the States of our Union. Therefore, as I said, in my opinion the eighteenth amendment has no place in the Constitution.

Paraphrasing President Lincoln, on saving the Union, it is my paramount object in this struggle to take prohibition out of the Constitution.

If I could take prohibition out of the Constitution by providing for ratification by conventions, I would do it. If I could take prohibition out of the Constitution by providing for ratification by the legislatures, I would do it.

If I could take prohibition out of the Constitution by restricting the power of the Congress respecting the regulation of commerce as to intoxicating liquors, I would do it.

If I could take prohibition out of the Constitution by giving to the Congress the power to regulate or prohibit the use of intoxicating liquors to be drunk on the premises where sold, I would do it.

If I could take prohibition out of the Constitution by taking out or leaving in sections 2 and 3 of the proposed amendment, or either of them, I would do it.

What I do about taking prohibition out of the Constitution, I do because I believe it will help to ratify a repeal of the eighteenth amendment.

What I forbear, I forbear because I do not believe it will help to take prohibition out of the Constitution.

I shall do less whenever I shall believe that doing less will help to take prohibition out of the Constitution, and I shall do more whenever I shall believe that doing more will help to take prohibition out of the Constitution.

Therefore I shall vote for an absolute repeal of the eighteenth amendment and the ratification thereof by conventions, if that is the mode of ratification proposed by Congress by which prohibition may be removed from the Constitution. I shall vote for a repeal of the eighteenth amendment, with ratification by the legislatures, if that is the mode of ratification proposed by Congress by which prohibition may be removed from the Constitution.

I shall vote for a repeal of the eighteenth amendment if sections 2 and 3 remain in the proposed amendment. I shall vote for the repeal of the eighteenth amendment if sections 2 and 3, or either of them, are stricken out of the proposed amendment.

My object is to take the eighteenth amendment out of the Constitution.

Mr. BRATTON. Mr. President, some days ago I offered an amendment to the pending joint resolution and had it printed. I now send it forward and offer it to the committee text of the joint resolution.

The PRESIDING OFFICER. Does the Senator from New Mexico desire the amendment read?

Mr. BRATTON. I do.

The PRESIDING OFFICER. The clerk will read the amendment.

The CHIEF CLERK. On page 3, line 2, it is proposed to strike out the words "the legislatures of" and to insert in lieu thereof the words "conventions in."

The PRESIDING OFFICER. The Chair will state that a similar amendment has already been offered by the Senator from Arkansas.

Mr. WALSH of Massachusetts. Mr. President, I desire to ask the Senator from New Mexico a question. Is the amendment now proposed by the Senator from New Mexico similar to the amendment offered by the Senator from Arkansas?

Mr. BRATTON. I did not know that the Senator from Arkansas had proposed such an amendment but this is the amendment which I offered in the committee.

Mr. WALSH of Massachusetts. At the outset of the discussion this morning the Senator from Arkansas, the leader on this side, offered two amendments which I assume he offered representing the views of the minority, and one of them was similar to the amendment just proposed by the Senator from New Mexico.

The PRESIDING OFFICER. The Chair is informed that the amendments proposed by the Senator from Arkansas were not formally offered, but that they were merely presented and read for the information of the Senate.

Mr. WAGNER obtained the floor.

Mr. GLASS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Virginia?

Mr. WAGNER. I yield.

Mr. GLASS. I merely want to announce that unless I shall change my purpose, it is my intention to offer Senate Joint Resolution 202 as a substitute for the joint resolution submitted by the Senator from Wisconsin, however it may be amended.

Mr. WAGNER. Mr. President, I am thoroughly in accord with the arguments presented by the Senator from Wisconsin [Mr. BLAINE], but I hope, perhaps, to amplify them somewhat, particularly as to an analysis of the legal aspect of section 3 of the joint resolution.

Mr. President, the pending joint resolution tendered to the Senate and the country is called a proposal to repeal the eighteenth amendment, and because artfully it employs the word "repeal" in its first section, it pretends to fulfill the wish overwhelmingly expressed by the American people at the last election. But I submit that the pending resolution does not in fact repeal the inherently false philosophy of the eighteenth amendment. It does not correct the central error of national prohibition. It does not restore to the States responsibility for their local liquor problems. It does not withdraw the Federal Government from the field of local police regulation into which it has trespassed. It utterly flouts the will of the majority as registered in the election last November.

Year after year an unremitting battle had been waged, an unending campaign of debate, before we reached the present pass where the Congress of the United States is ready to resubmit the policy of the eighteenth amendment for the approval or rejection of the American people. And now, that we have reached the final phase of the struggle, so far as I am concerned, at least, I do not propose to accept a sham and hollow victory.

I have many times declared and I now repeat that the question which has troubled the American people since the eighteenth amendment was added to the Constitution was not at all concerned with liquor. It was a question of government; how to restore the constitutional balance of power and authority in our Federal system which had been upset by national prohibition. That equilibrium which prior to the eighteenth amendment was one of the functional marvels of our system of government is not restored by the pending resolution. On the contrary, it perpetuates the lack of balance, the absence of symmetry, the confusion and overlapping of Federal and local authority.

Before analyzing the provisions of Senate Joint Resolution 211 it is pertinent to examine the platform declarations of the two principal parties with reference to the eighteenth amendment. In order to refresh the recollections of the Members of the Senate I shall read two brief extracts from the Republican and Democratic platforms of 1932.

The Republican platform declared:

> We do not favor a submission limited to the issue of retention or repeal * * *. We, therefore, believe that the people should have an opportunity to pass upon a proposed amendment, the provision of which, while retaining in the Federal Government power to preserve the gains already made in dealing with the evils inherent in the liquor traffic, shall allow the States to deal with the problem as their citizens may determine, but subject always to the power of the Federal Government to protect those States where prohibition may exist and safeguard our citizens everywhere from the return of the saloon and attendant abuses.
>
> Such an amendment should promptly be submitted to the States by Congress, to be acted upon by State conventions called for that sole purpose in accordance with the provisions of Article V of the Constitution and adequately safeguarded so as to be truly representative.

I shall not dwell on the Republican platform declaration, because, while it is difficult to argue that the pending joint resolution does not conform to the Republican platform, the people overwhelmingly rejected that platform as a sham, a pretense, and a straddle.

The Democratic platform declared:

> We advocate the repeal of the eighteenth amendment. To effect such repeal we demand that Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal. We urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision by the States.

I know quite well that in and out of this Chamber are those who regard platform planks with cynical indifference, who discount their effect on public opinion; but may I recall to you, Mr. President, that these were no ordinary, run-of-the-mill party planks. The attention of the entire country was riveted upon each of the conventions, eagerly awaiting the formulation of its prohibition views. These declarations

were thoroughly debated and the proceedings were broadcast through press and radio to the entire country. Throughout the campaign they were minutely discussed by spokesmen of both parties. If there be any who contend that the American people did not thoroughly comprehend the issue so sharply joined on prohibition, they must ascribe to the voters a degree of incompetence which would make of democracy a farce and a byword. I do not hold that view. I credit the American people with full and ripe understanding of the prohibition issue. And upon that issue they expressed their preference by giving an overwhelming victory to the Democratic candidates.

If there be any meaning in representative government—if the people of the United States are in truth sovereign—then the will unequivocally expressed by them ought to prevail in this body.

In substance and form, Senate Joint Resolution 211 is a repudiation of the public demand. Instead of ratification by conventions as promised in both platforms, it proposes ratification by legislatures. This, however, is relatively a minor objection when compared to the nullification of the entire program of repeal which is attempted in section 3 of the resolution. Section 3 provides:

> Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

Should this language ever be incorporated into the Constitution, we would inaugurate another experiment, "noble in purpose" but mischievous and destructive in effect. I say "noble in motive," because the apparent intention of the advocates of this resolution is to outlaw the saloon. I am in sympathy with that purpose; but the suggested method of accomplishing it—the proposal that it shall continue to be the responsibility of the Federal Government—is all wrong. It flies in the face of reason and experience. If the Federal Government failed to discharge that responsibility under the all-embracing prohibition of the eighteenth amendment, what folly is it which prompts anyone to believe that it can discharge it under the milder language of the pending resolution?

Mr. WALSH of Montana. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Montana?

Mr. WAGNER. I yield.

Mr. WALSH of Montana. Does the Senator feel he speaks the sentiments of the people of New York when he says he is in sympathy with the proposal to outlaw the saloon?

Mr. WAGNER. Yes.

Mr. WALSH of Montana. And does the Senator think that the State of New York will adopt appropriate legislation to that end?

Mr. WAGNER. I do.

Mr. President, in addition to these general objections to the resolution, I desire to set forth seven specific objections.

First. The inevitable consequence of section 3 will be that the liquor question will continue to bedevil national politics. It is unquestionably true that part of the force back of the movement for repeal was the desire to bring to an end the intrusion of that problem into the national sphere, which had served in many ways to confuse public consideration of truly national problems. Section 3 of the pending resolution perpetuates that condition.

Second. The power of Congress "to regulate or prohibit," which is conferred by section 3, is described as "concurrent power." In other words, we shall have two authorities, Federal and State, simultaneously possessed of jurisdiction over the same area of regulation. The zone which each is to occupy is undefined. It is the kind of provision which unavoidably leads to confusion, conflict, and litigation. Ultimately, of course, the history of "concurrent power" under this new amendment would not differ from that of "concurrent" power under the eighteenth amendment. Instead of "concurrent," the power of Congress will be dominant and absolute over the States. No other result is possible. Two sovereignties in conflict can not both prevail. In this instance, as in every other instance, it will be the national and not the State authority which will be supreme; and that is the ironical result of an amendment designed to restore to the States control of their liquor problem.

Mr. WALSH of Montana. Mr. President, will the Senator suffer a further interruption?

The PRESIDING OFFICER. Does the Senator from New York yield further to the Senator from Montana?

Mr. WAGNER. Yes.

Mr. WALSH of Montana. The Senator is entirely familiar with legislation by the States and legislation by municipalities covering the same subject, is he not?

Mr. WAGNER. Covering the same subject?

Mr. WALSH of Montana. Yes.

Mr. WAGNER. I am not familiar with legislation of that type. The State delegates power to a municipality. A municipality, of course, is only a corporation of the State, and thus acts and governs by delegated power.

Mr. WALSH of Montana. Let me point the Senator to such an instance. In the State of Montana there is a State law prohibiting the keeping within the limits of any city of more than 100 pounds of explosives at any one time. Some cities think that is not sufficient protection, and they make it a crime to keep more than 50 pounds at any one time within the city limits. Which would the Senator say was predominant?

Mr. WAGNER. The State would be predominant because the authority of the municipality can not exceed that of the State. In prescribing the amount of explosives that might be kept at any one time, such power could not be exercised by the municipality unless it had been delegated by the State.

Mr. WALSH of Montana. Neither the one nor the other in that case is dominant. If a man has 75 pounds of explosives within the city limits he can not be prosecuted under the State law but he can be prosecuted under the city law. So the two, having concurrent jurisdiction, stand together without any interference at all.

Mr. WAGNER. There is not any concurrent jurisdiction, with all due respect to the Senator, in the case of the States and the Federal Government. The Senator is so great a student of law that I realize I am saying something very trite when I say that the Federal Government acts only upon delegated power, and has only such powers as the States have delegated to it. In the case of the municipality and the State, the municipality acts only upon delegated power; and any power it exercises, such as the Senator has described, is exercised only by the will of the State. Therefore, there can not be the question of concurrent authority.

Mr. WALSH of Montana. I simply challenge the statement that the Federal power must be dominant when there is a concurrent power.

Mr. WAGNER. Except that in the case of the eighteenth amendment the United States Supreme Court says it is dominant. That is the difficulty in the situation. That is what I have stated, and it has been so held by the United States Supreme Court.

Mr. WALSH of Montana. The Supreme Court of the United States has never outlawed a State statute because it was contrary to a Federal statute on prohibition.

Mr. WAGNER. It never has had, in the case of the eighteenth amendment, the question of a State statute where States were given concurrent power.

Mr. WALSH of Montana. The Federal Government could make a certain act or series of acts criminal, and the States could make them likewise criminal, or could make lesser or greater acts criminal.

Mr. WAGNER. That is not acting differently; but if the State acted in conflict with the Federal Government in the matter of legislation in the regulation of intoxicants, as the Supreme Court has stated in the liquor cases, the Federal Government would be dominant.

Mr. WALSH of Montana. I rise merely to say that there are a great many instances in which the Federal Government and the State government exercise concurrent power.

Mr. WAGNER. They remain concurrent so long as they are not in conflict.

Third. The real cause of the failure of the eighteenth amendment was that it attempted to impose a single standard of conduct upon all the people of the United States without regard to local sentiment and local habits. Section 3 of the pending joint resolution proposes to condemn the new amendment to a similar fate of failure and futility. No law can live unless it finds lodgment in the public conscience and is nourished by public support.

True enough, section 3 does not in itself impose a national standard, but it invites Congress to impose it; and to that extent it is an invitation to further nullification, a perpetuation of the conflict between governmental authority and public opinion.

Fourth. In order to exercise the power "to regulate or prohibit" which is conferred by section 3, Congress will have to provide an enforcement agency. But that is not all. Any realistic calculation will reveal that the agency will be larger, more expensive, and more subject to abuse and corruption than the Bureau of Prohibition. The kind of regulation which may be fairly anticipated under section 3 can not possibly be administered except by a genuine police force of thousands upon thousands of officers. The Federal Government has never been equipped with such a force, and it can not be so equipped unless we alter the nature of our Government beyond recognition.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Idaho?

Mr. WAGNER. I do.

Mr. BORAH. I take it from the Senator's argument that he is of the opinion that it is impossible, as a practical proposition, for the National Government to control the manner of consumption or the place of drinking of this beverage, once it has been legalized or permitted to be sold.

Mr. WAGNER. I do not quite understand the Senator's question.

Mr. BORAH. I say, I take it that the Senator's position is that as a practical proposition the National Government can not enforce any constitutional amendment which undertakes to control the place of consumption or the place where the beverage shall be drunk, once you have repealed the eighteenth amendment.

Mr. WAGNER. That is exactly what my point is.

Mr. BORAH. Yes; that is what I took it to be.

Mr. WAGNER. And it has not done it so far. It has attempted it under the eighteenth amendment.

Mr. BORAH. In other words, it being contended that it is impossible now to prevent the sale and the consumption of liquor at a particular place, certainly we can not do it after we have legalized its sale.

I am not disposed to differ from the Senator about that proposition; but what I should like to ask the Senator is whether there is any practical way, in his opinion, by which the National Government can prevent the return of the saloon once we have legalized the sale of intoxicating liquors and turned it back to the States.

Mr. WAGNER. Have confidence in your State governments. We have confidence in our State governments to deal with other and much more important subjects. We have confidence in our State governments to administer justice, to provide for the national defense, to provide for the education of their children, to protect their people against crime and criminals. All of these matters are now dealt with effectively and successfully by the State governments; and I say this matter of controlling the habits of people and regulating them is a local affair and in the province of State government, and the only way to deal with it successfully is to leave it to the conscience of the people of each State instead of attempting to set up a uniform standard for all of the people of the United States. Then, in my judgment, we will get laws which are in harmony with the conscience of the people, and which will on that account be supported and enforced.

Mr. BORAH. Perhaps I did not put my question as I should have. In other words, the Senator thinks the question of determining whether or not the saloon shall return must be left entirely to the States?

Mr. WAGNER. It must be left to the States; and I believe the overwhelming sentiment in this country is so definite in every State that we will have no return of the saloon. I can say that for the State of New York; but let the people of each State deal with that subject, and they will do it more effectively and more successfully than the Federal Government has done, because it is not the business of the Federal Government.

Mr. BORAH. I understood the Senator to say that he could speak definitely for the State of New York on that subject. The Senator feels assured that the State of New York will not permit the return of the saloon?

Mr. WAGNER. I believe that to be the fact, because I believe that is the overwhelming sentiment of the people of the State; and that is what controls the enactment and enforcement of law—the enlightened sentiment of the community.

Mr. BORAH. We are advised by the newspapers that there are some 5,000 saloons now in New York City. [Laughter in the galleries.]

Mr. WAGNER. Yes; as a result of the effort of the Federal Government to regulate local habits. Leave it to the people of the State of New York, and that matter will be dealt with. The condition described by the Senator from Idaho obtains not only in New York; it is true of the entire country, showing what an utter failure the Federal Government has made in its effort to regulate by a single standard throughout the country the habits of the people.

Mr. BORAH. But the State of New York repealed all its laws which aided the National Government in preventing the return of the saloon.

Mr. WAGNER. Yes; it did.

Mr. GLASS. Mr. President, may I ask if the laws of the State of New York were enforced before the repeal of the Gage-Mullan Act? Did you not have saloons in New York in spite of the laws of New York?

Mr. WAGNER. Because the standard of regulation for the liquor traffic was fixed by the Federal Government, and it was not in conformity with the opinion of the people of the State of New York, national prohibition did not enjoy the support of the opinion of the people of the State of New York, and I think since the last election we can say that it is regarded by the people of the United States as an utter failure.

Mr. GLASS. I am not talking about that. What I am asking the Senator is, Whether the State of New York did not have a statute undertaking to regulate the liquor traffic, and whether it did regulate the liquor traffic?

Mr. WAGNER. Is the Senator speaking of the time before prohibition?

Mr. GLASS. You had the Gage-Mullan Act.

Mr. WAGNER. We had no power to regulate the liquor traffic. All that we could do was to pass laws supplementing the efforts of the Federal prohibition agents to enforce the law.

Mr. GLASS. What I am asking the Senator is, Were those laws effective?

Mr. WAGNER. I do not think they were.

Mr. GLASS. Then why does the Senator think that a law of the State of New York would be effective hereafter in preventing the return of the saloon?

Mr. WAGNER. Because we in New York were not allowed to deal with and regulate that traffic, we were compelled to take the regulations of the Federal Government with reference to the enforcement of the law. That is the reason.

Mr. GLASS. The proposition here is not to regulate; it is to prohibit the return of the saloon.

Mr. WAGNER. I think I have convinced the Senator that it means more than that.

Mr. GLASS. I do not think it even means that. [Laughter in the galleries.]

The PRESIDING OFFICER. Let there be order in the galleries.

Mr. WAGNER. I want to discuss the legal effects of section 3.

Fifth. Let no one harbor the hope that the power granted in section 3 will remain unexercised; or the misapprehension that its purpose is but to serve as a threat against the State which departs from the course desired by a majority of Congress. We know perfectly well that the grant of the power "to regulate or prohibit" as defined in section 3 will lead inevitably to State reliance upon the Federal Government to enforce the local laws of the dry communities. As under the eighteenth amendment, so under the new proposal, responsibility will be shifted from the States, where it belongs, to the Federal Government; and once again the people of one section will be taxed for the enforcement of a law they do not want in order to relieve the people of another section of the burden of enforcing a local law which they do want.

Sixth. It is no simple matter to "regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold." The history of the liquor problem before prohibition is replete with instances of the ingenuity used to circumvent such regulation. I recall, as an instance, the so-called Raines law hotels. The problem is one which calls for constant vigilance by those familiar with local habits and sentiment. It can be effectively dealt with only by local legislation and local enforcement. To pretend that the National Legislature and a Federal enforcement body can cope with it is to deny the lesson of experience under the eighteenth amendment.

Seventh. And now let us examine the implications of section 3. Let us weigh just how much power we are conferring upon the Federal Government. Let us see whether we are in fact materially changing the now universally rejected system of nation-wide prohibition.

On its face, the power of Congress seems to be rather limited. It is by the language of section 3 restricted to the prohibition or regulation of "the sale of intoxicating liquors to be drunk on the premises where sold." But I submit, Mr. President, that anyone familiar with the history of constitutional interpretation can entertain no doubt that this apparently limited power can be extended to boundaries now undreamed of and unsuspected by those who tender this joint resolution to the Senate. It is possible to cite illustrations of that fact from numerous branches of law. I shall limit myself to the history of the eighteenth amendment itself.

When that amendment was presented to the States for ratification, the prohibition it contained was expressly limited to liquors which were intoxicating and for beverage purposes. It did not contain any additional grant to Congress of power to regulate all liquors, whether intoxicating or not, whether for beverage purposes or otherwise. Like the joint resolution before us, it carried simply a grant of "concurrent power" to enforce the article of amendment.

What has been the development of that language? By virtue of it, Congress has prohibited the manufacture, sale, and transportation of nonintoxicating beverages, and the Supreme Court has sustained its action. (The National Prohibition cases, 253 U. S. 350.)

By virtue of the apparently limited language of the eighteenth amendment, Congress has regulated the local manufacture of liquids not intended for and unfit for beverage purposes. (Selzman *v.* United States, 268 U. S. 466, involving denatured alcohol.)

By virtue of it, Congress has prohibited physicians from prescribing malt liquors for their patients. (Everards' Breweries *v.* Day, 265 U. S. 545.)

By virtue of it, Congress has severely restricted physicians in the prescription of spirits to their patients, and the Supreme Court validated its action. (Lambert *v.* Yellowley, 272 U. S. 581.)

To all intents and purposes, the eighteenth amendment might have contained the additional clause that "Congress shall have power to prohibit or regulate the traffic in all liquors, intoxicating or not, for beverage, industrial, medicinal, or sacramental purposes."

This great expansion of the meaning of the eighteenth amendment was accomplished by use of the theory expressed in the Selzman case that—

> It helps the main purpose of the amendment, * * * to hedge about the making and disposition of the denatured article every reasonable precaution and penalty to prevent the proper industrial use of it from being perverted to drinking it.

In the Lambert case the Supreme Court called attention to what it called the "settled rule," that—

> Where the means adopted by Congress in exerting an express power are calculated to effect its purpose, it is not admissible for the judiciary to inquire into the degree of their necessity.

The test it laid down was whether the proposed extension was "adapted to promote the purposes of the amendment."

I confess, Mr. President, that my imagination is not sufficiently fertile to foresee all of the extensions which will be grafted onto section 3 should it ever be incorporated into the Constitution.

If Congress may regulate the sale of intoxicating liquors where they are to be drunk on premises where sold, then we shall probably see Congress attempt to declare during what hours such premises may be open, where they shall be located, how they shall be operated, the sex and age of the purchasers, the price at which the beverages are to be sold. Should this proposed amendment have the same development as the unfortunate eighteenth, then in aid of its power to regulate the sale of intoxicating beverages, Congress will probably arrogate to itself the power to regulate beverages which are in fact nonintoxicating.

Should Congress choose to prohibit the sales defined in section 3, then presumably it will be proper for Congress to hedge about that prohibition a whole host of prohibitions which would "promote the purposes of the amendment."

It is entirely conceivable that in order to protect such a prohibition the courts might sustain the prohibition or regulation of all sales of beverages whether intended to be drunk on the premises or not. And if sales may be regulated, so may transportation and manufacture. Obviously the whole chain of events from manufacture to consumption is a continuous process. Regulation of the earlier steps can always be justified as adapted to promote the purpose of the ultimate regulation or prohibition. If that is to be the history of the proposed amendment—and there is every reason to expect it—then obviously we have expelled the system of national control through the front door of section 1 and readmitted it forthwith through the back door of section 3.

Such action does not respond to the public demand. It offers no solution to the troublesome problem of national prohibition. That problem can be solved only through outright repeal.

As for the saloon—let us face the fact that it is beyond the realm of proper Federal action. The duty of preventing its restoration rests upon the State. In my judgment, the overwhelming sentiment of the people of the United States will insist upon the discharge of that duty. Consequently, I am fully satisfied that if we permit our Government to function as it was intended to function, through the States, we shall find that the people of each of the 48 States will adopt those methods which will, in accordance with local needs and conditions, most effectively bring the liquor traffic under control and actually promote temperance.

That was the policy pledged by the Democratic platform when it declared:

> We urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision by the States.

No other course is open to us. No one single national standard can prevail. That is the principal lesson of our experience with the eighteenth amendment. Federal guaranties are futile. At the bedrock of this entire question lies this immovable truth: That there is nothing the Constitution can say, nothing the Federal Government can do, which will successfully impose a rule of conduct upon a community except by the will of the people of that community.

The problem confronting us, Mr. President, is to choose between two alternative courses. Either the control of the local liquor traffic is to remain in the Federal Government or is to be restored to the States.

Under the régime of national prohibition our people have seen the growth of intemperance, the spread of hypocrisy, and loss of respect for law and authority—social changes which could not be observed with indifference by those who had a care for the welfare of our country.

We saw the delicate balance between State and Federal authority rudely disturbed and have experienced the pernicious effect of that disturbance upon every branch of our Government. We have watched the development of a country-wide national bureaucracy, everywhere exposed to the corrupting influences of contact with an illicit enterprise engaged in minting a fortune out of violation of law. In the face of staggering national deficits we were helpless to exact a tax from a traffic which prospered outside the pale of law. In the presence of a mountain tide of unemployment we restrained hundreds of thousands of bread-winners from their only opportunity to earn a livelihood.

Out of these social, governmental, and fiscal causes grew the demand for repeal. And only by the forthright submission of the question of repeal or retention can the issue be settled. It can not be disposed of by an empty formula which pretends to repeal but actually perpetuates the unbearable conditions which have brought this question to the forefront of political discussion.

I am aware that the opinion is held in some quarters that the American people will not ratify an amendment providing for straightforward repeal. That decision lies with the American people. No one can speak more eloquently for them than the people themselves. And unless they have changed their minds since last November they have spoken out clearly in opposition to equivocation and sham and in favor of the thoroughgoing abandonment of the policy of national prohibition.

Our constitutional function is not to ratify, but to submit. In discharging our function let us courageously frame a resolution which will offer to the American people an honest and genuine choice between the eighteenth amendment and its repeal.

Mr. BRATTON. Mr. President, at the outset of the address delivered by the Senator from New York I offered a formal amendment, to provide that the proposed amendment shall be submitted to conventions in States instead of the legislatures of the States. The senior Senator from Massachusetts [Mr. WALSH] called attention to the fact that earlier in the day and obviously during my absence from the Chamber the senior Senator from Arkansas [Mr. ROBINSON], the leader of the minority, had expressed his intention of offering a similar amendment. I have examined the amendment to which the Senator from Arkansas referred. It is intended to accomplish the identical purpose I have in mind, and in view of the Senator's announced purpose to offer that amendment, I withdraw the amendment which I tendered and which is now the pending question.

Mr. ROBINSON of Arkansas. Mr. President, I should be entirely content to have the vote either on my own amendment or on that of the Senator from New Mexico.

I now offer the amendment, on page 3, line 2, to strike out the words "the legislatures of" and to insert in lieu thereof the words "conventions in," and on the same page, line 16, to strike out the words "the legislatures of" and to insert in lieu thereof the words "conventions in," so as to make the joint resolution read:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by conventions in three-fourths of the several States:

"ARTICLE —

"SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

"SEC. 3. Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

"SEC. 4. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

Mr. President, I presented the amendment in written form at the beginning of the debate this morning, but I offer it now verbally and ask for a vote on it.

Mr. WALSH of Montana. Mr. President, before the vote is taken on the amendment I feel compelled to say an additional word in explanation of the view taken by the subcommittee to which this matter was referred and by the Committee on the Judiciary, to whom they reported.

Theoretically, ratification of amendments to the Constitution by conventions rather than by legislatures is strictly logical. It is, of course, desirable, if convenient and possible, to get an expression upon an amendment to the Constitution by a body which has no other consideration to divert attention from the real question at issue. However, for practical reasons the convention system has never been adopted in our hundred and forty-odd years of existence as a Nation, and, I take it, because there are very substantial practical objections to that method of procedure.

It has been urged that it is within the power of the Congress, and that Congress should provide for calling these conventions in the various States, but I have been unable to learn of any Member of the Senate who takes the view that Congress has any such power. I am convinced that it is contrary to the most fundamental principles upon which our dual system of government is founded. As has been stated heretofore on the floor, if Congress did have the power, I undertake to say that at the present time, in the present depressed state of business throughout the country and with the necessity of exercising economy in every particular in which it can be observed, the Congress would not make provision, with all the attendant expense, for holding conventions in the 48 States of the Union for the purpose of getting an expression of the opinion of the people upon this particular subject.

Mr. President, I have made no estimate as to what the costs of such special elections would be, but, of course, they would be very considerable. That goes to the question of the power, but, of course, if Congress has any such power, it has power to go clear down the line and provide the qualifications for delegates to the conventions, the number of delegates, how they shall be elected, what shall be the qualification of electors of delegates to the conventions, and the laws in relation to the registration of voters and the qualification of voters, the supervisors, and all that kind of thing. However, Mr. President, that need not be discussed, because it is not a practical proposition at all. If the conventions are called, they will be called by the legislatures of the various States, as was done in the case of the adoption of the Constitution in the first place. The Constitution was submitted to conventions in the various States, but to conventions called by the legislatures of the various States. So we would have a question of the legislatures of the various States making provision for the calling of the conventions.

The legislatures of many of the States are now in session. In most of the States biennial sessions are called. It seems quite improbable that any amendment proposing to repeal the eighteenth amendment could be submitted in time to secure action by the legislatures now in session. Accordingly, it would be impossible to submit the proposed amendment to any legislatures until after the lapse of two years more.

Let us assume that it would be possible to get the amendment of repeal before the legislatures during the current sessions of the legislatures, and then that the legislatures would proceed to legislate concerning the calling of conventions, providing when and where they should be called, the number of delegates, whether the delegates should be elected by congressional district or by State assembly districts, or by other districts to be created for that express purpose.

Then would be the question of making an appropriation for the calling of a special election and making an appropriation for that purpose.

In some of the States in which the sentiment for repeal is overwhelming, as in the State of New York and the State of New Jersey, I dare say the legislatures might in their zeal in this matter provide for calling a special election some time within the next 2 or 3 or 4 or 6 months from now. But it is to be borne in mind that in order to be effective the amendment must be ratified by conventions in 36 of the States. I undertake to say that at least half of those States will not call a special election for the purpose of electing delegates to a State convention. They will let it go over until the next general election and then delegates will be elected without any special additional cost for the election. That seems to me the altogether probable result.

If the matter were submitted to the legislatures now and they could act upon it, we would get a determination of the matter quite promptly. If we submit it to conventions it is impossible to get a determination until after a lapse of two years before the conventions. But it is impossible to get the resolution of repeal before the legislatures of the States now in session. They will have adjourned before we can get it before them. They will not reassemble unless specially called by a special call of the executives until two years hence, and then they will vote on the election of convention delegates, and I am perfectly confident they will provide that they shall be elected at the next general election. So there is no possibility of getting this matter before a convention in the various States, I undertake to say in one-half of the States, before four years from the present time and then, if it is at a special election, at very great expense to the people of the United States.

So the subcommittee to which this question was referred, consisting of the Senator from Idaho [Mr. BORAH], the Senator from Wisconsin [Mr. BLAINE], the Senator from Indiana [Mr. ROBINSON], the Senator from Washington [Mr. DILL], and myself all agreed, I believe, that it was unwise to submit the matter to conventions of the various States. The Senator from Wisconsin [Mr. BLAINE], who was chairman of the subcommittee, reserved his objections to the third paragraph of the resolution in relation to saloons, but all five members, upon careful consideration of the subject, in the interest both of expedition and of economy, deemed it wise to have ratification by the legislatures instead of by conventions in the various States.

The matter then went before the Judiciary Committee and, with a predilection upon the part of practically every member of the committee in favor of ratification by conventions rather than by legislatures, it went through the Committee on the Judiciary with a feeble protest from 1 or 2 of the 17 members of the committee.

Mr. BRATTON. O Mr. President!

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from New Mexico?

Mr. WALSH of Montana. Certainly.

Mr. BRATTON. I think the Senator will recall that the vote was 8 to 6 on that question.

Mr. WALSH of Montana. I asked the secretary of the committee to give me the figures, and I have forgotten just what they were. However, the vote was decidedly against the system of ratification by conventions.

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

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Ohio?

Mr. WALSH of Montana. I yield.

Mr. FESS. It appears that the prevailing opinion that led the party to adopt the convention plan was that if we provided the convention plan there would be only one question that would be before the convention after the delegates were elected instead of the many questions which would of course be pending before the legislature. I think what the Senator has said is tremendously important, but I am of the opinion that that is why the convention plan was designed.

Mr. WALSH of Montana. I quite agree with the Senator. No doubt that is correct. Theoretically that is a sound contention, but I submit there are practical objections to proceeding in that way, while in this particular case I am entirely satisfied that the sentiment of the various States will be accurately reflected in the action taken by the legislatures of the States. I can not doubt that the Legislature of the State of New York will vote for repeal; I can not doubt that the Legislature of the State of New Jersey will vote for repeal, and so on down the line.

I have no particular concern in the matter. It is a matter of no consequence to me how the Senate shall decide about the matter, whether legislatures or conventions, but upon careful reflection and with a decided predilection, among other reasons, because so declared in the Democratic platform, my predilection was in favor of action by convention. But it seems to me a perfectly useless expenditure of money and in the second place it necessarily defers consideration for a period of at least two years.

So I submit, Mr. President, that those who are eager for a repeal of the eighteenth amendment ought to give serious consideration to the matter and determine whether or not in their opinion, inasmuch as they seek to accomplish what they desire, the matter ought not to be submitted to the legislatures rather than the conventions.

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

Mr. WALSH of Montana. I yield.

Mr. WAGNER. I do not think the Senator meant that it is absolutely necessary to defer action for a period of two years.

Mr. WALSH of Montana. Absolutely, unless special elections are called.

Mr. WAGNER. A special session of the legislature may be called to deal with the matter.

Mr. WALSH of Montana. Oh, yes. No doubt a special session of the legislature might be called and a special election could be called for the election of delegates. There is no doubt about that; but who thinks that 36 States of the Union are going to the expense of calling special sessions of the legislature to act upon this question, and then follow it up with special elections to elect delegates to State conventions? They may want to do that in New York, but we will have something of a time, let me say to those who are eager to see the amendment adopted, in getting 36 States to ratify in that way. It seems to me it is idle to expect that we are going to get special sessions of the legislatures and then special elections to elect delegates.

Mr. LEWIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Illinois?

Mr. WALSH of Montana. I yield.

Mr. LEWIS. I desire the opinion of our able colleague now speaking. Does the Senator from Montana insist or presume that before we can adopt the convention method or any convention method legally, the respective States would first be required to have an enactment by their legislatures prescribing what constituted a delegate, what would be the requirements or qualifications of a delegate, what geography he represented, and lay the foundation first in that way before the convention is actually called?

Mr. WALSH of Montana. The Senator has accurately stated my position. I know of no other way of getting a convention except by legislative enactment by the legislature of the State.

Mr. BARKLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Kentucky?

Mr. WALSH of Montana. I yield.

Mr. BARKLEY. The question that is now being discussed by the Senator troubles me from the standpoint of the Constitution and the legal machinery, in spite of my unequivocal pledge both in the primary and in the general election to vote to submit the resolution to conventions, by which I feel, of course, bound unless an insuperable and impassable difficulty should arise.

Of course, it was contemplated by the framers of the Constitution that Congress might at some time refer an amendment to conventions; otherwise they would not have mentioned conventions as one of the methods of ratification. Suppose that we submitted it to conventions without any legislation on the part of Congress undertaking to supervise the holding of the conventions or the selection of delegates, and upon that subject I do not ask the Senator to express an opinion now. I think there is a wide difference of view as to whether Congress has the power to do that.

Mr. WALSH of Montana. The Senator from Montana has already expressed his views.

Mr. BARKLEY. I realize the Senator has, and I do not want to enter that field just now; but, assuming that we refer this matter to conventions without any effort on the part of Congress to regulate the conventions or fix the qualifications of delegates or voters, and the legislatures of the various States or any number of States refuse to take any action establishing the conventions, then what could we do about it?

Mr. WALSH of Montana. We could do nothing.

Mr. BARKLEY. Would we have authority subsequently, in the light of the refusal of a number of States to provide for conventions, to enact a law of Congress forcing those States to hold conventions or providing qualifications for the delegates or voters, geographical locations which they shall represent in the conventions, and so forth?

Mr. WALSH of Montana. I am without any doubt of the conviction that Congress would have no such power.

Mr. BARKLEY. If it has power now to initiate the conventions and provide for them through the resolution of submission or subsequent statute, it would have the power later, would it not, to enact legislation dealing with the situation that might arise?

Mr. WALSH of Montana. I do not think so. If a State legislature refuses to enact the necessary legislation to call the convention, that amounts to a rejection of the amendment by that legislature.

Mr. BARKLEY. Of course, there is nothing in the Constitution that says whether the States shall regulate and control and supervise the conventions, or whether the Congress itself might have the right to do so.

Mr. WALSH of Montana. Quite so.

Mr. BARKLEY. It is a matter of sincere and profound legal difference of opinion among lawyers as to whether Congress has the power or not. But I am troubled by the difficulty which may arise in the event that, say, 13 States should refuse to call conventions, refuse to allow this matter to be passed on in any way except in a negative way by inaction, which I think would be unjustified. I think, regardless of the view of the legislature on the question of repeal, if this is submitted to conventions, morally they owe it to the people of their State to provide a convention and allow them to pass on the matter.

Mr. WALSH of Montana. It is a matter addressed to the legislatures of the various States. If the legislature of a State refuses or neglects to enact the necessary legislation for calling the convention, that is tantamount to a rejection of the amendment by that particular State.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. DICKINSON in the chair). Does the Senator from Montana yield to the Senator from Arkansas?

Mr. WALSH of Montana. I am glad to yield.

Mr. ROBINSON of Arkansas. There is no power in the Federal Government to compel the legislature itself to ratify or reject an amendment to the Constitution. The same difficulty that the Senator from Montana has pointed out with respect to conventions applies to the legislatures themselves. If the legislatures do not wish to take up the resolution of ratification, there is no power to compel them to do so. If they do not wish to ratify it, there is no power to compel them to do so. The function of ratification, while a Federal function in the sense that it is created by the Constitution, implies State action. If the legislature is in session now, it can call a convention before it adjourns. If it is not in session now, it can call a convention in 30 days after it meets again. The difference in time in action on the resolution of ratification need not be more than 30 days. So that, as I see it, the primary objection raised by the Senator from Montana to carrying out the platforms of the two parties, platforms which declare that it is material as to how the resolution shall be ratified, is, in my humble judgment, not based on sound reason.

Mr. BORAH rose.

Mr. WALSH of Montana. I yield to the Senator from Idaho.

Mr. BORAH. Mr. President, I was simply going to say that I agree with everything the Senator has said with the possible exception that if the legislature itself does not provide a method by which a convention may be called, may not the people of the State themselves organize through committees and call conventions without the aid of the legislature? I do not think we can deprive the people of the right to assemble together in a convention if they desire to act upon such a question as this in that way.

Mr. WALSH of Montana. Mr. President, I would gravely doubt the validity of a ratification that depended upon a convention in any State not called by an act of the legislature thereof.

Mr. BORAH. I am quite free to admit that is the orderly way in which to call a convention; there can be no question about that; but if, as has been suggested, the legislature should refuse to act, could the people be deprived of themselves coming together in a convention?

Mr. WALSH of Montana. It seems to me the way is open to them to elect a legislature that will call a convention instead of themselves holding a mass meeting, as it might be called. They can demand the election of representatives to the legislature who will vote in favor of legislation calling a convention.

Mr. GLASS. Mr. President, the people can not amend their own State constitutions without an act of the legislature calling a constitutional convention.

Mr. WALSH of Montana. Exactly.

Mr. BARKLEY. And no such mass convention or uprising of the people, whether it all converge in one place or whether it be by scattered resolutions, could do anything toward preserving the sanctity of the ballot and fixing the qualifications of voters or any other official act that would be recognized by any governmental function.

Mr. WALSH of Montana. Quite so.

Mr. BORAH. But suppose it should be certified to the Secretary of State of the United States that a convention of the people of the State of Kentucky had been held and that that convention had ratified this proposed amendment, would the Secretary of State of the United States go back of the certificate of secretary of state of the State in which the convention was held for the purpose of determining how the vote was cast or who voted or anything of the kind?

Mr. BARKLEY. If the Senator from Montana will permit me to answer, assuming that the legislature, which is the official legislative spokesman of the people of the State, does not act at all—and I imagine in none of the constitutions of the States is there any provision for such a convention as we contemplate here in this resolution—and would never act, and that a sort of a rump convention would be called by the people to pass on this question, I do not believe the Secretary of State of the United States would be justified in recognizing its action unless it were a convention that Congress itself authorized or prescribed as a precaution in the absence of action by the legislature.

Mr. ASHURST. Mr. President——

Mr. WALSH of Montana. The Senator from Arizona has some very interesting information upon that aspect of the matter, and I yield to him for the present.

Mr. ASHURST. Mr. President, I hold the same view as the Senator from Montana respecting the nonvalidity of a ratification by a convention which is not called by the legislature or authorized by a State, among other reasons, for the following:

On March 2, 1861, the so-called Corwin amendment, prohibiting Congress from interfering with slavery within the States, was submitted by Congress. That amendment was ratified by the Legislatures of the States of Ohio and Maryland. Later there happened to be in session in the State of Illinois a convention that had been called to revise the constitution of that State; that convention discussed the proposed Corwin amendment to the Constitution and ratified the amendment, or at least attemped to do so. The lawyers of that day argued against the validity of such ratification in Illinois, and Illinois was never included by historians or lawyers among the States ratifying, for two reasons, one of which, of course, was all-conclusive, in that the Corwin amendment was not submitted by the Congress to conventions, and, secondly, many constitutional lawyers pointed out that the convention in Illinois was not called by the legislature to ratify or to pass upon an amendment to the Federal Constitution.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Illinois?

Mr. WALSH of Montana. I yield.

Mr. LEWIS. May I ask the able Senator from Arizona has not his memory fallen into error, in view of the pressure of many important matters upon him? Was it not the real issue that the convention then assembled in Illinois had not been directly authorized or in any wise qualified by any previous call to take up that subject matter? Was not that the case?

Mr. ASHURST. I would be offensively presumptuous to place my knowledge of history, especially as to the history of the State of Illinois, against the knowledge of the learned Senator from Illinois; but I am quite certain that the lawyers of that day—respectable in character and numbers—held, even if that proposed constitutional amendment had actually been submitted by Congress to conventions, that the particular convention in Illinois had no authority to ratify an amendment to Federal Constitution as it was not called for that purpose.

Mr. LEWIS. I may remind the able Senator, Mr. President, that was the subject over which a very serious discussion arose between General Shields, a subsequent United States Senator, and Abraham Lincoln, which unhappily led to a duel challenge, because the one or the other, losing his temper, characterized the former as having told a lie and being both a liar and a fool, which is usually regarded among gentlemen as a basis for personal conflict.

May I ask the Senator if I am not right in saying that the particular gathering referred to was already in session, called for some other purpose, and that there were those who then projected before that convention the matter to which he now alludes?

Mr. ASHURST. If the Senator will pardon me, I do not want to get away from the immediate subject.

Mr. LEWIS. Does the Senator recall that that was the reason?

Mr. ASHURST. The incident which led to the suggestion of the duel between Lincoln and Shields, the latter of whom was, by the way, sent to the Senate by three different States——

Mr. LEWIS. Yes; General Shields was a Senator at various times from Illinois, Minnesota, and Missouri.

Mr. ASHURST. That incident of the proposed duel occurred many years anterior to the convention, whilst the convention itself which acted, or assumed to act, on the amendment in Illinois was assembled after Lincoln became President.

Mr. LEWIS. Then, I have in mind the wrong convention and the Senator may be wholly correct. I have no memory of the history of the one after Lincoln was elected President.

Mr. DILL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Washington?

Mr. WALSH of Montana. I yield.

Mr. DILL. I merely wish to make the suggestion that the differences of opinion and the discussion of possibilities here as to what will happen under the convention system in themselves, it seems to me, are more or less reasons why we ought to follow the method we have always followed of submitting proposed constitutional amendments to the legislatures of the States.

Mr. WALSH of Montana. Mr. President, I have heretofore adverted to the consideration of this subject by the subcommittee of the Judiciary Committee to which it was submitted, and I have called attention to the fact that every member of the committee, Democrat and Republican as well, agreed, notwithstanding the provisions of the platforms of both political parties, that it would be eminently unwise, indefensible indeed, to submit this proposed constitutional amendment to conventions rather than to legislatures.

Mr. BARKLEY. Will the Senator yield there?

Mr. WALSH of Montana. If the Senator will allow me to finish this statement, I will yield. The clerk of the committee is not able to furnish me any information concerning the direct vote on the question of the excision of that provision of the resolution reported by the committee; indeed, my recollection about the matter is that there was no real effort in the Judiciary Committee to excise that and to substitute the legislative system. The clerk has no record of any vote on that at all. So we have only the vote in the Judiciary Committee and the general vote to report the resolution, which stood as follows:

For: BLAINE, HASTINGS, HEBERT, AUSTIN, ASHURST, WALSH of Montana, KING, DILL, BRATTON, NEELY, and SCHALL.

Against: ROBINSON of Indiana, SCHUYLER, BLACK, NORRIS, BORAH, and STEPHENS.

I feel perfectly confident of the assertion that no one of those voting against it did so upon the ground that the resolution was to be submitted to legislatures rather than to conventions. I now yield to the Senator from Kentucky.

Mr. BARKLEY. I wanted to ask the Senator whether he had given thought to and intended to discuss the propriety, in the event this resolution shall be submitted to the legislatures rather than to conventions, of providing that it shall not be acted upon by any legislature not elected after its submission to the legislatures, so as to bring about practically the same effect that would be brought about by the convention method, by having a direct vote of the people for or against candidates for the legislature on that question.

Mr. ASHURST. Mr. President, will the Senator from Montana yield to me on that?

Mr. WALSH of Montana. I yield.

Mr. ASHURST. I see no necessity for that, for if a State should reject the proposed amendment it is fully within the power and authority of the legislature of the State subsequently to ratify it.

Mr. BARKLEY. Yes; but if it ratifies, it can not subsequently reject it if its ratification has been proclaimed and is a part of the required number of States in order to make the amendment a part of the Constitution.

Mr. ASHURST. That is quite true.

Mr. WALSH of Montana. Exactly. After it has taken effect the State can not change it; it may change it at any time until the 36 States have ratified; but I seriously question whether we have any power to provide that ratification must be by a legislature thus elected. I am inclined to think that if the proposed amendment were submitted with such a provision as that and were ratified by 36 States, including some not so constituted, it would be ratified, nevertheless.

Mr. BARKLEY. Is there not a difference between that and the provision that sometimes is carried in proposed constitutional amendments that, unless it be ratified by the States within seven years, or any other period of years, it shall be null and void?

Mr. WALSH of Montana. I think so, because the Supreme Court of the United States has said that it is implied by the Constitution that ratification must be within a reasonable time, so that an amendment submitted in 1910 could not now be considered as a live thing to be ratified by States so that they might act on it now. The Supreme Court has held that ratification must be within a reasonable

time after submission; and they have said that, under the conditions under which the amendment then before them was submitted, seven years was a reasonable time, and that Congress might so provide. So that is quite a different question from the power of Congress to provide that an amendment shall be ratified by legislatures the members of which are elected after the proposed amendment is submitted.

Mr. BARKLEY. Of course I would not put my judgment against that of the Senator from Montana, but my inquiry is prompted by the feeling that the Congress which submits an amendment to the Constitution in the form of a resolution has the power to fix the terms upon which it may be considered.

Mr. WALSH of Montana. No. If the Senator will say the "time," I might agree with him, but not the "terms."

Mr. BARKLEY. Well, in the absence of any prohibition or restriction in the Constitution as to the method of submitting resolutions except that they shall be submitted either to the legislatures or to conventions, it can not be successfully contended that Congress has no power at all to fix any of the conditions except as to time.

Mr. WALSH of Montana. I can not think of any other conditions that Congress might provide.

Mr. BARKLEY. I just mentioned one a moment ago, that it shall not be ratified by legislatures which are not chosen subsequent to its submission.

Mr. ASHURST. Mr. President, silence is negation in such matters.

Mr. WALSH of Montana. Let me say in that connection that the Senator will doubtless remember that there was a provision in the constitutions of a number of States which attempted to prohibit the legislatures of those States from ratifying amendments until the legislature was constituted of members who were elected after the question was submitted, and it was held that the people of the State could not thus restrict the power of the legislatures.

Mr. BARKLEY. Yes; but that was an effort on the part of State constitutions to prescribe the conditions under which a constitutional amendment submitted by Congress might be ratified or rejected.

Mr. WALSH of Montana. Exactly.

Mr. BARKLEY. That is quite different, it seems to me, from the original body taking such action.

Mr. WALSH of Montana. It is different. It is a question as to whether the people of the States through their State constitutions can make a prescription such as the Senator suggests. The Supreme Court has stated they can not do that. The Senator asked me, "Can the Congress do it?" And my view about the matter is that the Congress is as much restrained from doing so as are the people of the States.

Mr. BARKLEY. It seems to me, then, according to that theory, if the power of Congress and the power of the State legislatures is coequal, that the State legislatures, by a reverse system of logic, could pass a resolution and say that after 7 years or after 10 years if the legislative shall not act upon a proposed constitutional amendment submitted to it by Congress it shall not have further power to act. I am taking the position that the original body submitting the proposed amendment to the States has more power to fix the conditions of that submission than the legislature to which it is submitted.

Mr. WALSH of Montana. I think that the only principle upon which that could be justified would be the basis upon which the power of Congress in the premises is regarded as plenary when it makes provision for ratification.

Mr. SCHUYLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Colorado?

Mr. WALSH of Montana. I yield.

Mr. SCHUYLER. I wish to state to the Senator that, while his statement of the attitude of the members of the Judiciary Committee is undoubtedly as he recollects it, yet I do think the RECORD ought to show that my vote against the favorable report of the joint resolution was based entirely upon the proposition that it contained a provision for the submission of the proposed constitutional amendment to the legislatures of the States. I took position against the measure and voted against it because I felt that we were bound to submit the proposed amendment, and that as a matter of principle, it should be submitted to conventions in the States.

Mr. WALSH of Montana. I am thankful to the Senator from Colorado for the statement he makes. I quoted the matter, of course, from my recollection of what transpired before the committee; and I have no recollection that the Senator thus expressed himself before the committee.

Mr. SCHUYLER. However that may be, that was my position in the committee and my reason for voting against the submission of a favorable report.

Mr. WALSH of Montana. As I stated heretofore, I have no particular concern about this matter either one way or the other, whether it goes to legislatures or to conventions. What I have said is simply in the interest both of expedition and economy; but I do desire to say that it is my conviction that the provision of the platform in both cases ought to be regarded by this body as simply advisory. I do not think that any of the considerations which are now being addressed to this body were present in the minds of the drafters of the platforms at all. In other words, what they wanted was the submission of a proposition to repeal the eighteenth amendment. In that respect I regard the platform as binding and authoritative. The other I regard as incidental and simply advisory.

That is all I care to say about that.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Illinois?

Mr. WALSH of Montana. I yield to the Senator from Illinois.

Mr. LEWIS. I seek the opinion of the Senator from Montana upon the following premise: Supposing Congress should pass an act directly authorizing a convention and prescribing, as it is an amendment of the Constitution we are repealing, that each State have a convention of, say, 2, 3, or no more than 4 from each county, they to have the qualifications of members of the legislature of the respective States, and they then assemble. Would not the Senator from Montana regard such prescription as sufficient qualification, and the very prescription by Congress as legalizing such as a convention within the meaning of conventions for the amendment of the Constitution?

Mr. WALSH of Montana. Mr. President, if Congress has power to legislate in the matter at all, I have no doubt Congress could provide that there should be conventions held, designating the time and place, and providing that the delegates to the convention should have the qualifications requisite for election to the lower house of the State legislature, or any other provision; and it could also provide that all State laws in relation to elections should be applicable to such an election, without going into the details. I have no doubt that that could be done; but to start with, of course, I dispute the proposition that Congress has any power to legislate in the premises at all, because, as I say, if it can legislate in the way the Senator suggests, it can go clear down the line and provide all the machinery for the election different from that which is prescribed by the States; and I do not think there is a Member here, at least from the South, who wants to accord any such power as that to the Congress of the United States.

Mr. LEWIS. May I ask our friend from Montana, in what way, then, does he assume that the convention system as provided under the Constitution could be carried out?

Mr. WALSH of Montana. Exactly as it was in the first place. The legislatures call the conventions and prescribe all the qualifications, and provide that the general laws in relation to elections shall be applicable to the election of delegates to the conventions, or make any other provision that they see fit to make.

Mr. LEWIS. But the Senator, as I gather from him, assumes that that provision of the Federal law which permits repeal by convention does not authorize the body that gives

permission to call the convention, and authorizes the convention, power to prescribe the method of summoning that convention.

Mr. WALSH of Montana. I think, as I said before, that that is contrary to the most fundamental principles of our dual system of government; namely, that all elections are under the control of the States themselves.

Mr. LEWIS. Then does not the Senator see that the evil might follow that the States then could really call the conventions with a view to subverting and defeating the very object the Federal Government had in prescribing conventions?

Mr. WALSH of Montana. But the only object of the Federal Government is to submit the matter to the various States. That is all the interest the Congress has in the matter.

Mr. LEWIS. I think there is where the able Senator and myself have a very decided and wide difference. Provision is made for submission to the legislature, yes. That is intended for the respective sovereignties; but the reason why conventions are provided for, in addition to the legislatures, is in order to provide a method apart from the legislatures, to get away from the legislatures of the States, and to provide one that is directed by the Federal Government.

Mr. WALSH of Montana. No; I differ very radically from the Senator.

Mr. LEWIS. There is where our difference lies.

Mr. WALSH of Montana. The idea undoubtedly was to submit the matter to a body elected with that one issue before them, and nothing else.

Mr. LEWIS. And yet the Senator feels that in a case like this we could not ourselves, in a mere directory statute, direct those conventions by prescribing that they may be called in each State with qualifications such as their local law prescribes for members of the legislature?

Mr. WALSH of Montana. My conviction on that point is very definite and sound.

Mr. LEWIS. Then I do not know how Congress could provide a convention at all.

Mr. HEBERT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Rhode Island?

Mr. WALSH of Montana. I yield.

Mr. HEBERT. The Senator will recollect that I was a member of the subcommittee which considered this amendment, although that fact escaped his recollection.

Mr. WALSH of Montana. No; I gave the Senator's name when I mentioned the names of members of the committee.

Mr. HEBERT. However, I have no quarrel with that. The Senator will recollect, too, that we discussed at very considerable length the question of reference either to legislatures or to conventions. My own notion was, and still is, that the amendment can be referred to conventions.

The Senator will have in mind that the Supreme Court decided that whenever a legislature passes upon a constitutional amendment it performs a Federal function; and by analogy it seemed to me that if we were going to submit an amendment of this kind to conventions they would be performing a Federal function; and, following that analogy one step further, if they are going to perform a Federal function it is within the power of the Congress to say how that function shall be performed.

There was another point that arose in our discussion of this amendment, to which the Senator alluded at the beginning of his remarks and upon which I now wish to interrogate him.

The Senator referred to the expense that would be involved in holding these conventions. I had hoped that the Senator would have made some estimate or made some inquiry about what would be the cost of providing for holding these conventions in the several States to consider the ratification of this amendment, if he has given it any consideration.

Mr. WALSH of Montana. No; I have not. I am not able to supply any figures at all on the matter, but I should think the aggregate would be very great.

Mr. GLASS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Virginia?

Mr. WALSH of Montana. I yield to the Senator.

Mr. GLASS. Does the Senator from Montana admit that when a State legislature is called upon to act upon a constitutional amendment, it is performing a Federal function?

Mr. WALSH of Montana. So the Supreme Court has held.

Mr. GLASS. Well, it ought to have held differently.

Mr. HEBERT. Yes, Mr. President; if the Senator will yield, the Supreme Court held that in the Ohio case, involving the adoption of the eighteenth amendment.

Mr. GLASS. As it seems to me, it is performing strictly a State function.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Arkansas?

Mr. WALSH of Montana. I do.

Mr. ROBINSON of Arkansas. I made reference to that myself in a brief statement.

Undoubtedly the Supreme Court has held that the ratification of a constitutional amendment is a Federal function; and that is strictly and legally correct, as the Senator from Virginia will see when the fact is pointed out that the power of ratification is derived from the Federal Constitution, and not from any act or constitution of the State.

There is a clear distinction between a Federal function and a State action. The function that the State performs whether it acts by a convention or by the legislature, as the Senator from Montana has indicated, is a Federal function.

Mr. WALSH of Montana. Let me remark in that connection that under the original Constitution Senators were elected by the State legislatures; but that was a Federal function which the State legislature was exercising.

Mr. ROBINSON of Arkansas. Because the Federal Constitution authorized their election in that way.

Mr. WALSH of Montana. For that particular purpose, it was an agency of the Federal Government.

Mr. ROBINSON of Arkansas. But they were ambassadors of the States; and the action was taken by the legislatures, and not by any Federal agency.

Mr. GLASS. In my layman's view, the Federal function ceases when the Congress of the United States submits a proposition to a State legislature; and the State function preceeds when the legislature acts, either for or against the question submitted.

Mr. WALSH of Montana. It seems to me that is largely a matter of terminology.

Mr. ROBINSON of Arkansas. Of course this whole phase of the discussion is academic.

Mr. GLASS. I am engaged in it because I have Mr. Jefferson's authority for saying that you lawyers never can decide a question. [Laughter.]

Mr. ROBINSON of Arkansas. If the Senator will pardon me——

The PRESIDING OFFICER. Does the Senator from Montana further yield to the Senator from Arkansas?

Mr. WALSH of Montana. Yes.

Mr. ROBINSON of Arkansas. The question might become of practical importance; but in passing upon this joint resolution it is not essential to determine the exact limitations on the Federal power and on the power of Congress nor the extent of the authority that is vested in the State by virtue of the constitutional provision which authorizes the ratification of amendments.

It seems to me that it can not be very profitable to carry on an academic discussion about what might happen if something occurs that is not likely to happen. What I should like to do is to hear the Senator from Montana further on the more practical aspects of the matter, if he cares to submit

further observations regarding them. I am very much interested in his views.

Mr. WALSH of Montana. I have said all that I care to say on that feature of the matter before the Senate.

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

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Rhode Island?

Mr. WALSH of Montana. I yield.

Mr. HEBERT. I desire to make this observation, in order to keep the record straight:

When this joint resolution was before the full Judiciary Committee the Senator will recollect that a motion was made to have it referred to conventions and not to legislatures. For the purpose of the RECORD, I desire to state now that I voted to have that change made in the joint resolution. I also voted to eliminate the third paragraph of the joint resolution, which provides for conferring concurrent power upon Congress and the States to regulate the sale of intoxicating liquor to be drunk on the premises where sold.

Mr. ROBINSON of Arkansas. Mr. President, if the Senator from Montana will be kind enough to indulge me to "follow through," so to speak, on a thought that I expressed, but left without clear definition, I said that it was said that this is more or less an academic discussion as to the power of the Federal Government through the Congress to impose the conditions under which the conventions shall be held. What I meant by that is that even if the power be conceded, I do not believe that the Congress should attempt to exercise it to the extent of supervising the elections or defining the qualifications of the delegates. I am sure that if the Congress should decide to do that, and attempt to do it, it would result in the defeat of ratification in a large number of States.

Mr. HEBERT. Mr. President——

The PRESIDING OFFICER (Mr. PATTERSON in the chair). Does the Senator from Montana yield to the Senator from Rhode Island?

Mr. WALSH of Montana. I yield.

Mr. HEBERT. Following the observation the Senator from Arkansas has just made, it has never seemed to me that Congress should limit the power of the States to provide for the election of delegates to a convention any more than Congress attempted to limit the power of the States to choose their representatives in the legislatures for the election of Senators when Senators were elected by the legislatures. In other words, Congress never fixed any limitation upon the method of electing members of State legislatures who were to choose Senators in the Congress of the United States, and I see no reason now why Congress should attempt to fix a limitation upon how delegates to a convention for the ratification of an amendment to the Constitution should be chosen.

Mr. WALSH of Massachusetts. Mr. President, I suppose the Senator will agree that if Congress has the power to fix the time when the conventions in the various States shall assemble, and the number of delegates to the conventions, and other details of that kind, it may likewise prescribe how they shall be elected, by congressional districts, by assembly districts, or otherwise.

Mr. HEBERT. I concede that.

Mr. WALSH of Montana. So the Senator would be obliged to concede, I suppose, that if Congress has the power to do that, it can provide what the qualifications of the delegates shall be.

Mr. HEBERT. I have felt that Congress had that power.

Mr. WALSH of Montana. So the Senator would contend that Congress, although it might not exercise the power, could exercise the right and power, and has the authority, to go to the very limit and regulate the elections, just as they are regulated under our State statutes.

Mr. HEBERT. It seems to me that that is an absolute concomitant of the whole thing.

Mr. WALSH of Montana. That argument was made in an elaborate discussion of the subject by Mr. A. Mitchell Palmer, once an Attorney General of the United States, but I did not know the Senator from Rhode Island subscribed to that view.

Mr. HEBERT. I am inclined to agree with that theory of the method of putting an amendment into the Constitution.

Mr. WALSH of Montana. However, I think perhaps the Senator from Rhode Island would agree that there is no probability that Congress will do any thing of the kind.

Mr. LEWIS. Mr. President, will the Senator yield to me?

Mr. WALSH of Montana. I yield.

Mr. LEWIS. The question I intended to address to my able friend from Montana has been put by the Senator from Rhode Island, the premises assumed by him, conceded by the Senator from Montana, if it can be admitted that the Federal Government has such power. The Senator from Montana takes the position that though it may be that the Federal Government could, on the question of amending the Constitution, prescribe the qualifications of the delegates by prescribing that certain standards which prevail in the States as to the legislatures should be the standards in the selection of the delegates to the conventions, yet the Senator takes the position that while that directory form of statute would be a method of prescribing the qualifications, there is no power on the part of the Federal Government for prescribing a method.

Mr. WALSH of Montana. Exactly; either general in its expression or in detail.

Mr. LEWIS. Then I ask the Senator this question, and, in conclusion—we have carried the inquiry too far afield. If it were not the intention of the provision that allows conventions as distinguished from legislatures to imply power to prescribe a method of calling a convention that could be controlled by Congress, would not the result be, if only the State could prescribe the method of selection and the qualifications of the delegates to the convention, that States which were averse to the Federal Government, or the purpose in view, could prescribe such qualifications and limitations as to the delegates as to practically defeat the very amendment itself?

Mr. WALSH of Montana. So they could, but they could defeat it by refusing to call conventions at all.

Mr. LEWIS. But if Congress calls the conventions, merely directing the States as to the qualifications, would not that be a fulfillment of the statute? Otherwise, why have a convention?

Mr. WALSH of Montana. The States could be entirely ignored in the matter, and Congress could go on and make all needful rules and regulations, if it had any such power. My contention is that it has not.

Mr. LEWIS. The difference lies in the fact that the Senator from Montana does not conceive that the Federal Government has the power to do it, without regard to the qualifications.

Mr. WALSH of Montana. Exactly.

Mr. LEWIS. I thank the Senator.

Mr. NORRIS. Mr. President, will the Senator yield to me?

Mr. WALSH of Montana. I yield.

Mr. NORRIS. In order to carry out what I believe to be the logic of the view taken by the Senator from Rhode Island and others who agree with him, assuming that Congress has the power to fix the qualifications of the members of the State conventions called to pass on an amendment to the Constitution—which I do not agree to for a moment—would it not really follow, even though it did not follow as a legal proposition, that it would be incumbent upon Congress to pay the expenses of the convention out of the Federal Treasury?

Mr. WALSH of Montana. That is a necessary consequence, it seems to me.

Mr. NORRIS. Otherwise it would be within the power of Congress to put a burden upon the State which the State would not want to assume. Of course, it would not have to, and it might be the very cause, if we undertook to fix the qualifications, especially if we made the matter expensive, of many States declining to do anything.

Mr. LEWIS. Mr. President, does not the Senator from Nebraska recognize that the Federal Government does not pay the expenses of the elections of Representatives in Congress from the various districts in the different States?

Mr. NORRIS. Exactly.

Mr. LEWIS. Would not that be an exact parallel?

Mr. NORRIS. If the Senator's theory is correct, and the Federal Government is going to direct the States to pass on this amendment by conventions, if we have the right, and then go further and say how big the conventions shall be, what their membership shall be, and what the pay of the delegates shall be, we could saddle upon the States conventions that would be absolutely obnoxious to many of them in the one item of expense.

Mr. LEWIS. Mr. President, upon the same theory, then, the States could decide and determine not to call any convention at all, even authorized by the legislature, as beyond its ability to stand on account of the expense.

Mr. WALSH of Montana. Mr. President, let me submit to the Senator this question: If Congress had the power to prescribe the method of holding the conventions, and so on, how could Congress impose that burden upon the States? The Constitution provides that each State shall be entitled to representation in proportion to its population, to be determined by Congress, except that each State shall have at least one Representative in the House of Representatives. But we do not compel a State to elect Representatives. If it does not want to pay the expenses of holding an election for Representatives, it will not have any Representatives. So that if we undertook to put the expense of holding the convention upon the States, they might not hold any conventions. Suppose Congress says the States themselves shall hold conventions at certain times and places, and the State of Illinois, for example, goes on and provides all the machinery for that purpose, and we assume that the State of Illinois must pay the expense. How is the United States to collect the expense from the State of Illinois?

Mr. LEWIS. I answer the Senator that I never conceded that Congress would have the mandatory power to say to Illinois, "You shall hold an election," and that an act passed here could give it the power to prescribe that the qualifications for members of the legislature of the State should be the qualifications for members of a convention.

Mr. WALSH of Montana. But we are speaking about the expense. The Senator suggests to the Senator from Nebraska that the expense need not be assumed by Congress in that event; that it may be imposed upon the States.

Mr. LEWIS. Yes.

Mr. WALSH of Montana. How could it be collected?

Mr. LEWIS. It could be imposed upon the State just as is imposed the responsibility of electing Congressmen. That is imposed upon the State, although the Congressman serves as an official of the Federal Government.

Mr. WALSH of Montana. But the Constitution provides that each State shall be entitled to so many Representatives. If it does not hold elections, it does not have the Representatives, that is all. We are speaking about the cost. It is assumed Congress is to call a convention and prescribe the qualifications, and then say, "We are not going to pay the expense of it, however. The States must pay the expense."

Mr. President, that is all I care to say about that. I want now to say a word in respect to the third paragraph of the amendment.

Both the Democratic and the Republican platforms declared that public opinion has outlawed the saloon. The Senator from New York says that the public opinion of the Nation has outlawed the saloon, and he insists that the State of New York will pass the requisite legislation outlawing the saloon.

It occurred to the committee, in preparing this joint resolution, that the third paragraph of the resolution submitted for the consideration of the Senate now would be a declaration by the Congress of the United States that public opinion in the United States is against the saloon, and that that would act as a very powerful suggestion to the States of the Union that they ought to legislate accordingly now that the sale of intoxicating liquors for beverage purposes becomes permissible; that they ought to legislate in relation to the saloon. We simply desired to reserve to the Congress the power, in case the legislatures of the various States do not do so, so Congress might do so. Furthermore, it occurred to all of us that the amendment would help to get ratification by the requisite 36 States.

Of course, the Senator from New York is perfectly confident that the amendment will be ratified by 36 or possibly by 48 States and he may be right about it. My judgment is that it will not be so easy as that. A bare repeal amendment would go along all right enough in some of the States, and in possibly half of the States, but there would be the borderline States in which the sentiment against the saloon is definite and is acute, and inasmuch as it seemed to us likely that the States would legislate in relation to the matter anyway, there would be no occasion for Congress legislating upon the matter, and that this would help in getting the requisite number for ratification. Those were the considerations which influenced the committee in including this provision in the repeal resolution.

Mr. BROOKHART. Mr. President, I would like to ask the Senator, since this section gives concurrent power to Congress to regulate or prohibit the saloon, it gives equal power to the States, does it not?

Mr. WALSH of Montana. I would not put it that way, because the States have that power anyway. We simply say that the Congress shall have concurrent power with the States; that is to say, the States have the power, and we give the power also to the Congress.

Mr. BROOKHART. Then the power under this proposed amendment and under the existing power of the States is both in the States and in the Congress to regulate and prohibit the saloon?

Mr. WALSH of Montana. Yes.

Mr. BROOKHART. Under that power the State of New York could legalize the saloon, and, at the same time, the National Government could prohibit it.

Mr. WALSH of Montana. Exactly.

Mr. BROOKHART. Both acts would be constitutional, and we would have a state of civil war existing between the State and the National Government.

Mr. WALSH of Montana. No; there would be no trouble at all. If a man were indicted in the State of New York for running a saloon, he could refer to the statutes and say, "There is no statute of the State of New York prohibiting that." But over in the Federal jurisdiction they would indict him under the Federal statute, and he would be prosecuted for running the saloon.

Mr. BROOKHART. Suppose the State of New York made the saloon legal by affirmative enactment?

Mr. WALSH of Montana. The State of New York could not make the saloon legal as against a Federal statute. It would be a nullification of a Federal statute.

Mr. BROOKHART. It could not if the Federal Congress had full power, but when it has only concurrent power, it looks different to me.

Mr. WALSH of Montana. There is no trouble about it at all.

Mr. HEBERT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Rhode Island?

Mr. WALSH of Montana. I yield.

Mr. HEBERT. In the correspondence which I have had on this subject, and it has been rather voluminous, there has been much criticism of the particular clause in the proposed amendment.

Mr. WALSH of Montana. From Rhode Island, I suppose?

Mr. HEBERT. From every State, I may say; though I do not remember any particular instance from the Senator's own State. The use of the word "concurrent" appeared to be offensive to many people.

Mr. WALSH of Montana. If the Senator will pardon an interruption, that has always seemed to me a most marvelous thing. When the eighteenth amendment was before the Supreme Court of the United States elaborate arguments were made in relation to the word "concurrent," and it was contended there would be no crime unless both the State legislature and the Federal Congress made the thing criminal. The Supreme Court dismissed it without any trouble at all.

The Senator will perfectly well remember in his study of the Constitution and the textbooks dealing with the subject that the powers of Congress are classified as exclusive or concurrent; that is to say, powers in which Congress alone can legislate and other powers in which Congress can legislate or a State legislature may legislate, either one or the other. When we had the child labor amendment before us an effort was made to put in the same provision, which seemed to some of us most feasible, that Congress or the State legislatures might both legislate upon the subject of child labor. Some of the ladies who were very eager to have the amendment adopted emitted such a howl about the word "concurrent" that we actually took it out.

Mr. HEBERT. I think the Senator will bear me out that we concluded to use the word "concurrent" in this part of the amendment in order that there might be no question about the power of the States to legislate on the subject.

Mr. WALSH of Montana. Exactly.

Mr. HEBERT. We felt that if we did not use that term it might be argued, and perhaps successfully, too, that we intended to leave to the Congress the sole right to regulate the sale of liquor in that way. But in order that there might be no question the word "concurrent" was inserted there.

Mr. WALSH of Montana. The Senator has quite accurately stated the views of the committee.

Mr. HEBERT. Of course, there is the further observation that if a State, as has been said by the Senator from Iowa [Mr. BROOKHART], shall license saloons and the Federal Government shall prohibit the licensing of saloons, we are going to get right back into the same condition under which we are now living so far as the sale of intoxicating liquor is concerned. The Federal Government will take precedence by its enactments over those of a State so far as the offense committed against the Federal laws may be concerned. The Federal Government can prosecute for violation of its laws even though the State would permit that to be done which the Federal law prohibits.

Mr. WALSH of Montana. The Senator will remember that under the old system a State might authorize the sale of liquors, but the Federal Government provided that no one should sell any liquor unless he first paid a tax into the Federal Government. The Federal Government prosecuted the people who were carrying on a business which was perfectly legitimate under the State law.

Mr. HEBERT. May I observe that the Federal Government in those cases did not prosecute for violation of a law against the sale, but because no tax had been paid.

Mr. WALSH of Montana. Selling without payment of a tax.

Mr. HEBERT. But it was not a violation of the law as we are considering it now.

Mr. WALSH of Montana. It seems to me fully so. The Federal Government made it a crime to sell without first having paid an internal-revenue tax, and although a man was carrying on a business strictly in accordance with the State law, still he ran afoul of the Federal statute. We would have the same thing here. If a State legalized or permitted or tolerated the saloon, of course we could not prosecute a man under the State statute, but if we had a Federal statute he would run afoul of the Federal statute.

Mr. HEBERT. I am aware of the argument that was under consideration when we had the matter before the committee, that it would materially assist in the adoption of the amendment in a number of the States where otherwise the amendment would not be apt to be looked upon favorably. I think there is some merit in that argument.

Mr. NORRIS. Mr. President, that is where I wanted to interrupt the Senator a little while ago. Will the Senator from Montana yield to me now?

Mr. WALSH of Montana. Certainly.

Mr. NORRIS. He referred to it before and I was not allowed to correct what I believed to be an implication that might come from the Senator's remarks. But the Senator from Rhode Island [Mr. HEBERT] has referred to it again.

I agree with the Senator from Montana and also with the Senator from Rhode Island. In my judgment this very provision will assist in its adoption in some of the States. But the Senator from Montana made a statement, and I think he was referring to the Judiciary Committee when he said "all of us." That does not apply to me. I do not know to how many others it applies. We will all concede it would help to get the amendment ratified, but it had nothing to do with my vote. I supported the amendment because if we were going to have repeal, I want to keep the saloon out of business and I thought this was the only provision in the amendment that would do it. It has no other right to live, it seems to me, except to keep the saloon from coming back. That was my object and the only object I had in supporting that amendment.

Mr. GLASS. Mr. President, may I ask the Senator from Nebraska how it is going to keep the saloon from coming back if Congress does not avail of its constitutional privilege to keep it out?

Mr. NORRIS. It will not. Just like any other constitutional provision, it will have no effect unless legislation is had on the subject. I agree with the Senator from Montana that the idea was that the States should legislate. They can enact any law they please; but if the States or any of the States provide for the reopening of the saloon, Congress, under this provision, will have the right to step in and enact a law that will prevent the sale of intoxicating liquors to be drunk on the premises where sold.

Mr. GLASS. If Congress does not step in, then the saloon will be back.

Mr. NORRIS. Yes; then the saloon is back.

Mr. GLASS. And it will be back, too.

Mr. NORRIS. There is no question about it.

Mr. WALSH of Montana. Mr. President, I was moved to make these remarks simply because this matter has been discussed with some feeling of resentment toward the committee that is charged with endeavoring to defeat really the repeal of the eighteenth amendment or substitute something for general repeal that would be of no consequence. The conclusions of the committee were not arrived at hurriedly at all. They were the result of very extended discussion and deliberate thought, and I have endeavored to advance the reasons which impelled the committee to reach the conclusions it did.

Mr. GLASS. Mr. President, let me suggest this question to the Senator from Montana. We have talked a great deal about the sanctity of platform declarations. If, under their oaths and their consciences, the Judiciary Committee may utterly ignore one definite textual declaration of party platforms, why may not the individual Senators under their oaths and their conscientious conceptions do the same thing?

Mr. WALSH of Montana. I know of no reason.

Mr. NORRIS. Surely, why not do it?

Mr. GLASS. The contention here is, particularly by the Senator from New York [Mr. WAGNER], that we are under some sort of solemn obligation to observe the text of party platforms.

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

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Nebraska?

Mr. GLASS. Certainly.

Mr. NORRIS. The Senator from Virginia seems to be directing his question at me. I want to say that so far as I am concerned, if anyone who thinks he owes an allegiance to any party platform and that to follow it up would conflict with the duty he owes to his country here as a Senator, he ought to have no hesitancy in casting his party platform aside.

Mr. GLASS. But the Senator has heard over and over again the declaration here that the Congress is under obligations to obey the party platforms. Senators can not obey both of them because they are very different.

Mr. NORRIS. I agree with the Senator. But it does not bother me any. I do not know how it affects other Senators to disregard the platform.

Mr. GLASS. If we can not obey both of them, I want somebody to tell me just how we are going to get a two-thirds vote in the Senate to submit the amendment to the States.

Mr. NORRIS. Perhaps we can not.

Mr. GLASS. Democratic spokesmen talk about a declaration of the Democratic Party and want to constrain us to feel that that declaration is superior to our own oaths. Why may we not impute to Senators on the other side of the Chamber as much regard for the sanctity of platform declarations as is asked on this side of the Chamber?

Mr. NORRIS. The Senator may do so. There is no objection to his doing it.

Mr. GLASS. I do not know whether we can. I want to find out whether we can or not. If we may impute that degree of adherence to the Republican Party platform, and the Democrats have not a two-thirds majority here, how are we going to submit the question at all?

Mr. NORRIS. Maybe we can not submit it.

Mr. GLASS. I do not think we can. [Laughter.]

Mr. ROBINSON of Arkansas. Mr. President, the debate has taken a very wide range. It is not my intention to prolong the discussion. My object is to address the remarks I shall make to the question before the Senate, the amendment which requires a choice on the part of the Senate between conventions and legislatures as the agency for ratification. This difference or issue has been treated by the able Senators who have spoken as a mere trivial matter. It was referred to by the Senator from Wisconsin [Mr. BLAINE] as not substantial. The implication of the remarks of the Senator from Montana [Mr. WALSH] was to the same effect.

Mr. President, when the two great political parties of this Nation, the Democratic and the Republican Parties, laid down their lines of battle, we all recall how much thought and attention was given to the question of prohibition. Effort was made to formulate declarations of such character as would be calculated to invite the support of the electors. It is rather a singular thing, considering the fact that throughout the entire history of the Nation the only method of ratification ever resorted to was through the legislatures and that both political parties, when they were challenging public support, expressly declared for a different method of ratification from that which had theretofore been resorted to.

Some statement has been made that since there are conflicts on the subject in the two platforms, there is no practicability of anybody being loyal to the pledge on which he was elected; that he is under no obligation to keep faith with those whose support he asked on the basis of his platform declaration. I point out to the Senate now that whatever distinction may exist in fact or may exist in the imagination of Senators between the two platforms, there is one point on which there is no difference, and that point has relationship to the amendment now under consideration. When Senators wanted votes they said, "We will give the States a chance to pass upon the question of repeal and in order to make certain that the individuals who perform the act of ratification may be responsive to public sentiment, we will refer the resolution for repeal to conventions in the States chosen solely for the purpose of passing on this issue."

Oh, yes, there were differences of opinion as to the terms upon which repeal should be submitted, but there was no difference of opinion upon the method of ratification; and by the express language contained in both platforms it was declared by the great masses of the people to be of substance and of importance. Senators did not go on the stump and tell the people whose votes they were soliciting that they did not regard that declaration in favor of conventions in the States, chosen solely for the purpose of passing on this question, as of no importance. They appealed for confidence and support on the ground that they were going to make certain that there would be a reflection in the act of ratification or rejection of the actual will of the people who constituted their constituents.

There is a difference in submitting a question to a "lame duck" Congress and submitting an issue to a Congress elected on that issue; and that same difference, Senators, exists between submitting to a legislature composed of Senators in some instances elected six years before the issue arose and in submitting it to those who come fresh from the people, chosen as a result of the expression of public opinion, chosen for the one and only purpose of passing on the issue involved, of determining the act of ratification or rejection; and there is not anyone here who may be permitted to treat that as a matter of trivial importance.

However, the next statement made is that it is expensive to have conventions, and for that reason Senators on the other side of the Chamber wish to forget their platform pledge, and we on this side of the Chamber should do the same thing. Every two years in most of the States, and every four years in all the States, State conventions of a political character are held, and they are representative of every small political unit. Those conventions are not expensive. The cost of a convention in a State depends upon the will of the public and the will of the legislature. The delegates do not have to be high-priced public servants; and every man in this country owes some duty of free service to his country. He might once attend a constitutional convention or a convention called for the ratification of the constitutional provision without requiring those who selected him to pay liberally for his services. He might even contribute his own expenses, as every one of us do when political conventions are called. The cost, I repeat, is a matter that may be determined by the policy of the State in which the resolution of ratification is to be submitted to a convention; but the mere matter of cost is not sufficient, Senators, to justify us in disregarding the one pledge upon which there was agreement.

You on that side of the Chamber knew at Chicago, when you adopted the Republican platform, if you were as sober then as you are now [laughter]; you on this side knew when you adopted the Democratic platform, if you were as loyal to the will of the people as you ought to be, that there might be some expense incident to carrying out your pledge. You were not children; you did not appeal to the electors of the Nation to give you power and authority without recognizing the fact that in redeeming your pledges the public might be occasioned some expense.

Mr. CLARK. Mr. President, will the Senator from Arkansas yield to me?

Mr. ROBINSON of Arkansas. Certainly.

Mr. CLARK. Does the Senator from Arkansas think there would necessarily be any more expense attached to a convention than there would be in imposing the duty on the legislature of putting in extra time in the consideration of this question?

Mr. ROBINSON of Arkansas. No. The whole trend of my argument, if I may style it such, is to show that you can have a State convention without any great expense to the public. They have two every second year in Missouri that do not cost the public anything, and every citizen, as I have already said, sometime in his life may properly be called upon to perform a public service without exacting pay from the people who honor him.

Mr. WALSH of Montana. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Arkansas yield to the Senator from Montana?

Mr. ROBINSON of Arkansas. I yield.

Mr. WALSH of Montana. I agree with the Senator that the salaries of the representatives would be a rather small matter; but I thought that I stressed the point that the expense of conducting the elections would be considerable.

Mr. ROBINSON of Arkansas. There would be nothing but the expense involved in choosing the delegates to attend the convention, and we have that at every political

convention which we hold. The Senator never went to a convention but that a large number of friends made some sacrifice and got together either at the corner grocery or at the crossroads, praised him for his great abilities and signal powers, and said, "Let us send him on to represent us." They did well, and they ought to do the same thing in the case of a convention called in the States for the ratification of an amendment to the Constitution of the United States and choose able delegates.

In order that there may be no misunderstanding that when you were trying to get votes on this proposed issue you thought, both sides, that a convention as a means of ratification was of vital importance, let me read what was said in the platforms of the respective political parties. I first read from the Democratic platform, as follows:

To effect such repeal we demand that the Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal.

And yet there are Senators here who have said to-day that that was an unimportant declaration, that it was trivial, that there is no obligation to observe it.

I have read the declaration of the Democratic platform. Here is what my misguided friends on the other side of the Chamber said in their convention when they were attempting to get votes on a pledge that it was not necessary to redeem or to keep:

Such an amendment should be promptly submitted to the States by Congress, to be acted upon by State conventions called for that sole purpose in accordance with the provisions of Article V of the Constitution—

And so forth. I repeat that whatever differences may have existed between the two platforms that is the one subject on which there was complete harmony, and both expressly stated that it was important to submit it to conventions rather than to legislatures.

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

Mr. ROBINSON of Arkansas. Certainly, I yield.

Mr. BROOKHART. I suggest to the Senator, since both Republican and Democratic national conventions declared for ratification by conventions, that left no chance for the people who oppose the conventions to express their sentiments.

Mr. ROBINSON of Arkansas. No; but it does show, Mr. President, that both political parties thought that the people desired the opportunity of expressing their will on this subject to representatives chosen for that purpose. The fact that both of them agreed to substantially identical language indicates that they thought that it was a popular proposal and they would get votes by incorporating it in their platform.

There is a great deal that might be said in favor of the convention plan. Representatives in the legislatures are not chosen, as a rule, with respect to any one political issue. Some of them serve for long terms and they may not be responsive to popular opinion.

Mr. WALSH of Montana. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Montana?

Mr. ROBINSON of Arkansas. Certainly.

Mr. WALSH of Montana. I rather gathered the impression from the speech of our esteemed friend, the Senator from New York [Mr. WAGNER], this morning that the whole presidential election was determined on that issue.

Mr. ROBINSON of Arkansas. O Mr. President, I do not sympathize with that viewpoint. There were many issues in the campaign of 1932, and it is not my opinion that the liquor question was the principal issue in that campaign. I have never believed it, and I do not believe it now. I think there were problems of far greater importance than any associated with the repeal of the eighteenth amendment.

Mr. WALSH of Montana. Of course it is not to be understood that I indorse that view, but I do think that when it came to selection of members of the legislatures the question of prohibition had considerable influence.

Mr. ROBINSON of Arkansas. Does the Senator from Montana mean to say that he regarded the liquor question as the most important question in the campaign of 1932?

Mr. WALSH of Montana. No; I do not agree with that statement at all.

Mr. ROBINSON of Arkansas. Oh, the Senator agrees with me, I understand?

Mr. WALSH of Montana. Certainly I do.

Mr. ROBINSON of Arkansas. I misunderstood the Senator's statement.

Mr. WALSH of Montana. But in the matter of election of members of the legislatures I think the question of prohibition had considerable to do with it.

Mr. ROBINSON of Arkansas. Let me reply to that.

In the legislatures composed of two bodies, one-half or one-third—it varies in the States—are selected as members of the senate every two years; and there is a strong probability that at least one-half and probably two-thirds of the members of the State senate in every State of the Union, or four-fifths in some of them, were chosen before this issue became acute; and I say now that there is sound sense and justice in preferring to submit the issue to delegates chosen with direct reference to that issue rather than to submit it to members of a general assembly who were not chosen with direct reference to that issue.

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

Mr. ROBINSON of Arkansas. I yield.

Mr. WAGNER. I do not think it is a fair statement of my observation to say that I stated that the prohibition issue was the dominant issue of the campaign.

Mr. ROBINSON of Arkansas. The Senator from New York did not understand me to say that?

Mr. WAGNER. No.

Mr. ROBINSON of Arkansas. I did not hear the statement made by the Senator.

Mr. WAGNER. I said it was one of the issues in the campaign, and was freely discussed, and the people did know the issue between the two platforms.

Mr. ROBINSON of Arkansas. I think that is true, and I think the issue was a prominent one. I think in many localities it was given more importance than it deserved to receive; but no one can deny that when the Republicans and the Democrats started out to get votes they agreed on one aspect of the question, and that was that they would give the people a chance to express themselves through delegates chosen for that sole purpose.

I yield the floor.

Mr. LEWIS. Mr. President, my observations will occupy but a moment. I am conscious of having taken too much time in interrogations passing between the eminent Senator from Montana [Mr. WALSH] and myself, and, I may add, my interruptions of other Senators upon the legal aspects of the amendment.

It is my purpose to read decisions which I have in these volumes on my desk. I sought these cases to meet and oppose the expressed convictions of the able Senator from Montana and that of the distinguished Senator, the ex-judge from Nebraska [Mr. NORRIS]. But to conserve time I withhold them for the present. I shall not burden this assembly with reading law books. I rather, for the moment, adopt the expression of Pitt, the second Earl of Chatham, before the House of Commons:

I come not here to read books bound down in dogs' ears; I prefer to address myself to that other—the ears that lead to the heart and mind.

Mr. President, I concur in what all the Senators have said; as to the mere method of how we submit the amendment for repeal is not in itself so very commanding, certainly never to warp the judgment of any Senator or to prevent him from adopting an independent judgment on the larger area of the action to repeal, and complying with the platform in its spirit and direction.

I make bold to call attention to the fundamental doctrine underlying the whole contention as to execution of the plat-

form pledges. When the conventions chose, for the first time in three lifetimes of political history, to prescribe that this remedy of repeal of amendment of the Constitution they sought was to be by convention. Sirs, let it be recalled that heretofore rarely had the convention system been invoked as the agency through which repeal of an amendment to the Constitution should be adopted. It is significant that the political conventions, made up of eminent men of both great parties—thoughtful men—expressing the concrete judgment arrived at from long deliberations in the years just preceding, made the choice of repeal by convention because they felt this method made more secure their will being executed by that method than by the other. If it had been the purpose to adopt the one or the other as a mere matter of alternative, it would have been easily expressed "convention or legislature." Sir, if it had been with the object of having it by legislature, it would have been expressed "legislature." It can not but impress you that there was a significant object in the mind and some purpose in the resolve, when they found it agreeable to choose, for the first time in a hundred years, in the different political gatherings of our people in America, for repeal, the convention. The delegates elected chose the convention system as distinguished and apart from the legislature. Nor, sir, did they include the legislature, though the method was there provided as an alternative.

Senators, shall we not be frank? What was the reason for the change?—for weighty reason, we can assert, must have been in the mind.

It was that our people in all the States had seen themselves tricked by legislatures. They had watched some, out of corruption, cheat the constituency. They had seen others, in their wild race to other objects of private benefits, exchange one purpose in order to obtain another. The deception had, in different forms, been so practiced upon them that they hastened to adopt some other remedy and some other method than to abide by that from which they had suffered losses and defeats only lately in so many States of the Union. Therefore, the platform provision that commanded the repeal by conventions, we must assume, was adopted by the delegates as a system of their protection, also—for what they felt was a guarantee of obedience to their command.

The Senator from Arkansas [Mr. ROBINSON] has made allusion, the Senator from New York [Mr. WAGNER] some reference to the matter of party platforms.

Mr. President, I am not always a very sure party man. I have not always supported all people presented upon a label called a political party. I do not accept the idea that there is to be any sacredness attached to the mere fact that these declarations were placed on a piece of paper and sent forth as the declaration of a political party in the form of a platform. I wish it understood that I present the position that when we declared that the repeal should be by convention at the instance of the representatives of the people through their delegates, and they promised the people they would secure repeal by this method, and the people went out and voted affirmatively in support as their direction upon the platform, as must be gathered by the majority and the number selected, it was, as near as we could catch it, a direction from the people themselves apart from delegates that they desired this method adopted because of some reason wherein they felt more secure and more protected by the method thus proposed than that of the other system they had not endorsed—and the one that which they had not commanded—the legislative method.

Therefore I go further than the distinguished Senator from Arkansas [Mr. ROBINSON], my good friend from New York [Mr. WAGNER], or my eminent friend from Montana [Mr. WALSH]. I hold that as near as we could go to the people, we presented to them a system by which we said this particular relief could be afforded. When they sent, at the ballot box and from it, their decree adopting it, it was the order of the people that the method be employed. It was their direction that this particular system of convention be entered upon.

I ask, now has the time not come when some heed should be given to the direction of the people at the ballot box in America as nearly as we can gather their intent? Does the mere fact that we can find specious argument for eluding it, for violating it, or for abandoning it, justify us in doing so? Shall it not be correctly said that the very conditions of our country in this hour, the voiced lack of confidence the American people have in their institutions, the want of faith they have in the courts, the general feeling that there is corruption in all legislative bodies, the conviction that general treachery and deception exists everywhere, and which they hurl in their indictments of public speech and public press against the representatives in all the different degrees of political life—I ask, is not all this condition due to the fact that they have ever discovered that legislative agents ever find some way to violate the made pledge on the one hand and disobey the directions of the people on the other?

It may be that some inconveniences attach to the fulfillment. Is that a reason for denying it? It must be assumed that the people themselves knew that all the inconveniences which we summon up here were a part of the system they provided. It must be that they felt it all to be a part and—may I add the commonplace word—parcel of that which they tendered to us for obedience; that it all inured within the theory proposed, and it must likewise be assumed that in doing such, and putting such burden upon us, they felt from it all was some greater security, and they looked to it as some extra form of guaranty to themselves in adopting and prescribing that system.

Now, Mr. President and Senators, thanking you for your patience and expressing my appreciation, I say it is better that we go to the country in the fulfillment of their direction in any way we honorably and legally can execute it. Better, sirs, this course than that we infuse in their hearts this early, as Democracy enters its inauguration, before the new administration has been sworn in, that the very first act on our part was to find a method to avoid that which the public had directed at the ballot box. The people are seeking reform. They are asking remedy. They pray for salvation. Shall we demonstrate to them, in the very first illustration, our indifference to the promise we made them on the one hand or, to avoid obedience, set up a wisdom which we regard as superior to theirs, and that we seek to follow it because speciously, by some construction of what we call the law, we find some other method more to our judgment or to our convenience, or, if I may add the latter, because it may be of less expense?

I can not adopt such, and I pray you to indulge me to say I do not feel that this is an hour, nor is this a day, when we can play with the emotions of America nor that we shall trick the sentiment of mankind. The United States is in a condition at this day when everything that we can do which may invite the confidence of our fellow mankind needs now to be initiated, fostered, and followed. We should go as far as we can to bring back the faith we have lost, even if it shall be at a little expense of more trouble, a little more, perchance, of time. A fulfillment and a keeping faith of a promise will do a great deal to make them feel that all the past is condoned and that the future begins with a brighter morn and a surer day. While the matter may be small, and at present may not be so important to the great humble mass, yet to them let it be seen that there is no attempt to evade or to escape the pledge, but every effort to obey it. This will fill them with a new hope and new faith that in all other respects they will have the combined support of the legislative body in the fulfillment of all other pledges in perfect faith.

That is what is in my mind that leads me respectfully to insist that, so far as can be, in every manner that may be, we fulfill what the people have directed.

As I conclude, Mr. President, there rises to my mind that there is in the Merchant of Venice, I think, the declaration—

> My words gone forth can not be recalled.
> Shall I lay perjury upon my soul?
> No, not for Venice.

Our answer in this matter at this time is that our word has gone forth. Shall we lay perjury to our souls? No, not for office, nor for favor, nor for reward, but, in the fulfillment of the solemn duty of the promise, keep the faith that there may be no charge from any source that there is an attempt on the part of this honorable body to violate it or evade it for some ulterior purpose which will be charged against us in an hour when we seek the confidence of mankind in America.

Mr. BORAH. Mr. President, I am going to occupy the time of the Senate but a moment on this question, because it is very largely an academic question, so far as I am concerned.

As to the Republican platform, I disposed of that in the Senate of the United States last June, so far as I was concerned. I was not bound by it, and I think the people disposed of it on the 8th of November. Certainly the Republicans can not be asked to carry out a platform which was rejected in a most decisive way. It may be that on the other side there should be a conscientious feeling that they should carry out the platform upon which they were elected. But, so far as a pledge was concerned, there was no possible opportunity to have any expression of opinion from the people upon the subject, because both parties declared for the same thing, and if either candidate for President in the campaign mentioned it, I have overlooked it. I know that the President elect stated in a New Jersey speech that he indorsed the platform, speaking of it generally, and that he stood upon the platform, but, so far as this particular subject was concerned, I do not recall that it was ever mentioned or discussed in the campaign. I may be in error as to that. Certainly it was never accentuated by the President elect.

Mr. President, what I rose to say was this: My natural predilections were in favor of the convention system, aside from any platform pledges. We had this matter before the Senate when the question of the ratification of the income-tax amendment was before us, and we discussed it. We did not adopt the convention system, but it was discussed, and I expressed a preference at that time for that system. But I did say at the time that I thought there were serious objections to it, and the question was, first, of expense, and, second, the delay involved.

I have undertaken to make some estimate of what it would cost my State to hold a convention. It must be remembered that it contemplates a convention to which delegates will be elected, and that there may be a severe contest in the election of delegates in the State, and that it would be a very expensive proposition. I did not feel that I was justified in voting for a new, untried, and experimental proceeding which would be expensive at the best. Secondly, while I am not particularly anxious about action on the eighteenth amendment, and the question of haste does not concern me so much as it does others, yet I do think that when it is once submitted it ought not to be pending interminably, but ought to be disposed of as speedily as practicable, and in as orderly a manner. There will not be any convention system covering the entire Nation, or even 36 States, in my judgment, within the next two or two and a half years. Those were the two reasons why I voted against the convention system, and I felt perfectly free to vote as I wanted to vote, because I was not bound by any platform pledge.

In some respects I like the convention system better, but, as was said by the Senator from Montana, I think that in the state of public opinion now, with the feelings which prevail in the different States, the legislatures will record the sentiments of the people upon this question just as accurately as conventions would.

As to the power of Congress to provide for these conventions, I entertain no doubt that Congress has no such power. When the Congress has designated the body which shall ratify—legislature or convention—it has exhausted its power. It can not enter the State and set up a convention and provide for the election of delegates any more than Congress could enter the State and provide for the call of the legislature and control it. The theory that the Federal Government could enter the State and provide for a convention is violative of the most vital and fundamental principles upon which our dual system of government rests.

I reserved some freedom of action upon another provision of the amendment which I shall discuss later. I only wanted to say that, so far as this was concerned, I agree with the argument of the Senator from Montana in large measure.

Mr. WALSH of Montana. Mr. President, I feel impelled to say a word before the vote is taken on this matter touching one line of argument made in the usual passionate and forceful manner of the Senator from Arkansas, for whom, of course, I entertain the very highest respect. He called attention to the fact that in the legislatures as now constituted there are probably some considerable number of members who were elected quite a while ago. Undoubtedly that is true, but it will be borne in mind that those are the legislatures to which is to be addressed the question, Shall we call a convention or not? We meet with that objection in any case.

As I pointed out before, the amendment could be defeated by the simple failure of a State to call a convention; that convention must be called by the legislature, and the legislature is made up of men who were elected in the past, and not at this immediate time, after these platforms were adopted. So that in any case we would encounter the difficulty of having the real, essential meat of the thing submitted to a legislature not altogether elected after this matter became ripe.

I observe likewise that the Senator from Arkansas passed off very conveniently the question of expense by comparing the convention to be called with a political convention. Of course, political conventions are held, but without expense to the State at all. We go down into our pockets for those. But they have no validity whatever in law. We could not ratify an amendment by a political convention. We would have to provide for calling an election; we would have to pay the expense of conducting the election; we would have to pay the expense of transcribing the poll lists; we would have to provide for inspectors at the election; we would have to provide for certifying the election; we would have to do everything that is necessary in the election of any officer of government; and all of that costs money in these times, when every dollar ought to be saved that can be saved.

Mr. NORRIS. Mr. President, if the Senate wants to vote, I shall be ready to stop talking any minute; I would rather vote than anything else. But I have been sitting here for two days listening to the debate, and it seems it is to go on probably until the 4th of March without any decision being made. So, since we are not to be able to legislate on the things on which we ought to legislate, I might just as well take some of the time as well as somebody else.

Mr. President, if I had not been living during the campaign, but had just come down here from some other planet and had heard the speech of my good friend from New York, I should have judged that there was but one issue in the last national campaign, and that that issue was prohibition; that nothing else was mentioned in any platform; that nothing else was talked about during the campaign.

Mr. President, if that were true, and if that had been the only issue involved, then I think it would follow that those who believed in the platform which advocated repeal of the eighteenth amendment would be in honor bound to take the first opportunity to bring repeal about.

I listened with great interest to the Senator from Arkansas. He referred to the lame-duck Congress passing on this matter. That is one reason why it has seemed to me all the time that we should not be wasting the valuable moments of this session of Congress in discussing something which is not binding on this Congress, according to the argument of the Senator himself. I take it at 100 per cent that those who want to follow platform pledges are not compelled or bound to carry them out until the people elected at the election go into power. If that principle had been followed, this question would not be before us now.

I concede that the question of passing on the proposed amendment by conventions instead of legislatures has a very cogent argument in its favor. Under ordinary conditions it would be much more impressive, I think, than it is under existing conditions.

A convention thus elected would have but one thing to do, and at the election at which the delegates were chosen there would be but one question involved. It would be in effect a referendum. But those who believe in ratification by conventions, when they commence to study what will be necessary to bring about a ratification in that way, commence to wonder whether they would be justified, under the present circumstances, in providing for ratification or rejection by conventions.

Mr. President, we are confronted now with the fact that millions of our people are starving; the Federal Government is almost ready to go into the hands of a receiver; the States are borrowing money by the millions from the Federal Government; counties, municipalities, subdivisions of government are doing the same thing, and if we provide for submission of this question to conventions, we are about to put upon the backs of the taxpayers of the United States millions of dollars of expense to carry out this simple mandate.

The Senator from Arkansas [Mr. ROBINSON] argued that the expense would be trivial. It has been stated that political conventions do not cost much; that the taxpayers do not pay the expense. That is true. Sometimes the special interests pay it; sometimes the big corporations pay it. The conventions meet and carry out their edict and their will and nominate candidates and adopt platforms that will bring back manyfold the interest on the investments made by those corporations in the conventions.

But that is not so in this case. The people are going to pay the expenses. It will probably be a lively campaign in every State and in every district of the Union where conventions are called. Every dollar of that expense the taxpayers must shoulder. Suppose the State has a convention of 100 delegates. Probably in some instances in some States it will be a convention of 500 delegates. They travel from different parts of the State. They will be paid mileage. They ought to be. They will be paid per diems. They ought to be. Every penny of the expense of their meeting, although it will be short—though if there are many ex-United States Senators in it the debate may be lengthened considerably [laughter]—is going to be paid by the taxpayers of this country. We have 12,000,000 people almost starving to death, with every State going into debt and very few of them able to balance their budget. I think it is an important thing under the circumstances to take the expense into consideration.

I have great respect for the man who respects his party platform pledge, but of necessity a platform containing many pledges ought to be considered in the light of existing conditions. We can not take up any one of them and say that the country is bound by that particular pledge, or that particular plank was the issue which settled the election. That can not be said about the last election, either. Millions of people cast their votes in the last election who did not know that in either platform there was a provision that the submission of this question should go to conventions rather than to legislatures. I did not hear it discussed, and I listened to both of the candidates over the radio. It may be they discussed it when I did not hear them, but if they did nobody paid much attention to it. It is one of the methods of carrying out a platform pledge.

Suppose the platform provided that the ballots on which the delegates should be elected must be printed on pink paper. Suppose that was argued and seriously contended for, and it was discovered just before the election that we could not get enough pink paper upon which to print the ballots. Would anyone feel in his conscience that he had violated the pledge of that sacred party platform if we printed the ballots on white paper?

The main thing was the question of submission. It is true that in both party platforms it was pledged to be submitted in a particular way. I do not suppose a single delegate in either of the conventions had his attention called to the difficulty we were going to be in in the way of expenses alone. Many people thought, and some still argue, that the Federal Government should pay the expenses of the conventions, that the Federal Government should hold the election in reality, provide for qualification of voters, and so forth. I do not think anything of that kind would be constitutional, but whoever pays the expense it comes out of the taxpayer in the end. He foots the bill, and he can not afford to do it.

While I am on my feet, as I may not talk again on the question, I want to refer to section 3. Section 3 went into the joint resolution because it was deemed by those who framed it that it ought to be there to prevent the return of the saloon. We have heard about it during all the debate in the last four or five years. Everyone who advocated repeal of the eighteenth amendment always prefaced his remarks with the statement, "We do not want the saloon back. Nobody wants the saloon back." That has been inculcated in the minds of the American public until, when we mention repeal, unconsciously everyone's mind comes to the point that we can have repeal and not have the saloon.

If we take section 3 out of the amendment, there is no assurance whatever to prevent the return of the saloon. The return of the saloon will come without section 3, in my judgment, just as surely as we adopt the amendment. It will not come in all States, it is true; but it will come in many of the States. We will have the saloon back in business, the thing that everybody from candidates for the Presidency down to candidates for road overseer have denounced and said they would never submit to. As I look at it the only way to keep the saloon from coming back is by the retention of section 3. It was not the intention of the Judiciary Committee that the Congress would necessarily enact any law upon the subject, but if we take away the power of Congress to enact a law to prevent the consumption of liquor on the premises where sold, we have brought the saloon back into existence and there is no escape from it.

Mr. BROOKHART. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Iowa?

Mr. NORRIS. I yield.

Mr. BROOKHART. Let me ask the Senator, under the wording of section 3, if the States have concurrent power to regulate or prohibit the sale of intoxicating liquors in a saloon, is not that power just as high and just as dominating as the concurrent power of the Congress?

Mr. NORRIS. If the States would enact laws that would prohibit the saloon, Congress probably would never legislate on the subject; but if some of the States did not and other States did, then in order to meet the condition where the saloons came back into operation again in the States that had enacted laws that permitted it, the Congress if it wanted to do so could enact a law that would prevent the consumption of intoxicating liquor upon the premises where sold. If a statute was enacted and later we even permitted it, that would be no reason why the law of Congress should not be effective. One is a State law and the other is a Federal law. But if the Senator were a prosecutor on behalf of the Federal Government under those circumstances and prosecuted me for selling liquor and permitting it to be drunk on the premises where sold, under a Federal law, it would be no defense for me to allege and prove, if I were permitted to prove it, that the State law gave me permission to do the very thing I was doing. I do not believe any lawyer would contend that.

Mr. BROOKHART. If the State had concurrent or equal power with Congress, it seems to me it would be a defense. If I were prosecuting attorney for the State, then I would not want to yield to the Federal authorities.

Mr. NORRIS. In the case I put, if the Senator were prosecuting attorney for the State, he would be defending the criminal who was being prosecuted in the Federal courts.

Mr. BROOKHART. He would be no criminal under the law of the State.

Mr. NORRIS. That is true, but he would be a criminal under the Federal law. If the Senator will think a moment, he will realize that in the entire history of the United States we have had laws similar to that.

Mr. BROOKHART. But let us take the eighteenth amendment. Under the eighteenth amendment, of course, the sale of intoxicating liquor is prohibited both by the State and the Nation. The concurrent power there is for the enforcement simply of prohibition. But here is a concurrent power to regulate it and to prohibit it, or not.

Mr. NORRIS. Suppose we take out that provision and suppose the Federal Government has no authority then whatever. Then where would we be? Would it not follow that the saloon would come back?

Mr. BROOKHART. No. I am more favorable to the amendment proposed by the Senator from Virginia [Mr. GLASS], where he proposes to prohibit the saloon and transportation and then gives concurrent power of enforcement.

Mr. NORRIS. This gives Congress the power. It provides that "Congress shall have concurrent power to regulate or prohibit." We can prohibit or we can regulate.

Mr. BROOKHART. But the amendment which the Senator from Virginia has proposed provides that the sale of intoxicating liquors within the United States or any territory subject to the jurisdiction thereof, for consumption at the place of sale, commonly known as a saloon, transportation, and so forth, of intoxicating liquors, are prohibited.

Mr. NORRIS. I am familiar with the amendment. I remember when the Senator introduced it. It is really an attempt to define the saloon and to put that definition in the Constitution of the United States. I do not think any student of the subject who will think it over calmly will believe for a moment that we can put a definition of a saloon in the Constitution of the United States and properly enforce it.

Mr. BROOKHART. Have we not done that in section 3?

Mr. NORRIS. Oh, no.

Mr. BROOKHART. It uses the same language.

Mr. NORRIS. No; it will have the effect of keeping out the saloon, keeping out the thing "commonly known as the saloon." What is the saloon? If the Senator will take the various dictionaries and look it up, he will find it is a good many things besides what we are thinking about when we think of the saloon that sells liquor.

Mr. President, I want to say just a few words about what I term this unnecessary delay. For two days we have been considering this matter. We have only a few more days of this session left. Senators refer to the provisions and pledges of the platform of the Democratic Party and of the platform of the Republican Party as being a mandate in this case. I want to invite their attention to the fact that in both of the platforms there are promises that we will help the farmer, there is a pledge that we will help the unemployed, and there are a good many other promises along that line. While we are considering this proposition, which, in my judgment, could just as well have been postponed until the special session, millions of our people are suffering because the Senate of the United States is not acting upon those pledges and upon the greater pledge that must come from every pure heart of trying to help his stricken brethren in the terrible catastrophe in which we find ourselves.

We have 12,000,000 unemployed. We have a bill on the calendar that has been there for weeks that we ought to take up and consider for their relief. We have been talking and talking about helping the farmer. The Committee on Agriculture and Forestry has reported to-day a bill on the subject that was one of the pledges in both of the platforms that were taken before the people in the last campaign. The Judiciary Committee last week reported a bill along the same line to give relief, the effect of which would probably be to grant a moratorium to those who own their homes and have mortgages on them. These bills may not bring complete relief. Some of them may be failures. They may be experimental to a great extent, but at least when we are talking about platform pledges we ought not to forget pledges of that kind.

The joint resolution which we are considering now has been before us for two days. Every hour and every minute of the precious time wasted between now and the 4th of March means so much time lost for the consideration of those measures that should appeal to human mercy and human sympathy. There is nothing that ought to be hurried about the particular joint resolution which we are now considering. It ought not to be before us now. It would be all right if we had plenty of time to consider it, but when we ought to be devoting our time to things that are meritorious and admitted by all to be meritorious, and that would have a tendency to relieve the terrible suffering in the conditions under which our people are now living, I do not believe we can excuse ourselves for wasting those precious moments by taking up an amendment to the Constitution which, even if we ever get it past the Senate, it will be years before it goes into effect.

If we do nothing to relieve distress and suffering, the people of the United States will be bankrupt and most of them starved to death before this proposed constitutional amendment will ever become effective. It seems to me to be a sad commentary upon the wisdom of Congress that it should devote time, when time is so precious, to the consideration of this subject that must necessarily retard the consideration of other more important measures which we ought to consider and dispose of.

Mr. BRATTON. Mr. President, I realize as well as does the Senator from Nebraska the urgency of other measures now pending on the calendar, and for that reason I shall be very brief in what I have to say.

Mr. President, I favor the amendment offered by the Senator from Arkansas to submit this proposal to conventions in the several States instead of to the legislatures of the States. In the first place, it conforms strictly to the solemn pledge in the Democratic platform. It may be argued, and it has been argued to-day, that there are practical considerations which should move us to depart from that promise and, instead, to submit the question of ratification to the legislatures. Mr. President, the platform promise of the Democratic Party does not merely declare that this question shall be submitted to conventions in the several States, but it gives the implied, if not the express, reason why that system should be employed. It declares that it shall be submitted to truly representative conventions in the several States called specifically for that purpose, indicating clearly that it was the purpose of those who spoke for the Democratic Party in the national convention assembled at Chicago to appeal to the people of the Nation for their suffrage at the polls upon the definite promise that this important matter would be singled out and set apart from other issues, and would be submitted to representatives fresh from the people, elected upon the sole, single, and exclusive issue.

It may be said, Mr. President, that that promise was not a compelling or a controlling one, but who can say with justification that if there are 6 planks in a platform, 4 of them are controlling and binding and the other 2 are not?

Mr. President, this is a promise that was made by the national conventions of both parties to the electorate of the States. The argument now advanced that there are practical considerations why we should breach that promise, if you please, makes no appeal to me. Furthermore, as the Senator from Arkansas well said, in reply to the argument advanced by the able Senator from Montana [Mr. WALSH], many of those now serving in legislatures in session at this time were elected prior to the platform pledge; and, accordingly, they were not elected, indeed they could not have been elected, with any reference to that promise, either direct or remote.

Mr. WALSH of Montana. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Montana?

Mr. BRATTON. I yield.

Mr. WALSH of Montana. The Senator must realize that the same legislature, so constituted, must call the convention if we are to adopt the convention method?

Mr. BRATTON. Oh, yes.

Mr. WALSH of Montana. And they can defeat the proposal by not calling a convention?

Mr. BRATTON. Oh, yes; but there is this fundamental difference: A man serving in the legislature may well say that he has a fixed conviction either in favor of repeal or against it, but that, despite his individual view, he is perfectly willing to submit the question to the people of his State and let them elect their representatives on that sole issue, and if the people differ with him, their will shall be paramount and supreme.

Mr. WALSH of Montana. I quite agree with the Senator that there may be such an individual, but, as a practical matter, does not the Senator agree that a legislature that will call a convention in all reasonable probability would vote to ratify the amendment?

Mr. BRATTON. That is a reasonable assumption.

Mr. WALSH of Montana. Exactly; and the legislature that will call a convention in all reasonable probability would ratify the amendment, and a legislature that will not call a convention would probably not ratify it; so that by submitting the question to conventions are we not really doubling the difficulties in the way of securing ratification?

Mr. BRATTON. I think not, Mr. President; with great deference to the opinion of the very able Senator from Montana, I must differ with him in that respect. I think there are those who as voters in their respective States will vote against the repeal of the eighteenth amendment, but as members of the legislatures are entirely willing to submit the question to the people and let them pass judgment upon it. Indeed, as a voter at the polls in my own State, I shall vote against repeal, but as a Senator I am willing to submit the question to the country.

Mr. BARKLEY. Mr. President, will the Senator from New Mexico yield to me?

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

Mr. BRATTON. Yes.

Mr. BARKLEY. Is it not true that in this "buck-passing" age a legislature would prefer to call a convention and say they were doing it on the ground that they ought to provide the most direct way possible to pass on this question whereas if they were required to vote on it themselves they might vote against ratification? They might, however, justify calling a convention on the ground that it gave the people the most direct way possible, under the Constitution, to pass on an amendment of this kind.

Mr. BRATTON. I think so. The convention system, Mr. President, has two virtues: The first is that it is the most effective way to obtain a direct reflection of public opinion. It is trite to call attention to the fact that in electing members of the legislature other issues enter, other questions become paramount; the wet and the dry issue is submerged, and to a large extent sight is lost of it. That is not true in electing delegates to a convention which has the one issue before it; but that argument is trite. Every Member of this body is familiar with it. Coupled with it is a consideration of less importance to which attention has already been directed, namely, that many of those now serving in the legislatures were not elected either as "wets" or "drys," with reference to this particular proposal, and consequently their election can not reflect public opinion in their respective districts or within their respective States.

Mr. BARKLEY. Mr. President, will the Senator yield to me again at that point?

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

Mr. BRATTON. With pleasure.

Mr. BARKLEY. I find that there is a widespread misunderstanding among the people touching the nature of the conventions referred to in the Constitution and in the party platforms. I find that many intelligent people who are familiar with the old-fashioned type of political convention, which was outlawed by the modern device of the primary for the nomination of candidates of political parties, have the idea that a political convention in which takes place the ordinary jockeying and maneuvering and trading and trafficking for delegates or for nominations of political parties is the kind of convention that will pass upon this proposed amendment. I think we owe it to the people to emphasize the fact that the kind of convention contemplated by the Constitution, and the kind that will be contemplated by us, if we submit the proposed amendment to conventions, is more in the nature of a constitutional convention ordained by the legislature to write a new constitution for a State, a nonpolitical convention than that it has any resemblance whatever to the ordinary political convention as the average man and woman now understands that term.

Mr. BRATTON. Yes, Mr. President. At the time the Senator from Kentucky interrupted me, I was endeavoring to say that the convention system has two virtues: First, it more directly and more accurately reflects public opinion, and, second, in this particular instance, it carries out and performs in toto a solemn promise of the party to which I and the other Senators on this side of the aisle pay allegiance. The resolution as it came from the committee presents a complete failure to carry out that promise. The justification for such action is that there are practical considerations why we should depart from the platform covenant.

Mr. President, is it not reasonable to assume that those who wrote the platform foresaw that it would require time to call a convention, that they foresaw that the calling and the conduct of a convention would entail expense but that they thought the consideration of higher and controlling importance was to obtain a more direct expression of public opinion?

It has been argued by some that the Congress has the power to call the conventions. I do not intend to indulge in a lengthy discussion of that matter. I disagree emphatically with the suggestion that Congress has any such power.

Mr. President, there are two systems of proposing amendments to the Constitution. One is to propose them to be ratified by the legislatures of the several States and the other is to propose them for ratification by conventions held in the several States. The moment the proposition is announced that Congress can call an election in the several States for the selection of delegates there is injected into the two methods this difference: Under one the States are entirely free, while under the other there is an element of compulsion or coercion upon the States, because when we submit a proposed amendment to the legislatures that may ratify the amendment, they may reject it or they may ignore it entirely. If the States are authorized to call conventions, we have a comparable system, for each State may call a convention and ratify the amendment, the State may call a convention and reject the amendment, or the State may ignore the proposal entirely. Thus the two systems are exactly on a parity so far as the degree of freedom of action on the part of the States is concerned.

When, however, it is said that the Congress may call an election and fix the day on which it shall be held and specify the mechanics of holding it, then we place over the States a hand of compulsion and coercion. Does anyone conceive that those who wrote the Constitution and the States that ratified it understood and contemplated that the two systems were so radically different in that important respect that one gave to the States complete and uncontrolled freedom to act or fail to act, while the other required the States to act, required the people to assemble at the polls on the day specified by the Congress and elect delegates to the convention? In that way we bring forward that important difference between the two systems. Significant it is that no such thought was advanced or expressed during the debate in the Constitutional Convention. Research fails to disclose that anyone participating in the ratification of the Constitution entertained any thought that there was such a difference.

Mr. President, the language of the Constitution itself indicates that no such difference was contemplated. Under Article V, the Congress has power to propose amendments.

That is the language of the Constitution—that the Congress has the power to propose and the States have the power to ratify. The moment the Congress has proposed an amendment, specifying whether it is submitted to legislatures or to conventions, that moment the Congress becomes functus officio. It has nothing more to do with the matter. The function of proposing the amendment has been completed. All subsequent action relates to ratification—a State function. The matter of calling an election, the matter of selecting delegates, the matter of the delegates assembling, the matter of the convention voting in the affirmative or in the negative—these matters are all component parts of the process of ratification. That is a function of the States.

It has been urged that that is a Federal function. I think that is a play upon words. Assume that it is a Federal function: It is performed by the States, and they have utter freedom to determine for themselves whether or not they will exercise it. A State may elect not to act. It may ignore. It may remain utterly indifferent to the proposal. There is no power to require a State to act either favorably or unfavorably.

So, Mr. President, I do not share the view that there inheres in the two systems the vast difference to which reference has been made. I do not believe it was contemplated or understood or believed by those who wrote the Constitution. Neither do I believe that it was thought by the States ratifying the Constitution that through one system the State is free, while under the other it is not.

Congress proposes an amendment, specifying whether it shall be acted upon by legislatures or conventions. When Congress has thus proposed, Congress has fulfilled its functions under the Constitution, and the States then proceed to ratify, reject, or ignore.

As the Senator from Kentucky [Mr. BARKLEY] pointed out, a great many people throughout the country believe that the kind of a convention we are talking about is one held without regulations, without sanction of law; that it is a mass assembly to elect the delegates to the county convention, and then on to the State convention. Obviously, anyone who has given study to the proposal will concede that the convention must be called by an act of the legislature, fixing the time and place of electing delegates thereto, specifying the qualification of voters, and all other matters relating to the details of holding and conducting the election and canvassing the returns and declaring the results thereof. It is an official convention, called under an act of the legislature. It has the sanctity of a legislative fiat upon it. It is not a mere mass assembly.

The Senator from Kentucky rendered a real service when he called attention to that misconception quite prevalent throughout the country.

Mr. President, while freely conceding that ratification by conventions will delay action, while freely conceding that it will entail expense, I think there arises above those two considerations the one of higher importance, and that is a solemn promise made to the electorate of this country that this proposal would be submitted to truly representative conventions in the several States called for that purpose; and to submit it to the legislatures is a complete departure from that promise; it is a complete failure to carry out that pledge. Accordingly I shall vote for the amendment proposed by the Senator from Arkansas.

Mr. DICKINSON. Mr. President, I am in opposition to the motion of the Senator from Arkansas [Mr. ROBINSON].

Every constitutional amendment that has ever been submitted has been submitted to and ratified by the legislatures of the respective States. The legislatures and their assemblage and their personnel constitute a fixed institution of their respective States. They certainly reflect the proper sentiment of their respective States on public questions.

The theory that the legislature that was elected last November would not properly reflect the sentiment of the State with reference to any public question, it seems to me, is a misstatement of the facts. The fact is that the legislature is a fixed institution in the State. It is a method certain by which this amendment can be submitted to the States for their decision.

On the other hand, if we decide that we are going to submit this amendment to conventions, suppose a State legislature should say, "We are going to have a mass convention and let the people meet en masse and determine whether or not they want to ratify this amendment." Suppose, on the other hand, they should say that the respective counties shall have so many delegates at a State convention, and nothing be said with reference to how those delegates are going to be selected. Then it would simply be a contest of the old-type caucus system that we used to have in years gone by, as to who could go in there and count noses and control those county conventions. In other words, we go back to an old system that was relegated to the past when the primary system was adopted, and say that in order to get a decision on this question we ought to abandon ratification by State institutions, and accept some convention system that we have never accepted before; and in most of the States of the Union the conventions are not regulated in any way so far as delegates and representation are concerned.

In other words, we are subjecting this amendment to the will of the legislatures as to how they want to handle this matter. It seems to me we are doing that which we should not do.

In the second place, a great deal of stress is put on the fact that both the Republican platform and the Democratic platform declared for the convention system. I want to suggest something that was in the minds of those who had to do with formulating those platforms. It was speed; it was "Beer by Christmas." It was trying to get early action, thinking that they were going to have this matter determined almost instantly.

Now, as a matter of fact, it has been found that Congress can not specify how these conventions shall be held in the various States, and that it is necessary that we have action on the part of the various State legislatures before action can be taken by conventions in the respective States. That being the case, not only is it necessary to have the legislatures meet but the conventions can not be held until after the legislatures have met and provided the method and the means by which the conventions can be held. Therefore, instead of resulting in speed, it is going to result in delay.

There is one other thing that I think should be replied to, and that is that some of the States of the Union have a 4-year term for a State senator. That means that at least half of the senators of every State in the Union have been selected in the November election just past. Therefore, there is at least a reflection of half of even a State senate where it is said they have not been elected with reference to this proposal in the last election. I have not been able to find a single, solitary instance where a State legislature failed to reflect the sentiment of the State in passing upon a constitutional amendment.

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

Mr. DICKINSON. I yield.

Mr. BINGHAM. The Senator was a member of the Republican convention in Chicago.

Mr. DICKINSON. I was.

Mr. BINGHAM. Does the Senator recollect any effort made there to strike out the provision calling for action by conventions rather than by legislatures?

Mr. DICKINSON. There was not. I was not a member of the resolutions committee; and when the resolution was brought in on the floor of the convention, there was only one substitute offered, and that was offered by the Senator from Connecticut. Let me suggest, however——

Mr. BINGHAM. May I say to the Senator that both the substitute offered by me and that proposed by the majority of the committee contained a provision for conventions, and in the resolutions committee no one appeared before us urging the adoption of any other method than that of ratification by conventions.

Mr. DICKINSON. I think that was probably due to the fact that the people thought they could get greater speed by adopting the convention system than by adopting the legislature system. I do not agree with that, and I do not think it is well founded. I think, also, that the convention system is involved with a lot of uncertainties and with a lot of conditions that may be questioned in the courts, and that the friends of the amendment here are going to involve the amendment in many complications that it will not be involved in if we will let it be submitted to the legislatures in the ordinary course.

If I had been a member of the resolutions committee, I should have proposed, and I know that in the negotiations leading up to the effort to formulate some proposals it was originally said that we would submit it to legislatures. It was changed. I do not know where the change took place, because I was not a member of the committee, and I knew nothing about their negotiations.

Mr. BINGHAM. Will the Senator yield there?

Mr. DICKINSON. I yield further.

Mr. BINGHAM. The Senator has suggested that the only reason was the desire for speed. I did not hear that reason suggested in the committee. The reason suggested in the committee was that we were more likely to get an expression of the views of the people themselves through conventions than through legislatures chosen for other purposes.

Mr. DICKINSON. That is what I want to answer. Let me suggest this:

Suppose we had 30 States in the Union that had already ratified by convention. Suppose we had six where we still wanted to have conventions ratify. I am wondering what the pressure would be from the various organizations, both pro and con, in those respective States; the amount of funds that would be used; the advertising that would be paid for; the efforts that would be made to misdirect those States in the effort, if you please, to get or to defeat ratification by conventions.

In other words, it seems to me we are going back to the old system of how to control a convention; what will be used in order to control it; whether or not it will be possible, if you please, to hold a convention that can be clothed with the necessary legislative limitations to prevent the use of money and the challenge that the delegates were fraudulently elected; whether or not the charge will go not only to the local conventions but also to the State conventions. I think the ramifications there are far-reaching and that the friends of this amendment should think twice before they insist on voting for and adopting the convention system of ratification.

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

Mr. DICKINSON. I yield.

Mr. BINGHAM. Does the Senator include himself among the friends of repeal?

Mr. DICKINSON. I expect to vote for submission as required by the Republican platform, in so far as it can be worked out here, so that we will prevent the return of the saloon and preserve some Federal control over manufacture and transportation.

Mr. BINGHAM. But the Senator did not answer my question.

Mr. HASTINGS. Mr. President, will the Senator yield to me?

Mr. DICKINSON. Will not the Senator state his question again? I want to answer the Senator from Connecticut.

Mr. BINGHAM. Does the Senator consider himself as being among the friends of repeal?

Mr. DICKINSON. No; I am not among the friends of repeal.

Mr. BINGHAM. That is what I wanted to hear the Senator say.

Mr. DICKINSON. I am not for direct repeal.

Mr. HASTINGS. Mr. President, will the Senator yield to me?

Mr. DICKINSON. I yield.

Mr. HASTINGS. I would like to ask the Senator from Connecticut a question.

Mr. BINGHAM. I have not the floor.

Mr. DICKINSON. I yield for that purpose.

Mr. HASTINGS. May I inquire of the Senator from Connecticut, referring to the Republican platform, whether or not he proposes to vote for section 3 of the pending joint resolution?

Mr. BINGHAM. I do not. I propose to vote for the amendment to strike it out, and I have so stated, from the day after that on which the Republican platform was adopted.

Mr. DICKINSON. Mr. President, one further comment I want to make on the question of what attention was given to this particular phase of the question in the campaign. We heard a great deal about conventions and legislatures and various types of ratification prior to the time when we went to the convention. I think I know something about the sentiment that was developed during the campaign, and during the campaign I never heard the question asked or answered as to whether or not we were going to submit the question of repeal of the eighteenth amendment to conventions or to State legislatures.

Mr. HEBERT. Mr. President, will the Senator yield to me?

Mr. DICKINSON. I yield.

Mr. HEBERT. Is it not reasonable to assume that the opinions of everybody were pretty well known on that point? Both parties had agreed about how they should proceed, so the conclusion was, Why argue about it? Was not that the reason why there was no discussion of it during the campaign?

Mr. DICKINSON. If it was taken for granted that it was going to happen, I should think it would have been good advertising at least to have said to the country what we had pledged ourselves to do, and as to how we were going to do it. But I never heard the question discussed once in a single, solitary address during the entire campaign.

Mr. HEBERT. If the Senator will yield further, what advantage would there have been to either political party, since both were agreed on the proposition?

Mr. DICKINSON. We might have gathered in a few more of the stragglers. There seems to be some opposition here, and it comes from both sides of the Chamber. So undoubtedly there was no unanimous conclusion with reference to what was going to happen.

Mr. BINGHAM. Mr. President, will the Senator yield again?

Mr. DICKINSON. I yield.

Mr. BINGHAM. The Senator's sympathies are not with those who wish to see repeal, so he probably is not familiar with the fact that some of the great organizations which have been working so hard to secure repeal have made it an essential part of their program to work for submission to conventions, and they made a very strong point of it, not only last year but the year before and the year before that. Therefore, when the question came before the committees on resolutions of the two conventions, they urged the adoption of a provision calling for submission to conventions, and when both political parties accepted the convention principle there was no further need, as the Senator from Rhode Island has said, of discussing it at all.

Mr. DICKINSON. Let me further suggest that, since that has happened, and since the November 8 election, I am informed that even the friends of repeal have reached the conclusion that they would rather have the matter submitted to the legislatures, because they think the results of the recent election were so favorable to their cause that they do not want to run the chance of having conventions, and having the various State ratifications set aside or contested in court, and so forth.

Mr. BINGHAM. There the Senator from Iowa is speaking in behalf of the friends of repeal?

Mr. DICKINSON. Oh, no.

Mr. BINGHAM. Although he admits himself he is not a friend of repeal.

Mr. DICKINSON. No; I am simply reflecting what I understand to be the attitude of the friends of repeal, since the results of the November 8 election are known, but I will say to the Senator that the results of the election on November 8 were not satisfactory to me at all anywhere along the line, even in Connecticut.

Mr. BINGHAM. I thank the Senator.

Mr. FESS. Mr. President——

The PRESIDING OFFICER (Mr. PATTERSON in the chair). Does the Senator from Iowa yield to the Senator from Ohio?

Mr. DICKINSON. I yield.

Mr. FESS. I think I can throw a little light on why the convention system was proposed in the Republican convention. For 18 months at least there had been considerable agitation over the question of whether the Republican platform should yield to the pressure to resubmit the eighteenth amendment to the people of the States. The argument was heard everywhere that at least there ought not to be a refusal to let the people vote on it if they wanted to, and the argument also was urged that if we voted to send the question back to the people, that would not necessarily commit anyone at the convention to vote a certain way when he went back to his State.

I recognize that while that argument has been used, it is not very forcible. The Constitution provides for two methods of amending the Constitution, and the convention method is one of them, and when I vote to send the matter to the people for ratification, if three-fourths of the Congress shall favor it, I see the inconsistency of saying that I am voting to let the people determine the question, and yet not showing my own conviction. I think that is an inconsistent position to take, although there is no doubt but that that is in the minds of a lot of people, who think that this is only a referendum; which I do not admit. That idea, however, rather prevailed in many sections.

Then this question arose, if the idea is to let the people vote on the question, it ought to be submitted in such a way that the vote by the people in the States should be recorded in a body selected specifically on that one issue, so that if a convention were called in Ohio to act upon the ratification of the proposal submitted, if the delegates were selected specifically with that one thing in view, we would come nearer to getting a cross section of the public opinion of the State than if the action were taken by the legislature. I recognize that there is force in that contention.

I agree with the Senator, however, that it would entail additional expense that is unnecessary; secondly, that the convention would have to be called by the same legislature that would likely pass upon the ratification, and we would be taking two bites when the thing might be settled in one.

I think I ought to say that that was the thing that was determining in suggesting the convention rather than the legislatures.

Mr. DICKINSON. I thank the Senator from Ohio.

Mr. BINGHAM. Mr. President, will the Senator yield to me to make a remark in connection with what the Senator from Ohio has just said?

Mr. DICKINSON. I yield.

Mr. BINGHAM. The Senator reminds me that during the debates on the adoption of the eighteenth amendment, it was repeatedly stated in Congress, so I have heard—I was not here at the time, being in France—I think by the Senator from Texas himself, by the Senator from Arizona, and other friends of the measure, that a vote for the resolution was not to be considered as a vote in favor of the amendment, but was to be considered as favoring a means of permitting the people to say whether they wanted the amendment adopted or not. I think that is correct.

Mr. FESS. If the Senator will permit, that statement was often made. I was in the other House at the time, and it was made there very frequently. However, I did not think that was very forcible, because there are two methods by which the Constitution might be amended, and it is hardly consistent to say that when we vote for it here, we will not vote for it when we go back home.

Mr. BINGHAM. May I say to the Senator, on the question of legislatures and conventions, that I myself have given a great deal of thought to that matter, being desirous of getting the eighteenth amendment repealed at the earliest possible date, and with the least possible expense. But it has been brought to my attention that in many States the members of legislatures are elected year after year, and hold a kind of hereditary seat in the legislature, due to their ability, their representative character, and their distinction in their communities, that most of them have a record of having voted dry always, that it would be extremely difficult for them to change their votes, even to meet changed public opinion, that they would greatly regret doing it; but that a convention set up by the legislature in the same manner in which the legislature is chosen would consist of people who had not voted on the thing previously, and who would be free to vote as they believed their constituents wanted them to vote without regard to anything else. Therefore, I have finally come to the conclusion that the conventions of the great political parties were right in calling for the convention method, and that we would get a better expression of opinion with regard to the public thought in the States from conventions than we would from the legislatures.

Mr. HEBERT. Mr. President, will the Senator permit me to add one statement to what the Senator from Connecticut has just said?

Mr. DICKINSON. I yield.

Mr. HEBERT. It seems clear to me that in the choice of delegates to a convention there would be but one issue involved, whether or not a candidate was for or against the amendment, and immediately the delegates had been chosen, every one in all the States would know what the fate of the amendment was to be in that State. That can seldom be true of the election of men to a legislature, because there are so many other issues involved. There are always local questions to be considered in the choice of representatives to a State legislature. Those issues would never arise in the choice of delegates to a convention to pass on a constitutional amendment.

Mr. BINGHAM. Mr. President——

Mr. DICKINSON. Mr. President, I want to reply to the Senator from Rhode Island before I yield further. I would rather trust a legislature that is selected in a campaign where there are discussed the various problems that confront the average State legislature, as a reflection of the cross-currents of a State on a moral issue like prohibition, than to have a group of men selected under the heat of a driving campaign, which might be the reflection of the sentiments of the State for the moment, during the heat of the campaign; but, after the matter had settled down and the people saw the result of their action, they might say, "Well, I admit that I was enthusiastic, but I was wrong." Therefore in the legislature we would have the reaction of the men who were not driven into their position by an intensive campaign, such as a convention would bring about. To me that would be the vicious result of submitting the matter to conventions.

Now I yield further to the Senator from Connecticut.

Mr. BINGHAM. Mr. President, may I say to the Senator that it seems to me that his remark would be true of an issue which had come up suddenly and had been discussed under pressure for a number of months. But it is my observation that when we are considering this issue, which has been before the American people now ever since 1918 or 1919, during which time we have seen distinguished clergymen, distinguished heads of universities, distinguished leaders of public opinion, change their views over from proprohibition to antiprohibition, there would not be the danger which the Senator fears of an intensive campaign, leading to an expression of public opinion not in conformity with the wishes of the people.

If I may add just one more word, with the permission of the Senator, he said a few moments ago that a convention, after it had been chosen, would be subject to tremendous pressure, perhaps money might be used to purchase dele-

gates or to influence delegates. It seems to me, if the Senator will bear with me, that that is much more likely with a legislature than with a convention, chosen, as the Senator from Rhode Island has stated, where every candidate to the convention would be known to be either for repeal or against repeal. After a man was chosen he could not be bought away from it or he would lose all the respect of his community.

Mr. DICKINSON. Mr. President, I wish I had as much faith in all convention delegates who are selected on a particular issue as the Senator from Connecticut has. But I have known delegates to change their minds, and they have been responsible delegates to responsible conventions.

I want to state further that my fear is not so much of what will happen after the delegates are chosen; my fear is of the type of advertising and the propaganda that will be put into the various localities in the selection of the delegates, the holding of the precinct caucuses, and the county conventions. That is where the things I have in mind will be brought to bear.

I want to suggest one thing further, that there is probably no subject that a public man is compelled to meet that has suffered as many attacks and defeats as has the prohibition question. We used to have the old system under which a town would go dry one year and go wet the next year.

I want to suggest that liquor has never known how to obey the law. It has never yet obeyed the law. I doubt if we will be any better off when we take such action as we are contemplating in this amendment. But there is a demand for resubmission and I would like to see it put in form so we can vote for a type of resubmission that I think safeguards the moral principles which are involved in the question.

Mr. HASTINGS. Mr. President, the Senator from New Mexico [Mr. BRATTON] in almost the last sentence of his address upon the subject impressed upon us the importance of the Democratic and Republican platforms upon this subject. That is somewhat embarrassing to me. I like always, if it is possible for me to do so, to go along with my party platform. But when I am satisfied, as I am in this instance, that my party was wrong in writing such a provision into the platform, I can not bring myself to the point of following it merely because it is written there.

I have had advocates of straight repeal writing to me calling my attention to the fact that this is a part of the Republican platform. I think now I ought to call their attention to the fact that some Republican Senators here do not propose to follow the Republican platform upon this subject, notably, the Senator from Connecticut [Mr. BINGHAM], who has stated frankly, and stated, he says, before the election, that he does not propose to follow the Republican platform with respect to the third section of the pending joint resolution. I know of no reason why I should be more closely bound by the provisions of the platform than my good Republican colleague from Connecticut [Mr. BINGHAM].

Mr. BINGHAM. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Connecticut?

Mr. HASTINGS. Certainly.

Mr. BINGHAM. The Senator from Delaware was a member of the committee that wrote the platform in the form in which it was adopted, was he not?

Mr. HASTINGS. Yes; I was, and I made what I believe to be under normal conditions an effective argument before that committee upon the subject, but, like some Members of the Senate, the committee made up their minds before they heard the argument, and there was nothing I could do to persuade them.

After I left the committee I had the privilege of calling upon two men, both of whom are residents of my State, and both of whom have done more to steer the country to the point of having anything written in the platform with respect to the eighteenth amendment than any other men that I know. I went to them and argued with them as friends of repeal of the eighteenth amendment, the straight repeal of the eighteenth amendment. I begged of them not to urge upon the delegates, with what influence they had—and they had a lot—that we place any such provision in the platform. I called their attention to the fact that they were making two hurdles to jump where there was no necessity for jumping more than one.

I called their attention to the fact that it would be necessary, as has been stated several times to-day here, that we must first get action of the State legislature setting up the machinery for the convention. In order to get that done it would be necessary to pass an act of the legislature and get it approved by the governor, just like any other act of the legislature. On the other hand, if we submitted the resolution directly to the legislature itself, then we need not consult the governor at all. In that event all we would have to do would be to get a majority of the two Houses.

I made that argument to them and pointed out the difficulties that confronted them and then for the first time I discovered that there was in their minds the determination and the thought that all this could be arranged by the Congress and that there could be but one election on the same day all over the country upon this subject.

I can readily understand, with people having that idea in mind, that they would urge upon both national conventions the adoption of the convention method rather than the legislative method. It would be a very much simpler thing and those who believe that that could be done might very well advocate it. My own judgment is that on neither side, either in the Democratic convention or in the Republican convention, did those who were advocating this plan know exactly what they were doing with respect to it. From the very beginning they had had the idea that in order to get a vote of the people of the Nation upon the subject, in order to get a majority vote of the people of the Nation, we must have a convention method.

Years ago, before many people were interested in the question of the repeal of the eighteenth amendment, they began associating the convention method with propaganda to repeal the eighteenth amendment. They started out having that idea in the beginning and having enlarged their views as they went along, they reached the national convention last summer with that idea in their minds without knowing the actual facts. I am saying that about two men who were largely responsible for the propaganda, neither of them knowing how it was to be done and both of them believing it was perfectly possible for Congress to make some provision with respect to it.

What they sought to do by the convention method was not only to get an individual opinion on this question from everybody, with nothing else on their minds, but they sought also to have a majority in the State control the convention in that State. In other words, here was a question to be propounded to the populace as a whole, to all those who could vote.

It was not intended by those persons and it is not even now intended by the persons advocating the convention method that there should be adopted the plan that is adopted in most States for selecting in various districts the members of the legislature. What they propose and what they hope to carry through is that the populace in the cities, most of which are wet, shall be arrayed against those in the country, most of whom are dry, and in order that they may get a majority of the wets on one side they propose that the subject shall be submitted in that form. Their purpose can not be accomplished in this way unless they control the legislature in the first instance, so that if they be able to control the legislature in the first place, why should they want any convention at all? Why should not they put their resolution through the legislature in the first instance?

In my own State, for instance, here is what happens. The city of Wilmington has half the population of the State. The city has one-half of the representatives in the legislature. If the legislature of my State begins to set up the machinery for a convention under this resolution, what will they do? If they want to make certain that the State goes wet they will submit it to the popular vote. If they want

the State to remain dry, the chances are they will not submit it at all. If they do submit it, they will submit it under a plan so that the delegates will be selected from the individual legislative districts as now.

If I were as enthusiastic about the repeal of the eighteenth amendment as is the Senator from Connecticut [Mr. BINGHAM], I should even then insist that my people and the people with whom I was advising are making a mistake in adopting the convention method, and that the quicker and more expeditious plan is the legislative method.

I may say to the Senator from Connecticut, and I say it to the Senator from Ohio [Mr. FESS] too, that as far as I am concerned, I do not feel that a vote upon this subject controls my vote in my State when I come to vote for delegates to the convention or to the legislature. When the people of my State have shown, as in my judgment they did show in the last election, that they want an opportunity to pass upon this question, then it is my duty, regardless of what I think about it, to give them that opportunity.

I go farther than that. I do not propose to be bound here by the Republican platform with respect to the matter. I propose to submit to my people as nearly the kind of resolution as I think ought to be submitted to them. But if I can not get that kind of a resolution adopted by the Congress, then I propose to vote for whatever is submitted in order that they may pass upon the question.

At the same time, when it comes to casting my individual vote in my State, it depends very much on the kind of resolution that is submitted as to whether I shall favor it or whether I shall not favor it. I warn those who are anxious that some modification be made of the eighteenth amendment, that they should not carry their convictions to the extreme and insist upon a clear clean-cut repeal of the eighteenth amendment. I agree with them that the situation has become such that something ought to be done. The eighteenth amendment ought to be modified in some form. But when they come to consider what the people of the country want, and remember that it must be approved by three-fourths of the States of the Nation, I warn them that in presenting to the people of the country a straight repeal and nothing but a repeal, with the possibility of the saloon returning in every State that is now wet, they are taking a great chance of arousing the sentiment of the people to the point where they may decline to modify the eighteenth amendment in any form.

Mr. FESS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Ohio?

Mr. HASTINGS. I yield.

Mr. FESS. The Senator has touched the very subject to which I meant to call attention a while ago, and that is the process of the amendment requiring two steps. The first one is in the Congress. The second one is in ratification by the States. It has been contended all over the country, including my own State, that a Congressman or a Senator can consistently vote for an amendment which requires a two-thirds vote in order that it be sent to the States, and at the same time let it be understood that he is not committing himself to the theory of the amendment, because he would not support it when it goes back to his State.

Does not the Senator have some embarrassment when he takes that position, that voting here in the Senate we are not committing ourselves back to the State on the ground that it is merely giving the people of the State a right to vote on the matter? Is that embarrassing to the Senator?

Mr. HASTINGS. Mr. President, it will take me but a moment to answer the Senator, but I shall gladly undertake to do so. I take it that when the Constitution provided that the Congress shall by two-thirds vote submit a proposed amendment to the Constitution it was intended that the Members of the Congress should themselves use some judgment of their own and not depend entirely upon the will of even a majority of the people of their own State.

In other words, the proposed amendment must be a reasonable proposition which a Senator or Member of the other House believes ought to be submitted to the people; but I do not at all agree that I can afford to stand here, when other Members of the Senate—it may be two-thirds of the Members of the Senate—maintain that a joint resolution proposing to amend the Federal Constitution should be submitted to the States of the Nation, and put my individual opinion against theirs, unless I should be satisfied that the people of my own State do not want to go to the trouble and go through the necessary procedure to pass upon the question. In other words, there is a combination of two considerations, first to use one's own judgment to determine whether there is such a sentiment of the people of the Nation as to make evident that they want the particular proposition submitted to them; and, second, to be satisfied that the people of one's own State want it submitted. Then, if those two conditions are met, it matters not at all what one's own individual opinion may be with respect to the proposed amendment, it becomes his duty to submit it so that the people of the Nation may pass upon it.

Mr. FESS. Mr. President, will the Senator from Delaware yield to me?

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Ohio?

Mr. HASTINGS. I yield.

Mr. FESS. I think the Senator has answered my question, but he goes farther than I feel free to go. In other words, the second section of the joint resolution that is now before us is designed to permit the Federal authority to assist the States that want to be dry to remain dry. I am in favor of that. The third section is intended to give authority to the Federal Government to prevent the return of the saloon to the extent of regulating or prohibiting the drinking of liquor on the premises where the sale is made. I have offered an amendment to the effect that the authority proposed to be conferred on the Federal Government by the third section shall be enlarged, so that it shall not be limited simply to the regulation of the drinking where the sale is made but shall include any means that Congress may deem necessary to carry into effect the provision against the return of the saloon.

Now, here is the question: I could vote for the joint resolution, amended as I have suggested, not only on the ground that it proposes to give the people of the States the right to say whether or not they want to change the eighteenth amendment, for probably there is justification for doing that; but, as I now see it, I can not vote for straight repeal, because if I should do that it would mean to me utter chaos in the handling of this problem, and I would be doing a thing that my whole conscience would revolt against. I can not take the position the Senator has just announced, that it would not be imparting chaos into the handling of the liquor problem to vote for straight repeal and leave it simply to the people of the States to determine what they shall do. I can not go that far.

Mr. HASTINGS. Mr. President, I should like to say in reply to the remarks of the Senator from Ohio that it seems to me the situation would be entirely different if the Republicans at the last election had succeeded in winning upon the kind of platform such as was submitted to them; but the truth is, unfortunately from my point of view, that the Democrats won, and in the Democratic platform there was the provision for the straight-out repeal.

The Democrats having won by such a huge majority, does not everyone feel justified, under circumstances like that, in submitting, if he has to, some proposal, even if it be a straight repeal? If we can not get what we want here, are we not bound to submit something to the people of the Nation who have spoken so loudly and so positively, assuming, if you please, that they were speaking upon that point as they were upon other pronouncements in the Democratic platform? If the Republicans had won I would not feel I could then vote for a straight-out repeal, and the only proposal I would be willing to submit to the people would be one embracing the substance of the promise contained in the Republican platform. I repeat, however, that is not the verdict of the people; the verdict of the people, so far as we know it upon this subject, is that they want a straight repeal.

If they insist upon Congress giving them a straight repeal, let us find out in the end whether or not there be three-fourths of the people of the various States of the Nation who agree with that. If they do, they will get what they want.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. ROBINSON] to the amendment reported by the committee.

Mr. BLAINE and Mr. ASHURST asked for the yeas and nays, and they were ordered.

Mr. BRATTON. I make the point of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Clark	Hastings	Patterson
Austin	Connally	Hatfield	Pittman
Bailey	Costigan	Hayden	Robinson, Ark.
Bankhead	Couzens	Hebert	Robinson, Ind.
Barbour	Dale	Kean	Russell
Barkley	Davis	Keyes	Schuyler
Bingham	Dickinson	King	Sheppard
Black	Dill	La Follette	Shortridge
Blaine	Fess	Lewis	Smith
Borah	Frazier	Logan	Steiwer
Bratton	George	McGill	Stephens
Brookhart	Glass	McKellar	Trammell
Bulkley	Goldsborough	McNary	Vandenberg
Byrnes	Gore	Neely	Wagner
Capper	Hale	Norris	Walcott
Caraway	Harrison	Nye	White

The PRESIDING OFFICER (Mr. FESS in the chair). Sixty-four Senators having answered to their names, a quorum is present. The question is on the amendment offered by the Senator from Arkansas to the committee amendment, on which the yeas and nays have been ordered.

Mr. BLAINE. I ask that the amendment to the amendment be stated.

Mr. BINGHAM. Let the amendment to the amendment be read.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The CHIEF CLERK. The Senator from Arkansas offers the following amendment to the committee amendment: On page 3, line 2, strike out the words "the legislatures of," and insert the words "conventions in," and on page 3 line 16, strike out the words "the legislatures of" and insert the words "conventions in."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. ROBINSON] to the amendment reported by the committee, on which the yeas and nays have been ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). I have a pair with the junior Senator from Nebraska [Mr. HOWELL], who is absent on official business of the Senate. I transfer that pair to the senior Senator from Louisiana [Mr. BROUSSARD] and will vote. I vote "yea."

Mr. DICKINSON (when his name was called). On this question I have a pair with the Senator from Maryland [Mr. TYDINGS]. If he were present and voting, he would vote "yea," and if I were at liberty to vote I should vote "nay." I withhold my vote.

The PRESIDING OFFICER (when Mr. FESS's name was called). The present occupant of the chair has a pair with the senior Senator from New York [Mr. COPELAND], and therefore withholds his vote.

Mr. NORRIS (when Mr. HOWELL's name was called). I desire to announce that the junior Senator from Nebraska [Mr. HOWELL] is absent on business of the Senate. He is paired with the Senator from New Mexico [Mr. BRATTON].

Mr. MCNARY (when his name was called). On this question I have a pair with the senior Senator from California [Mr. JOHNSON]. If he were present, he would vote "yea," and if I were at liberty to vote I should vote "nay."

Mr. BINGHAM (when Mr. METCALF's name was called). The senior Senator from Rhode Island [Mr. METCALF] is necessarily absent. If he were present, he would vote "yea,"

Mr. NYE (when his name was called). On this question I have a pair with the senior Senator from Massachusetts [Mr. WALSH]. If he were present, he would vote "yea," and if I were at liberty to vote I should vote "nay."

Mr. SHEPPARD (when the name of Mr. THOMAS of Oklahoma was called). The Senator from Oklahoma [Mr. THOMAS] is unavoidably absent. If present, he would vote "nay." He is paired with the Senator from Rhode Island [Mr. METCALF.]

The roll call was concluded.

Mr. STEPHENS. On this question I have a pair with the Senator from Wyoming [Mr. CAREY]. If at liberty to vote, I should vote "yea."

Mr. NORRIS (after having voted in the negative). On this question I have a pair with the Senator from Florida [Mr. FLETCHER]. I am unable to get a transfer, so I shall have to withdraw my vote. If at liberty to vote, I should vote in the negative, and the Senator from Florida would vote in the affirmative.

Mr. LA FOLLETTE. On this question I have a pair with the junior Senator from North Carolina [Mr. REYNOLDS]. In his absence I withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. ROBINSON of Arkansas (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. REED]. That Senator has not voted. I transfer my pair with him to the Senator from Massachusetts [Mr. COOLIDGE], and will let my vote stand.

Mr. MCKELLAR (after having voted in the affirmative). I have a general pair with the junior Senator from Delaware [Mr. TOWNSEND]. It seems that he has not voted. I transfer my pair with him to the Senator from South Dakota [Mr. BULOW], and will allow my vote to stand.

Mr. SMITH (after having voted in the affirmative). I transfer my pair with the Senator from Indiana [Mr. WATSON] to the Senator from Minnesota [Mr. SHIPSTEAD], and will let my vote stand.

Mr. FESS. I desire to announce that the Senator from New Hampshire [Mr. MOSES] is paired with the Senator from Montana [Mr. WALSH]. If present, the Senator from New Hampshire would vote "yea," and the Senator from Montana would vote "nay."

I also desire to announce the following general pairs:

The Senator from Rhode Island [Mr. METCALF] with the Senator from Oklahoma [Mr. THOMAS];

The Senator from Idaho [Mr. THOMAS] with the Senator from Montana [Mr. WHEELER]; and

The Senator from Illinois [Mr. GLENN] with the Senator from Virginia [Mr. SWANSON].

I have also been requested to announce that the Senator from Pennsylvania [Mr. REED], if present, would vote "nay." He is unavoidably absent.

Mr. GLASS. I desire to announce the necessary absence of my colleague the Senator from Virginia [Mr. SWANSON]. If present, he would vote "yea."

The result was announced—yeas 45, nays 15, as follows:

YEAS—45

Ashurst	Clark	Hull	Robinson, Ark.
Austin	Connally	Kean	Russell
Bailey	Costigan	Kendrick	Schuyler
Bankhead	Couzens	Keyes	Shortridge
Barbour	Davis	King	Smith
Barkley	George	Lewis	Trammell
Bingham	Glass	Logan	Vandenberg
Black	Goldsborough	McKellar	Wagner
Bratton	Gore	Neely	Walcott
Bulkley	Harrison	Oddie	
Byrnes	Hayden	Patterson	
Caraway	Hebert	Pittman	

NAYS—15

Blaine	Dale	Hastings	Sheppard
Borah	Dill	Hatfield	Steiwer
Brookhart	Frazier	McGill	White
Capper	Hale	Robinson, Ind.	

NOT VOTING—36

Broussard	Glenn	Norbeck	Swanson
Bulow	Grammer	Norris	Thomas, Idaho
Carey	Howell	Nye	Thomas, Okla.
Coolidge	Johnson	Reed	Townsend
Copeland	La Follette	Reynolds	Tydings
Cutting	Long	Schall	Walsh, Mass.
Dickinson	McNary	Shipstead	Walsh, Mont.
Fess	Metcalf	Smoot	Watson
Fletcher	Moses	Stephens	Wheeler

So the amendment of Mr. ROBINSON of Arkansas was agreed to.

Mr. ROBINSON of Arkansas. Mr. President, I now offer the amendment which is at the clerk's desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. The next amendment offered by the Senator from Arkansas is, on page 3, to strike out section numbered 2, being lines 7, 8, 9, and 10.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Arkansas.

Mr. BORAH. Mr. President, as I understand, this is the question of striking out section 2, which provides for the protection of the so-called dry States. I should like to be heard on that amendment.

I look upon this provision of the amendment as vital. It does not seem to me that we can afford to strip the amendment of all effort to protect the dry States. Indeed, if I understand the two platforms, that is a part of the pledge of the platforms. While perhaps that is not controlling, it has been emphasized to-day to a considerable extent, and perhaps some would feel that they should be bound by it. I do not cite it, however, as binding myself.

Mr. President, it has been said that the Webb-Kenyon Act is a sufficient protection to the dry States. The Webb-Kenyon Act was sustained by the Supreme Court of the United States by a divided court. The President of the United States—President Taft, who was afterwards Chief Justice—vetoed it on the ground that it was unconstitutional. The Attorney General of the United States rendered an opinion to the effect that it was unconstitutional. Elihu Root, when in the Senate, argued that it was unconstitutional. Mr. Justice Sutherland, who is now upon the Supreme Bench, argued before the Senate that it was unconstitutional. Therefore, Mr. President, we are turning the dry States over for protection to a law which is still of doubtful constitutionality and which, as it was upheld by a divided court, might very well be held unconstitutional upon a re-presentation of it. Secondly, we are asking the dry States to rely upon the Congress of the United States to maintain indefinitely the Webb-Kenyon law.

It will be recalled that at the time the decision of the Supreme Court was made with reference to the Webb-Kenyon Act immediately thereafter there began a campaign upon the part of those interested in the liquor traffic to secure one of two things—either a repeal of the Webb-Kenyon Act by act of Congress or a reconsideration in the court. Thus, at the time of the adoption of the eighteenth amendment, that was an unsettled problem. It had not become, and never has become—except in the sense that now, since the adoption of the eighteenth amendment, it has not been contested as it otherwise would have been—it never has become a settled policy of the Government or a settled policy of the Congress and, it seems to me, could not be accepted as a sufficient protection to the dry States.

Mr. President, I want to go back a little in the discussion of this matter to the history of the fight of the dry States to remain dry and be protected.

We hear a great deal in these days about the eighteenth amendment destroying the police powers of the States. I venture to say that anyone who has taken the trouble to familiarize himself with the destruction of the police powers of the States relative to the liquor question will have to conclude that the police powers had been destroyed prior to the adoption of the eighteenth amendment, taken away from the States prior to that time through the decisions of the Supreme Court of the United States and the constant and persistent attack of the liquor interests upon the rights of the States to be dry and to exercise their police powers to the end that they might be dry.

In 1847 there came before the Supreme Court for the first time the question of the right of the States, in the exercise of their police power, to control the sale of intoxicating liquor.

I want Senators to bear in mind that for 75 years the States sought in every possible way to preserve the right to control the liquor interests within their respective borders, and I venture to say that had they been able to do so, the eighteenth amendment would never have been heard of.

The principle of local self-government is justly popular with the American people. It is interwoven with the memories which go back to the days when the great tenets of free government were being first tested in the wilderness of America. The New England town meeting and the burgesses of Virginia were the universities from which graduated a body of men who, in vision and courage, in dignity and poise, in constructive leadership, have never been excelled in the formative period of any nation. In these early gatherings where all questions of public concern were considered and debated, the people acquired an interest in public affairs, a vigilance for the public good, which enabled them to meet with rare judgment the great responsibilities placed upon them after a successful revolution.

When our fathers met to frame the Constitution, they guarded with conscientious care this right of local self-government. Local government for local affairs, a National Government for national affairs, was the great rule among those to whom was entrusted the making of our national charter. They adhered to it with unbroken fidelity and with an unwavering consistency.

It will be a sad day for this Republic when that principle is forgotten or ignored in the administration of this Government. I believe in this principle. I want to see it preserved.

The advocates of repeal insist that they are seeking to reestablish local self-government, State rights, in the matter of the control of intoxicating liquors. What I wish to say is that we have never had local self-government and State rights in reference to the liquor traffic except for a short time. The most persistent and successful opponents of these great principles have been those engaged in the liquor business. They disregarded the most fundamental principles of State rights and local self-government. Long before the eighteenth amendment was adopted they had practically destroyed or rendered futile these principles. If, therefore, local self-government or State rights are to be restored as to the problem now before us, we must do something more than repeal the eighteenth amendment. To repeal the eighteenth amendment and nothing more would be to leave these vital principles of government to become the plaything of the liquor traffic.

I want at this time to recall to you the long fight, the unsuccessful fight, which the temperance and prohibition people made for the preservation of local self-government, of State rights, as to the control of intoxicating liquors. I want to recall how in every conceivable way some of those engaged in the manufacture and sale of intoxicating liquors sought to break down and destroy these principles and to rob the people in their respective States of their protection. I have seen the laws of the dry States thwarted and defied, the policies adopted by the people trampled upon and disregarded by the same interests which now plead for State rights and for the right of every community to have its own policy with reference to intoxicating liquor. I have seen saloons in wet States established within 10 feet of the State line of dry States. A living conspiracy financed and supported by interests outside of the dry States violated, evaded, and nullified the laws within the dry States. We had no appeal from that source at that time for State rights. We had no well-financed association seeking to uphold the rights of the citizen and to bring about respect for the policies of the States.

I want first to refer to the decision of the Supreme Court in 1847 in what were known as the License cases. New Hampshire, Massachusetts, and Rhode Island, I believe it was—I know New Hampshire and Massachusetts—had passed what they called license laws, that is to say, laws that provided that no one could engage in the sale of intoxicating liquors within those States who had not secured a license and complied with certain terms and conditions under the statute. The case went to the Supreme Court of the United States, when Chief Justice Taney was presiding over the court, and the Chief Justice wrote the leading

opinion in the case. He took the position that while a shipment of liquor into a State came within the purview of the commerce clause of the Constitution, and therefore would ordinarily be under the control of the National Government, nevertheless, when the Congress had not acted, when it had not assumed to control the matter, it was within the power of the State, in the exercise of its police powers, to control the sale of intoxicating liquors. Therefore, Chief Justice Taney, in the main opinion, upheld the licensing laws of the States involved on the theory that the police powers of the States should remain in force and effect unless Congress had actually taken charge of the subject and legislated upon it.

Mr. President, that remained the decision of the Supreme Court of the United States from 1847 to 1888. During that time the States began to build up pretty general control of the liquor traffic under the decision of the Supreme Court. But as the States began to take control and limit the power of the liquor interests in shipping liquor into the States, and more and more States came to adopt measures of that kind, the contest was renewed in the Supreme Court of the United States, and those engaged in the liquor traffic again sought the decision of the court upon that question. While it is not directly on the point, I will ask Senators to bear in mind that for that length of time the Supreme Court of the United States sustained the Taney decision, which makes me rather uneasy about leaving the Webb-Kenyon Act to the protection of the Supreme Court of the United States, because in 1888 they wiped out the Taney decision and established a new doctrine.

In 1886 the State of Iowa passed a law not permitting common carriers to bring intoxicating liquors into the State without first being furnished with a certificate that the consignee was authorized to sell intoxicating liquors in the county where the liquors were going. The law would have been valid under the Taney decision, because Congress had never legislated upon the subject, and Iowa was exercising the power which had been allowed to New Hampshire and other States under the Taney decision. But the Supreme Court undertook to distinguish—it seldom overrules, it generally distinguishes—between the two cases; that is, the case which was before it and the Taney decision. At any rate, this decision in the case of Bowman *v.* Railway Company (125 U. S.), was the first step toward the doctrine that when Congress has failed to legislate touching a matter of interstate commerce, it is presumed that Congress intends the matter to remain free and uncontrolled by legislation.

It was conceded that Congress had not legislated; the State had legislated, the State was seeking in the exercise of its police powers to control that which was inimical to its health, to its peace, and to its proper development, all of which was conceded by the court.

The court said that the Congress had not acted; but, notwithstanding the fact that it had not legislated, it must be presumed that Congress wanted the matter to remain without any legislation. This situation: Congress did not act, did not legislate; the State could not act, could not legislate, and the liquor traffic was free and uncontrolled by either Congress or the State. That was the result of the decision in the Bowman case.

Those engaged in the liquor business were not satisfied with the decision. All the time those who are now asking us to turn back to the States the control of the liquor traffic were seeking to break down the power of the States to control the liquor traffic.

The State of Iowa passed a prohibition law prohibiting the manufacture or sale of intoxicating liquors, except under certain specifications made. The Supreme Court in the case of Leisy *v.* Harding (135 U. S. 100) held the law unconstitutional, in so far as it applied to the sale by the importer in the original package or keg. The Supreme Court took up the License cases, and finally and specifically overruled the Taney decision, or distinguished it to such an extent that there was nothing left of it.

The States therefore were powerless to protect themselves against the importation of liquor into the States. There never was any real chance for the dry States to enforce their laws after the decision which was made in the case of Leisy against Harding.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from Idaho yield?

Mr. BORAH. I yield.

Mr. ROBINSON of Arkansas. In so far as I am concerned, I shall modify the amendment I have offered and ask a vote to strike out section 3. I shall not insist on a vote to strike out section 2, which contains the following language:

> The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

I shall modify the amendment in that particular.

Mr. BORAH. Mr. President, then I shall not occupy the time of the Senate except for about 5 or 10 minutes to explain the contention which I was making.

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

Mr. BORAH. I yield.

Mr. VANDENBERG. Will it not be a fact, however—if I may address myself to the Senator from Arkansas—that he will subsequently offer the straight repeal substitute, which will leave as the only issue before the Senate whether or not the particular section to which the Senator from Idaho addresses himself shall remain?

Mr. ROBINSON of Arkansas. No; my idea now is that I will modify my amendment so as to require a vote on striking out section 3, which is the provision giving Congress concurrent power to "regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold," leaving section 2 in the joint resolution. That will simplify the controversy.

Mr. BORAH. Mr. President, does the Senator understand that there is anyone else who will offer the amendment? Is the Senator from New York intending to offer the amendment?

Mr. WAGNER. Oh, no.

Mr. ROBINSON of Arkansas. The Senator from New York is in accord with the suggestion I have made, and all Senators on this side with whom I have had opportunity of discussing it at all are in accord with my proposed modification of the amendment.

Mr. NORRIS. Mr. President, as I understand the parliamentary situation, the motion is to strike out section 2. The Senator ought to withdraw his motion, then.

Mr. ROBINSON of Arkansas. No; the amendment is in the nature of a substitute for the entire resolution. But I will modify the motion, so that it will be a motion to strike out section 3. That will make it very simple.

Mr. BORAH. Mr. President, then I shall take but a few minutes more.

Mr. WAGNER. Mr. President, will the Senator yield to me?

Mr. BORAH. I yield.

Mr. WAGNER. In view of the inquiry made, I may say to the Senator that I have made a study of the history of these decisions to which he has been referring, and it is on account of those decisions, so far as I am concerned, that if the dry States want additional assurance that they will be protected I shall have no objection.

Mr. ROBINSON of Arkansas. Mr. President, I had that thought myself. I do not wish to ask the Senate to put itself in the position of denying any measure of protection to dry territory.

Mr. BORAH. Very well, Mr. President, then I will conclude in a few minutes. I simply want to round out the particular case about which I was talking.

All the cases I have cited—the Bowman case, the Leisy-Hardin case, and other cases—were decided by a divided court.

In the Bowman case this language is found in the dissenting opinion:

If, as the court now decides, the Constitution gives the right to transport intoxicating liquors into Iowa from another State, and if that right carries with it as one of its essential ingredients authority in the consignee to sell or exchange such articles after they are brought in and while in his possession in the original packages, it is manifest that the regulations forbidding sales of intoxicating liquors within the State for other than medicinal, mechanical, culinary, or sacramental purposes * * * will be of little practical value.

Again, in the dissenting opinion, it is said:

Suppose the people of a State believe upon reasonable grounds that the general use of intoxicating liquors is dangerous to the public peace, the public health, and the public morals, what authority has Congress or the judiciary to review their judgment upon that subject and compel them to submit to a condition of things which they regard as destructive of their happiness and the peace and good order of society?

In the dissenting opinion in the Leisy case we find the following language:

Call them [the laws] by whatever name. If they are necessary to the well-being and independence of all communities, they remain among the reserved rights of the States, no expressed grant of them to the General Government having been either proper or apparently embraced in the Constitution.

Again the court says:

Without attempting to define what are the peculiar subjects or limits of this power [the police power], it may safely be affirmed that every law for the restraint and punishment of crime for the preservation of the public peace, health, and morals must come within this category.

Again:

The police power, which is exclusively in the States, is alone competent to the correction of these great evils and all measures of restraint or prohibition necessary to effect the purpose are within the scope of that authority.

Mr. President, I wanted to say that this question of the right of the States, in the exercise of the police powers, to control the liquor traffic within the States, was fairly and squarely presented in many cases to the Supreme Court, always a portion of the court contending that the police powers should be permitted to be exercised by the States to the full extent within the boundaries of the States.

I venture the opinion, and it is my belief, that the eighteenth amendment would never have been adopted had it not been for the open, brazen, corrupt, persistent defiance of the laws of the dry States by the liquor interests outside those States. At the time the eighteenth amendment was adopted, 33 States had prohibition in some form. The people had declared they wanted to be rid of this evil, or at least to control it in their own way. These States were invaded, their laws broken, their officials corrupted, by the same influences which now plead for States rights and local control. They did not at that time respect that right at all. They trampled upon it and scoffed at it. Therefore, if we are to have what we are now promised, local self-government, State rights, the right of the people of the respective States to adopt and enjoy their own policies, we must have some other method, some other provisions of the Constitution, than those which existed prior to the adoption of the eighteenth amendment.

All this was sought to be remedied by the Webb-Kenyon Act, and I am very glad indeed the able Senator from Arkansas has seen fit to recognize the justice and fairness to the States of incorporating it permanently in the Constitution of the United States.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Illinois?

Mr. BORAH. I yield.

Mr. LEWIS. May I ask my able friend from Idaho a question? The Senator from Idaho has no doubt, has he, that it is both within the power and the propriety of Congress to enact a law that will make it a crime for what we call the wet States, or those living in one, to ship or send any intoxicating liquor across the border into a dry State?

Mr. BORAH. I have no doubt, if the amendment is adopted, that it will be within the power of Congress, as well as within the power of the State, to punish those who ship liquor into a dry State.

Mr. LEWIS. Such is my contention. I have been insisting upon such enactment.

The PRESIDING OFFICER. The clerk will report the amendment proposed by the Senator from Arkansas.

The CHIEF CLERK. The Senator from Arkansas [Mr. ROBINSON] proposes, on page 3, to strike out section 3, as follows:

SEC. 3. Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Costigan	Hull	Robinson, Ind.
Bailey	Couzens	Johnson	Russell
Bankhead	Dale	Kean	Schuyler
Barbour	Davis	Kendrick	Sheppard
Barkley	Dickinson	Keyes	Shipstead
Bingham	Dill	La Follette	Smith
Black	Fess	Lewis	Steiwer
Blaine	Frazier	Logan	Stephens
Borah	George	McGill	Townsend
Bratton	Glass	McKellar	Trammell
Brookhart	Goldsborough	McNary	Tydings
Bulkley	Gore	Neely	Vandenberg
Bulow	Hale	Norbeck	Wagner
Byrnes	Harrison	Norris	Walcott
Capper	Hastings	Nye	Walsh, Mass.
Caraway	Hatfield	Patterson	White
Clark	Hayden	Pittman	
Connally	Hebert	Robinson, Ark.	

The PRESIDING OFFICER. Seventy Senators have answered to their names. A quorum is present. The question is on the amendment offered by the Senator from Arkansas [Mr. ROBINSON] to the amendment of the committee.

Mr. BINGHAM. Mr. President, may we have the amendment stated?

The PRESIDING OFFICER. The amendment will be again stated for the information of the Senate.

The Chief Clerk again read the amendment.

Mr. BLAINE. Mr. President, let us have the yeas and nays.

Mr. BORAH. Mr. President, this is the amendment upon which I reserved freedom of action. It will seem strange to some that I should have any hesitancy about this provision of the Constitution as I am so pronouncedly against the return of the saloon. But I do not believe that this will prevent the return of the saloon. I think it will prove wholly delusive. I am quite clear in my own mind that once we legalize the sale of intoxicating liquors and turn them back to the States, as a practical proposition the Federal Government can not possibly supervise how they shall be drunk.

For instance, it is claimed that at the present time we can not execute the eighteenth amendment, although it is illegal to sell liquor. Now we propose to make it legal to sell the liquor and propose at the same time to step in as a practical proposition and designate where that which is legally sold shall be consumed. As a practical proposition I do not believe it is possible to do it.

The second proposal to which I invite attention is this: When we come to execute this provision we will be executing it against the States, not like we do the eighteenth amendment against individuals. A State will designate the manner in which liquor may be sold. It may adopt the license system or it may adopt the saloon system. The Federal Government will be in the attitude of calling a State to the bar of public opinion and asking it to readjust its laws, to reenact its laws, to reestablish its system. The State will really be on trial before the National Government—not the individual, but the State itself which is backing the system and has the right to do so under the proposed amendment. The State has a perfect right to adopt the system, and if we undertake to say that the National Government shall step in as a sovereign against the

second sovereign and control its system, in my opinion, it will prove utterly impractical.

Mr. HASTINGS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Delaware?

Mr. BORAH. I yield.

Mr. HASTINGS. Does the Senator think that under section 3 a State could do anything which the Congress had prohibited?

Mr. BORAH. But it does not prohibit it.

Mr. HASTINGS. My understanding of section 3 is that, giving Congress concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold, it would leave the Congress in a position to enact a law which it would be illegal for the State to exceed. That is my understanding of it.

I think it has the additional advantage that all the Congress would have to do would be to enact the necessary law regulating or prohibiting the sale of intoxicating liquors to be drunk on the premises where sold and, Congress having done that, it would not be possible for the State to legalize any person to sell contrary to the provisions of the Federal law.

Mr. BORAH. On the other hand, suppose the State adopts a system and enacts a law which permits liquor to be drunk on the premises where sold?

Mr. HASTINGS. My own theory about it is that if Congress enacted a different law, the State provision would thereby become illegal.

Mr. BORAH. That is what I said, that we will have two sovereignties contending against each other as to the method in which liquor shall be drunk. Does the Senator think that is a practical proposition?

Mr. HASTINGS. I do think it is practical. I think Congress might enact a law stating what might be done in the way of selling liquor to be drunk on the premises, and then, immediately that Congress had enacted such a law, it would be necessary for the State to limit its own laws in that particular.

Mr. BORAH. How could we compel a State to modify its law? Would the mere fact of passing an act of Congress strike down the State law?

Mr. HASTINGS. Instantly the Congress enacted the law upon the subject and laid down the rule or prohibited the act from being done, any citizen at any time could by some civil action prevent another citizen from acting under some authority that came from the State. That is my own notion about the way it would operate.

Mr. BORAH. I do not think the National Government could act in a judicial capacity and strike down a law passed by a sovereign State and which it had a right to pass. The Senator will concede that in the first instance the State would have a perfect right to license a saloon.

Mr. HASTINGS. The State would not have any such right if the Congress by some act had prohibited it.

Mr. BORAH. But suppose the Congress has not acted?

Mr. HASTINGS. Oh, I agree to that. Unless the Congress acts this section does not become effective at all, but when the Congress does act, then the State may not exceed the powers given under the Federal act.

Mr. BORAH. It seems to me that unless we put into the amendment a specific statement to the effect that liquor shall not be drunk upon the premises where sold and make that prohibitive in the Constitution, we are going to get into all kinds of difficulties and troubles. And even then as a practical proposition it seems to me it would be impossible of successful enforcement. Now, above all things I do not want to deceive or mislead in writing a constitution. I feel if I should vote for this I would be doing an insincere thing and that about the fundamental law.

Mr. HASTINGS and Mr. BLACK addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield; and if so, to whom?

Mr. BORAH. I yield first to the Senator from Delaware.

Mr. HASTINGS. I do not want to take the Senator's time, but in view of the condition about which complaint is constantly being made, namely, that Federal appointees are going into the States and enforcing the police power there, and so forth, which is so objectionable from the viewpoint of many States and many persons in those States, my own thought was that that was not involved in this section at all.

Mr. BORAH. When the Congress passes a law how is it going to be enforced unless Federal agents are sent into the States to enforce it?

Mr. HASTINGS. If I were operating under section 3 of this resolution, I would not have Congress pass any law which had any penalty attached at all to it but I would rely upon the fact that that law is supreme; that the States cannot exceed it; and therefore some civil action may be taken against any person operating under State authority and selling liquor in violation of congressional authority.

Mr. GLASS. Mr. President, if offenders are not deterred by criminal action, how could we expect them to be deterred by an inane civil action?

Mr. HASTINGS. If the Senator from Idaho will permit me to answer the question, I will say that I assume that no State anywhere would pass a law after Congress had acted under this section and had said that it shall be unlawful to do this in any State in the Union. I assume that the members of the legislatures of the States of the Union who at the same time they take an oath to support the constitution of their own States also take an oath to support the Constitution and laws of the Federal Government would not permit any act to be passed by their own legislatures in violation of the provisions of the congressional act.

Mr. BLACK. Mr. President——

Mr. BORAH. Mr. President, I will yield to the Senator from Alabama in just a moment. The able Senator from Delaware is answered by the long experience which we have had under the eighteenth amendment. Each member of the legislature of every State in the Union has taken an oath since the eighteenth amendment has been adopted to support and maintain the Constitution of the United States. To support and maintain the Constitution of the United States, in the language of Abraham Lincoln, means the enactment of such laws as are necessary to maintain and enforce the Constitution of the United States; and yet the States, one after another, through their legislatures, have repealed all laws which enabled them to maintain and enforce the Constitution of the United States, and the members of those legislatures did not seem to think that they were violating their oaths in doing it. I think they did.

Mr. HASTINGS. I think that is a pretty complete answer to my suggestion.

Mr. BLACK. Mr. President——

Mr. BORAH. I yield to the Senator from Alabama.

Mr. BLACK. I want to ask the Senator from Idaho if he agrees with the viewpoint of the Senator from Delaware that under this clause the law passed by Congress would control and be over the law passed by the State? As I understand, the Senator from Delaware takes the position—and I think it is correct—that if two jurisdictions or two sovereignties each pass a law, one of them, of course, has to be supreme. Does the Senator agree that that would be the Federal law?

Mr. BORAH. Do I agree to it?

Mr. BLACK. Yes; which would be supreme?

Mr. BORAH. Well, I am very frank to say that where two sovereign powers have the right to enact laws, and both of them have a perfect right to do so, it would be very difficult for me to know which one was supreme as the question would be presented here.

Mr. ROBINSON of Arkansas. And it would result in great confusion.

Mr. BORAH. Yes.

Mr. BLACK. I should like to ask the Senator one other question, if he will permit me. That being true, suppose Congress should pass a law restricting and regulating, to a certain extent, the sale of liquor in Delaware or Idaho, and then suppose the State of Idaho or Delaware wanted to impose greater restrictions; they did not want liquor sold in their State in the manner prescribed by Congress; under

which law could the citizen operate? Would he operate under the Federal law or under the State law?

Mr. BORAH. Well, excuse me——

Mr. LEWIS. Mr. President——

Mr. BORAH. Just one word more, and I will conclude.

Mr. LEWIS. May I be pardoned for saying to the Senator from Idaho and the Senator from Alabama that I had before me a few months ago, among other decisions, a decision of the Supreme Court of Connecticut which passed upon that question, and it was held that where a local law was in conflict with a Federal law and the subject matter was the same the Federal law became supreme, and the court gave it precedence.

Mr. BORAH. There is no doubt about that as a general proposition; but where a State gets its authority to pass a law from the Constitution of the United States, from the same source that the Congress gets its authority, and both of them are sovereign within their territory, I do not see how it can be said that one is supreme over the other.

Mr. BLACK. If the Senator from Idaho will yield for one further question, assuming that the Federal Government should pass a regulatory law which was not prohibitive, whereas a State wanted a prohibitive law; if the law is as stated by the Senator from Illinois, the Federal law would prevail, and, of course the prohibitive law of the State could be stricken down. Therefore, instead of that State having a law prohibiting the sale of liquor within its borders, Congress would pass a law which would coerce the State into permitting the sale of liquor under regulations laid down by the Federal statute.

Mr. BORAH. Mr. President, just a word more and I shall conclude.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Oklahoma?

Mr. BORAH. Does the Senator wish to ask me a question?

Mr. GORE. I do. I will first say that I appreciate the difficulties which the Senator is pointing out, and I want to ask him if the situation might not be clarified and those difficulties obviated if we should strike out section 3 and substitute language something like this—

> That no State shall authorize or permit the retail sale for private profit of distilled spirits for beverage purposes.

Certainly that would obviate the conflict of the sovereignties. The gravamen of this trouble lies in the sale of distilled spirits for private profit. Such a provision would prohibit that being done, and then the States could sell liquor through some State organization as is done in Canada or in Scandinavian countries. It would remove the clashing of sovereignties and would eradicate the chief difficulty and trouble about the liquor business.

Mr. BORAH. Mr. President, I have spent some time during the last 18 months trying to determine how the National Government may control the consumption of liquor within the States after we shall repeal the eighteenth amendment. It is my judgment, and that is the reason why I am voting as I do both against the repeal of the eighteenth amendment and against this section—that when we shall have legalized the sale of intoxicating liquor and turned it back to the States there will be no power that can, as a practical proposition, prevent the return of the saloon except the people within the respective States. In dealing with the Constitution of the United States I do not want to vote for a clause in that Constitution which, while not so intended by those who are advocating it, I believe will be deceptive; and for that reason I shall vote against it.

Mr. LEWIS. Mr. President, if I may be pardoned, I should like to remove a false impression which I think the Senator from Idaho has perhaps created as to the legislative action of the State of Illinois concerning some of its local legislation. As he is a distinguished son of that glorious State which I have the honor to represent in part, I desire to say to him that the legislation which was repealed was known as the search and seizure act, under which law human beings could be seized and searched, and if the search disclosed liquor in any form upon that basis alone the individual could be convicted. That is the law that was repealed and wiped out.

Mr. BORAH. The Senator is in error. I did not mention the State of Illinois.

Mr. LEWIS. I thought the Senator said the State of Lincoln.

Mr. BORAH. I referred to what Lincoln said as to what constituted maintaining the Constitution, to wit, the passage of laws which were essential to its enforcement.

Mr. LEWIS. My correction was unnecessary; I misinterpreted the Senator's language.

Mr. NORRIS. Mr. President, since the State of Illinois has been cleared of any wrongdoing, I want to offer a few remarks regarding this proposed amendment. To my mind the amendment in its operation will present no difficulty whatever.

Mr. HASTINGS. Mr. President, will the Senator yield to me for a moment?

Mr. BORAH. I yield.

Mr. HASTINGS. I should like at some time before the Senator concludes his remarks—and I am making this suggestion now so as not to interrupt him again—to consider the advisability of striking out the word "concurrent."

Mr. NORRIS. I was going to make that suggestion if there was any doubt in anybody's mind.

Mr. President, I do not agree for a moment with those Senators, for whose judgment I have the highest respect, that this provision if retained in the proposed amendment will get us into any difficulty whatever. I refer to section 3. Suppose we leave it in and it goes in the Constitution of the United States. Let us assume that the Congress passes a law under this section prohibiting the sale of liquor to be drunk upon the premises where sold and fixing a penalty for its violation. Then let us assume that a State passes a law, or had passed one before Congress enacted a law on the subject, providing for the saloon, the old kind of a saloon, and suppose some individual for the violation of the act of Congress is indicted in the Federal court and brought to trial. He is indicted for the violation of a law passed by Congress, based upon a specific provision of the Constitution of the United States, and he offers in defense that he is operating his saloon under a State statute. Would any one claim that such a contention would be a defense? Would any court even permit him to offer that in evidence?

In the first place the law is plain; it has been passed by Congress; Congress has a right to pass it; it is admitted to be based upon this provision of the Constitution, and no one claiming a right to violate that law can offer it as a defense, unless he can show he is acting under a law that comes from some authority higher than Congress; and I take it that would be an impossibility, because Congress is operating under the Constitution of the United States; it has passed a law that the Constitution specifically permits it to pass and it would not make any difference, so far as that law is concerned, so far as the trial of the offender is concerned, that the State has passed a different law or has passed any law whatever. It would not be any defense. The only question involved in that case would be, Is the law under which the defendant was indicted a constitutional law? Did Congress have authority to enact it? Here it is in black and white. It seems to me it is as plain as anything can possibly be.

Mr. BORAH. Mr. President——

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

Mr. BORAH. May I ask my friend this question: A man is brought into court for violating the act of Congress. The prosecution must establish his criminal intent; and he presents, in defense of his intent, the authorization of his sovereign State. Now, in the last analysis the court might hold that the authority of Congress was supreme; but, in my opinion, the jury would take into consideration the fact that this man was acting by authority of his State.

Mr. NORRIS. In the first place, he would never get it in evidence. The first thing that would happen when he offered his State license would be an objection on the part

of the prosecutor, and that objection undoubtedly would be sustained without any hesitancy. He never would get it in evidence. The jury never would have an opportunity to consider it. He has violated a Federal statute. The authority of Congress to pass the Federal statute stands unquestioned, because it is based upon the specific language of the Constitution; and unless he could show some defense under the Federal law there would not be anything to do but to find him guilty.

Mr. ROBINSON of Indiana. Mr. President——

Mr. NORRIS. I yield to the Senator from Indiana.

Mr. ROBINSON of Indiana. Furthermore, the court unquestionably would instruct the jury to disregard the evidence if it did get in.

Mr. NORRIS. Of course it would.

Mr. BORAH. Mr. President, I can not see how it would be possible to deprive the man of the evidence which would nullify the charge of criminal intent on his part.

Mr. NORRIS. Oh, but, Mr. President, in a statutory offense you would not have to prove intent. The violation of law is sufficient to show his criminal intent. Every man is conclusively presumed to know what the law is. To show, for instance, that he had told somebody that he intended to violate the law, or something of that kind, while proper evidence, would never be necessary in the violation of a Federal statute.

Mr. ROBINSON of Indiana. Mr. President——

Mr. NORRIS. I yield to the Senator.

Mr. ROBINSON of Indiana. As a matter of fact, it is not evidence at all. That would be no evidence, as a matter of fact. The question is whether or not he violated the statute. That is the only question.

Mr. BORAH. Mr. President, permit me to say—and then I will not interrupt again—that the books are full of cases where statutes, although afterward declared void, were permitted to be introduced as reflecting upon the intent of the party charged with the commission of crime.

Mr. NORRIS. I will venture to assert that the Senator can not find any case anywhere in the history of jurisprudence that would apply to a case coming under a constitutional provision like this, passed by a legislature acknowledged to have authority to do it.

Mr. BORAH. If we can get an adjournment of this amendment until to-morrow morning, I feel I will be able to bring them in.

Mr. NORRIS. All right; I should like to have the Senator bring them in.

Mr. LEWIS. Mr. President——

Mr. NORRIS. I yield to the Senator from Illinois.

Mr. LEWIS. Will the Senator from Nebraska let me tell him a bit of history in Illinois?

The firm of Grommes & Ulrich, very large importers, and for years a very well-established institution, a large retail house, decided to dissolve and go out of business. It proceeded to avail itself of the statute of the State of Illinois which allowed it to dissolve and dispose of its goods. It, therefore, sir, disposed of its whiskies, wines, champagnes, and so forth, by disposing of them in gifts and sales to many establishments all around the city.

The members of the firm were indicted for conspiracy to violate the Federal laws on prohibition. The case was tried before Mr. Justice Evans, of the Wisconsin circuit, but sitting in the circuit court of appeals at Chicago. The statute of Illinois allowed the concern to dissolve itself and to dispose of whatever it possessed, whether it be wood or ironware or silver or what not, and the question was whether the members of the firm could be convicted for carrying out the law of Illinois which gave them authority to do what they did, because it also ran counter to the law of Congress passed subsequently.

That was the issue out in that State in a trial which lasted, I think, for a couple of months; but, as the Senator has correctly stated, right there arose the very complication to which he has made reference. Finally the sitting judge, with another Federal judge sitting with him, decided that the question should go to the jury to pass upon the good faith and honest intent of the defendants; whether they really meant merely to comply with their home law and incidentally violated the Federal law, or whether they were merely seeking to evade the Federal law by their action. But the complication and the confusion did exist in the exact manner our eminent friend from Nebraska has described.

Mr. NORRIS. I thank the Senator from Illinois.

Mr. GEORGE. Mr. President——

Mr. NORRIS. I yield to the Senator from Georgia.

Mr. GEORGE. May I suggest that the question of criminal intent, unless it is made a specific ingredient of a statutory crime, is never any more than the mere intent to do the thing which the statute forbids.

Mr. NORRIS. To do the thing that constituted the violation of the statute.

Mr. GEORGE. Exactly.

Mr. NORRIS. I thank the Senator for that. There is not any question about that being good law.

Mr. President, let me say in conclusion that if this amendment goes into the Constitution, and we do not want the return of the saloon, here is the only hope of preventing it. Strike it out and the saloon comes back. There is no way to prevent it. There can be saloons all around, in every State in the Union, if the States provide for it, and Congress is helpless.

We have been discussing prohibition for years. I have been, I think, at least in my own mind, fair enough to admit that in my judgment prohibition was a failure; and I have expressed a willingness to help to modify, if I can, the Volstead Act in order that we may see whether it is true, as Senators and other people everywhere have been proclaiming for years, "If you will give us beer and light wines we will all be happy, and there will be no more drunkenness, and it will result in a better morality, a more complete temperance life of our people, a better enforcement of prohibition, and the banishment of the bootlegger and the speak-easy." I have made up my mind, prohibitionist as I have been nearly all my life, that since it seemed that prohibition enforcement was falling down, we had better try that experiment; and I have, in the committee, voted in favor of reporting that kind of a bill that is now on the calendar of the Senate. I should like to see it enacted into law. I do not want to put this country back to the days when the saloons were rampant. I want to avoid it if I can.

If we adopt this amendment, and it becomes operative with section 3 out of it, there is nothing to prevent the return of the saloon. It is the only hope. If those of you who said, "The prohibition amendment is wrong, but the saloon is wrong, too, and if you will repeal the prohibition amendment we will help you to provide for laws that will prevent the return of the saloon," meant what you said, then it seems to me you ought to keep this provision in this amendment, because it is the only hope.

Mr. WALSH of Massachusetts. Mr. President——

Mr. NORRIS. I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. I infer from what the Senator has so ably said that he is of the opinion that the majority of the States and the public are opposed to the saloon and to the speak-easy, and that the only chance of removing the present evil, which is now the speak-easy—the former evil being the saloon—is by a proposal of handling the liquor question in some other way than it is being handled now, or was handled through the saloon. Do I correctly interpret the Senator's views?

Mr. NORRIS. Yes; that is right. That is what I believe.

Mr. WALSH of Massachusetts. And does not the Senator think that a proposition that prevents any State from reestablishing the saloon is the only likely one that will receive the support of 36 States?

Mr. NORRIS. I think so. I think that is true.

Mr. WALSH of Massachusetts. I thank the Senator.

Mr. NORRIS. Senators and all the other people who have been advocating the repeal of prohibition have been promising the public that they would see to it that the saloon did not come back. Here is the avenue through which

the saloon is coming back, or the avenue through which it is going to be prevented from coming back.

I believe I am fair in giving to the Senate what I think was the judgment of the Judiciary Committee on this matter. We did not believe that as a practical proposition it would perhaps be necessary for Congress to legislate on the subject. We believed that if this section were left in here, knowing that Congress had the right to legislate on the subject, a State would hesitate before it passed a law that would permit the saloon to come back, knowing that at any time there would exist the power in Congress to legislate on that subject and prevent the saloon from coming back.

As I look at it, there is no doubt whatever but that there would be no difficulty in the enforcement of the law—not anything like the difficulty that was presented to us in the enforcement of the prohibition amendment that we have had for the last 10 or 12 years. It would be easy of enforcement, because, in the first place, there is a sentiment in the country—I think, as the Senator from Massachusetts has said, a strong, almost a unanimous sentiment, on the part of all classes of people—that they do not want the saloon to come back. If we strike this out, it may be possible that it will come back. The Senator from New York [Mr. WAGNER] said he thought that in his State they would not legislate the saloon back; but, if they do not, they need not fear this law.

It seems to me, therefore, that if the States are going to do what Senators who are advocating the striking out of this amendment claim and believe, this law can not hurt them a particle. Congress will never undertake to legislate on the subject if the States themselves prevent the return of the saloon.

Therefore, Mr. President, I am opposed to striking out section 3.

Mr. WALSH of Massachusetts. Mr. President, I do not care to take up the time of the Senate in discussing this question. We have listened for several hours to speeches, and I am ready to vote.

My views are so concisely and clearly stated in one of many letters that have come to me, and in some newspaper editorials, that I am going to ask that they be inserted in the RECORD at this juncture of the debate.

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

The matter referred to is as follows:

WORCESTER, MASS., *January 30, 1933.*

Senator DAVID I. WALSH,
Washington, D. C.

DEAR SENATOR WALSH: I have been asked to write you concerning the resolution on the eighteenth amendment now pending before the United States Senate. I do not think my opinions are of much value, but, as a constituent and as one who has invariably voted for you whenever you were a candidate for the Senate, I might perhaps trespass on your time sufficiently to have my little say.

I have always done what I could against prohibition from the start. I have always desired the repeal of the eighteenth amendment. I have not taken my part in the battle against prohibition solely for the sake of legalized beverages. I have always believed that the eighteenth amendment was a terrible mistake because it burdened the Federal Government with the responsibility of using police powers which ought to be used by the local authorities. I have always believed that this method hampered the Federal Government with responsibilities that did not belong to it and has been mainly responsible for the crime and corruption into which we have been plunged.

The repeal resolution which is now before the Senate would, if put into effect, still continue this state of affairs. In other words, some of the worst features of national prohibition would be retained under the proposed amendment as brought before the Senate. The Federal Government would still have on its hands a department for national enforcement which the taxpayers would have to provide for, and which would continue as a menace to national well being and national freedom, and would also, I am afraid, continue as a breeding ground for all sorts and kinds of corruption.

That, to speak frankly, seems to me the most objectionable feature of the resolution. The second feature is the fact that the resolution would be referred for ratification to State legislatures and not to conventions, which was promised in the platform of the Democratic Party when Governor Roosevelt was nominated. I see no reason whatever why the principle of State conventions should be ignored in the Senate in view of the overwhelming national demand for them. The conventions would be chosen solely on this question, whereas the members of the legislatures are chosen on a great many issues having nothing to do with prohibition. I am fairly sure that with the State conventions we should be able to eliminate national prohibition, and this of course is our main objective.

As a member of the Constitutional Liberty League of Massachusetts, I have always desired to oust prohibition from the Constitution. During the 13 disastrous years of nonenforcement, I have only been strengthened in my conviction that the only right way to do is to follow the directions on the signs we have lately seen on automobiles; namely, to repeal the eighteenth amendment.

May I assure you of my good wishes for your continued success?

Respectfully yours,

HENRY HARMON CHAMBERLIN.

[From America, issue of January 21, 1933]

NOT A MATTER OF BEER

The substitute for the eighteenth amendment is growing like a snowball rolling downhill. Opposition to the substitute is growing even faster. For the substitute does not repeal the amendment. It merely affirms Federal prohibition under another and, it may well be, a more dangerous form.

What the citizen thought he was going to receive from the Senate committee headed by Senator BLAINE was an amendment couched in the following words, "The eighteenth amendment is hereby repealed," and no more. That is the form recommended by ex-Governor Smith, Doctor Butler, and the Democratic convention, and if the November elections have any significance, it is the form which the people desire. The committee began with a paper containing two clauses, of which the first was the Smith-Butler declaration. The drys protested that this would leave the dry States without protection against the States which should legalize alcoholic beverages. Thereupon the committee, ignoring the existence of the Webb-Kenyon Act which gives this "protection," added another clause, which was not a constitutional enactment but simple Federal legislation, prohibiting the transportation or importation of alcoholic liquors from wet to dry States. Thus at the outset of its work the committee authorized a Federal control, which is the very source of the evils of which the country is complaining, and imbedded in the Constitution, which should be a statement of fundamental principles in government, an offensive form of sumptuary legislation.

But the committee did not stop even at this point. Yielding to the senseless clamor against the "saloon," an institution which no court and no individual has yet been able to define satisfactorily, it added a third clause giving Congress "concurrent power" to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold. The committee does not trust the States to exercise their police powers properly, but demands that the final decision as to whether or not beer can be consumed in a hotel dining room or at a corner saloon or at a soda fountain, or in none of these places, be vested solely in Congress, acting under authority conferred by the Federal Constitution. Petty sumptuary legislation could hardly be carried to a more absurd extreme. Whatever "concurrent power" may mean, it certainly does not mean that any State, or all of them, can overrule Federal legislation. In practice, it signifies that the States may do what seems best, unless Congress rules that another arrangement is best.

Throughout the hearings the committee has apparently labored under the delusion that what the country wants is permission to sop up beer and to guzzle whisky. That is far from the wishes of the men and women who for 13 years have led the fight against prohibition. As this review has repeatedly insisted, with us it is not a question of beer or of whisky, but wholly a question of good government. It is our conviction that temperance in the use of alcoholic beverages is best secured through the influence on the individual of religion and of education. Should this influence fail, so that intemperance becomes a menace to the peace and good order of the community, the necessary restrictions should be made and enforced by that community. In the regulation of personal habits, innocuous in themselves, yet subject to abuse, legislation should be the last, not the first, recourse. Further, legislation, if deemed necessary, should be enforceable. Otherwise it will only enhance the evil against which it is directed.

Thirteen years of sad experience have demonstrated beyond doubt that prohibition has no place in the Federal Constitution. It can not be enforced, and it brings with it a train of graft, perjury, murder, and general disrespect for law. Any substitute amendment which fails "to restore to the States their ancient right of local self-government," as Representative BECK writes, will perpetuate these frightful abuses, together with the fundamental vice of Federal prohibition which is its incompatibility with the spirit and purposes of the Constitution.

[Editorial from the Baltimore Sun, issue of January 12, 1933]

REDEEM THE PLEDGE

The prohibition repeal resolution as submitted to the Senate is a repudiation of the pledge in the platform of the Democratic Party upon which the election last November was won. The pledge was that the question of repeal should be submitted to constitutional conventions. The resolution before the Senate proposes that it be submitted to State legislatures.

There are compelling reasons why the issue should not be submitted to State legislatures. To do so would likely cause pro-

longed delay, inviting nation-wide participation in the fight in every State, opening opportunities for corruption, plunging the country into continued excitement and bad feeling, to say nothing of the chaotic conditions that would prevail while the issue was being settled. The resolution allows seven years for the States to act, no consideration being given to the certainty that the interim would be marked by steady aggravation of the evils that have been witnessed in the past decade. It is inconceivable that enforcement of prohibition would not go from bad to worse in view of the fact that many States have repealed their own Volstead laws.

Moreover, State legislatures would not be chosen solely on the issue of repeal, and election to these bodies would not constitute a referendum on prohibition. Many wets and drys will not cross party lines to vote their views on the liquor question. In choosing delegates to constitutional conventions voters would cast their ballots on a single proposition and express their convictions without giving thought to many other important matters that are involved in the selection of members of the legislature. Another objection is that legislatures of many States are not so constituted as to give equal representation to urban and rural voters. For this reason, even if Congress were held not to have authority to dictate the composition of the conventions, selection of delegates to them by direct vote of the people would supply a better test on prohibition.

The resolution under consideration violates the platform of the Democratic Party in another particular by retaining concurrent power in Congress to "regulate or prohibit the sale of intoxicating liquors to be sold on the premises." This provision retains a police power in the Constitution of the United States which the Democratic Party is pledged to eliminate. Its retention would mean a continuation of policies that have aroused deep-seated hostility to the Volstead law. It is not repeal. It is modification. True, Senator WALSH of Montana is quoted as saying that he does not believe the power would ever be exercised by Congress. In that case there is no excuse for granting the power. However, we disagree with Senator WALSH and believe, on the contrary, that its retention would be a constant incentive to strife and would bring down upon Congress the forces that have bedeviled it in the past.

[From the Liberty Magazine, issue of January 21, 1933]

SALOON OR SPEAK-EASY—WHICH?

The open saloon was a destructive force of great magnitude. It catered to human depravity, and it was the flaunting of its shamelessness to the public everywhere that brought us prohibition.

To be sure, there were all kinds of saloons, just as there are all kinds of speak-easies, and it is difficult to frame a law that would set a definite dividing line. But admitting that the saloon was guilty of all that was charged against it, and more, too, we still have to acknowledge that the speak-easies are far worse.

They are unlawful and lawless to the last degree. There you will find the home of racketeering of the worst sort. Easy money is the tempting bait that aids and abets this criminality.

And now that prohibition is liable to receive its final deathblow we will indeed have a difficult problem before us. We will probably have to decide between the speak-easy and the saloon. It is needless to try to deceive ourselves. Why shut our eyes to a situation that we must face? We can not be hypocritical pretenders.

The liquor evil is with us. Prohibition has moved the saloons from the street corners into the speak-easies. And we know from bitter experience that the liquor habit can not be crushed by law. We have learned that lesson beyond all refutation.

And the question we will doubtless have to ask ourselves at this time is: Will we have the open saloon that is lawfully controlled, or will we have the speak-easy?

If we refuse to license the saloon, will it be possible to close the speak-easy?

We hear an unlimited amount of discussion as to what we must do when the Volstead law is repealed, and there is nearly always the associated warning that we must not go back to the saloon. But if we expect to close the speak-easy what other method can be used?

Some politicians are not averse to deceiving the public, and the speak-easies are hidden away on side streets. They do not flaunt their ugliness to the general public.

It is our belief, if we are compelled to choose between the two—and that seems to be the situation—that the saloon, licensed and controlled by governmental edicts, compelled to close at certain hours, is by far the lesser of the two evils.

And this is by no means an indorsement of the saloon. God forbid!

But there is no room for argument as to which is the lesser evil—the speak-easy or the saloon. There are literally hundreds of thousands of speak-easies doing business throughout the country at this time. If we have licensed saloons they can all be closed; if there are no saloons the speak-easies will undoubtedly find it profitable to remain in business.

And there seems to be no possible chance of closing them by legal measures. We know that in spite of all the efforts made through Federal and State edicts they have continued in business.

There is only one way to close them, and that is through legitimate competition by licensed drinking places. We can call them saloons, or whatever we please. No matter how much we may object to their presence we can not put them out of business.

They will either exist as a secret, unlawful business, or else they can be subject to close scrutiny, made to conform to certain definite rules through governmental license, which would at least materially lessen their evil influence.

There are still many who will doubtless condemn this attitude, but when we have an unpleasant situation to deal with it is foolish to close our eyes. It must be recognized and handled in the most effective manner.

We will candidly admit that all drinking places should be closed. We will go further and admit that prohibition, if it could be enforced, would be of infinite benefit to the Nation.

This we have tried for a decade or more and we have failed miserably, and when we ultimately find that we are compelled to choose between two destructive forces it is certainly desirable to select that which is the least harmful.

Mr. BLACK. Mr. President, I do not desire to delay the Senate, except to express my own idea of this amendment in two or three minutes.

The Constitution is the supreme law of the land. If this amendment should be adopted in this form, it would be the supreme law of the land. In other words, it would give to Congress the power to regulate the sale of intoxicating liquor within the States.

If that power is given to Congress to regulate, it becomes important to know what "regulate" means. It means—

To adjust or control by rule, method, or established mode; to direct by rule or restriction; to subject to governing principles or laws.

If this amendment should become a part of the Constitution containing section 3, it would take away from the State the right the State now has to regulate or prohibit the sale of liquor. It would take it away by giving that power to Congress.

In other words, if section 3 should become a part of the Constitution of the United States and the State of Alabama desired to prohibit the sale of liquor in a saloon and Congress should determine that it would regulate the sale of liquor in Alabama merely by imposing a license tax of $1,000, the right of Alabama to go any further would be denied. It could not prohibit the sale of liquor in Alabama, because that right would be reserved to the Congress of the United States by this section of the amendment. In other words, this is not an amendment which would give to the States an added right with reference to the control of liquor within its boundaries. It is an amendment which would take away from every State in the Union the right to determine how it would regulate the liquor traffic within its boundaries.

Mr. President, I am opposed to that. I voted against it in the committee. Since it remained in the proposal, I voted against a favorable report of the joint resolution. I desire to state now, because I shall not make any further remarks, that if this section is not stricken from the resolution, I shall vote against a resubmission of the eighteenth amendment to the people. I favor the resubmission of the eighteenth amendment to the people, to be voted upon by conventions, unless there is added this provision which takes away from every State in the Union the power to determine whether or not it shall regulate or prohibit the sale of liquor within its boundaries. This would go to exactly the opposite extreme of the eighteenth amendment. The eighteenth amendment prohibits the sale of liquor in any State. If this amendment should become the law of the land, no State would have the right to prohibit the sale of liquor within its own boundaries if it saw fit to do so, for Congress would have already asserted its right to enact a law covering that subject.

The Constitution is the supreme law of the land. It is not difficult to imagine that there might be a Congress which would be opposed to any State passing a prohibition law. Let us suppose that were the case, and that Congress should pass a law saying, "We will undertake to regulate the sale of liquor," and then should say, "We will regulate it by providing that liquor may be sold within a State"—and it would have that right, under this provision—"but those desiring to sell it must first pay a license of $1,000." That would be the supreme law of the land, because it would be enacted under the Constitution itself.

Mr. President, in so far as I am concerned, I shall vote to strike out section 3. If section 3 is not stricken out, I shall

vote against the submission of the amendment. I simply wanted the RECORD to show the facts, so that those who voted might have called to their attention the fact that, instead of being a movement to permit the States to prohibit the sale of liquor in a saloon, this amendment would deprive the States of the right to prohibit the sale of liquor in a saloon. Both the State and the Federal Government can not have the power at the same time. The action of one of them will be the supreme law of the land, and the supreme law of every State is the Constitution of the United States. When the Constitution delegates to Congress the right to determine in what way liquor shall be sold in a State, if it is sold, then a law enacted by Congress will be supreme, and the States of this Union will be helpless, they can not regulate the sale of liquor within their own boundaries, nor can they prohibit it.

Mr. President, I shall vote against the third section for the reasons I have stated, and for the further reason that it would result in a state of chaos and confusion. This matter should be submitted back to the people, to be voted upon fairly and squarely upon its merits, and not with an amendment which would further take away from the people a right which they have had heretofore. They would be far better off if they desired to prohibit the sale of liquor within their States, if there should be a plain, bald, naked repeal of the eighteenth amendment, because then they could regulate or prohibit the sale of liquor in the States as they saw fit, and not in the manner Congress saw fit to prescribe.

The PRESIDING OFFICER (Mr. FESS in the chair). The question is on agreeing to the amendment offered by the senior Senator from Arkansas [Mr. ROBINSON] to the amendment of the committee.

Mr. BROOKHART obtained the floor.

Mr. BLACK. I ask for the yeas and nays.

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

The PRESIDING OFFICER. Does the Senator from Iowa yield for that purpose?

Mr. BROOKHART. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Costigan	Hull	Robinson, Ind.
Bailey	Couzens	Johnson	Russell
Bankhead	Dale	Kean	Schuyler
Barbour	Davis	Kendrick	Sheppard
Barkley	Dickinson	Keyes	Shipstead
Bingham	Dill	La Follette	Smith
Black	Fess	Lewis	Steiwer
Blaine	Frazier	Logan	Stephens
Borah	George	McGill	Townsend
Bratton	Glass	McKellar	Trammell
Brookhart	Goldsborough	McNary	Tydings
Bulkley	Gore	Neely	Vandenberg
Bulow	Hale	Norbeck	Wagner
Byrnes	Harrison	Norris	Walcott
Capper	Hastings	Nye	Walsh, Mass.
Caraway	Hatfield	Patterson	White
Clark	Hayden	Pittman	
Connally	Hebert	Robinson, Ark.	

The PRESIDING OFFICER. Seventy Senators having answered to their names, there is a quorum present.

Mr. BROOKHART. Mr. President, the Senator from Arkansas [Mr. ROBINSON] seems to be very much disturbed because the lame ducks are going to have a vote on this amendment. So far as I am concerned, I am one of the lame ducks who do not want that responsibility. I have been perfectly willing all the time to pass it over to the Senator from Arkansas when he will be in control of the majority in the United States Senate in the session soon to be held. But I want to say to the Senator that since he has forced the decision upon me, I do not want him to do all the squawking.

Mr. President, at this time I am going to speak briefly upon the amendment under consideration.

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

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Oregon?

Mr. BROOKHART. I yield.

Mr. McNARY. I desire to propose a unanimous-consent agreement that we proceed to the consideration of the pending amendment, giving the Senator from Iowa 10 minutes to conclude his remarks, and then recess until 11 o'clock to-morrow morning; and that at 3 o'clock to-morrow afternoon we vote upon the pending joint resolution and all pending amendments thereto.

The PRESIDING OFFICER. Is there objection?

Mr. NORBECK. Mr. President, just a moment. I very much desire to vote on the pending amendment if I possibly can, but the Committee on Banking and Currency are holding hearings relating to the New York Stock Exchange and there are many Senators who will be present at those hearings to-morrow morning. Would it not be possible to take a recess until 12 o'clock instead of 11 o'clock?

Mr. ROBINSON of Arkansas. We propose to vote to-night, in just a few minutes, on the pending amendment. There will probably be no further votes until the debate has been closed to-morrow.

Mr. McNARY. I am willing to yield to the suggestion of the Senator from South Dakota and change the proposal accordingly; that is, that we proceed to the consideration of the pending amendment after the Senator from Iowa has 10 minutes in which to discuss the matter——

Mr. BROOKHART. Mr. President, I do not think I shall need more than 10 minutes, but a time limit always has a tendency to confuse me a little.

Mr. McNARY. Very well. I ask unanimous consent that after the vote on the pending amendment the Senate recess until 12 o'clock to-morrow, and that at 3 o'clock to-morrow afternoon we shall vote without further debate upon the pending joint resolution and all amendments thereto.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon? The Chair hears none, and it is so ordered.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMITH. At 3 o'clock to-morrow afternoon we are to vote without further debate on the joint resolution and all amendments to it?

The PRESIDING OFFICER. That is the understanding.

Mr. ROBINSON of Arkansas. But we are to vote to-night on the pending amendment.

The PRESIDING OFFICER. That is correct.

Mr. BROOKHART. Mr. President, I shall address myself at this time to section 3 and the motion to strike it out, which is the pending question. The Congress of the United States has no power except that which is given to it by the Constitution of the United States. If this amendment should be adopted, which I do not think it ever will be, it would be a part of the Constitution.

Section 3 as worded provides that "Congress shall have concurrent power." It does not say that Congress shall have "supreme" power, but "concurrent power," that is to say, "concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk at the premises where sold." That power is concurrent with what? It is concurrent with the power of the State. Therefore the State has concurrent power with the Congress and the powers are equal. Neither is supreme.

Under the terms of the amendment it would be possible for the State of New York or the State of Pennsylvania or any other State to legalize the saloon, which the amendment seeks to describe. They could make it a legal institution. At the same time Congress, with its concurrent power, could prohibit that same saloon and make it an illegal institution. That is an unthinkable provision to have in the Constitution. I am going to vote to leave it in because I think a repeal of the eighteenth amendment is a more unthinkable thing than this unthinkable section.

The Senator from Virginia [Mr. GLASS] will offer an amendment that would correct this inconsistency. The Senator from Nebraska [Mr. NORRIS] has made a suggestion and I believe the Senator from Delaware [Mr. HASTINGS] made a suggestion that would correct the inconsistency by striking out the word "concurrent." If that were done then the section would read:

> Congress shall have power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

If it were worded that way, there would be no question, I think, about the supreme power of Congress to regulate the saloon. It would take further legislative enactment, of course, to do that, but as it stands now we are going into this pandemonium of legal war of the States with the National Government; but since we are going into a national civil war with everything that is moral and decent on the one side and with drunkenness and disorder and intoxicating liquor generally on the other side, I think even this disorderly section 3 is preferable to the amendment without any restrictions whatever.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Arkansas to the amendment of the committee.

Mr. ROBINSON of Arkansas. Let us have the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). Again announcing my pair with the junior Senator from Nebraska [Mr. HOWELL], I transfer that pair to the senior Senator from Louisiana [Mr. BROUSSARD] and vote "yea."

The PRESIDING OFFICER (Mr. FESS, when his name was called). On this question the present occupant of the chair is paired with the senior Senator from New York [Mr. COPELAND]. If the present occupant of the chair were permitted to vote, he would vote "nay."

Mr. NORRIS (when Mr. HOWELL'S name was called). As previously announced, my colleague [Mr. HOWELL], is absent on official business of the Senate. If he were present and voting on this question, he would vote "nay."

Mr. MCNARY (when his name was called). On this vote I have a pair with the junior Senator from Nevada [Mr. ODDIE]. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay."

Mr. BINGHAM (when Mr. METCALF'S name was called). The senior senator from Rhode Island [Mr. METCALF], who is necessarily absent, if present, would vote "yea."

Mr. NORRIS (when his name was called). Upon this vote I am paired with the senior Senator from Florida [Mr. FLETCHER]. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay."

Mr. ROBINSON of Arkansas (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. REED]. I transfer that pair to the junior Senator from Massachusetts [Mr. COOLIDGE] and vote "yea."

The roll call was concluded.

Mr. MCNARY. I desire to announce the necessary absence of the Senator from Pennsylvania [Mr. REED]. If present, he would vote "nay."

Mr. SMITH. I have a general pair with the senior Senator from Indiana [Mr. WATSON]. Not knowing how he would vote, I withhold my vote.

Mr. WAGNER. I wish to announce that my colleague the senior Senator from New York [Mr. COPELAND] is absent on account of the death of his father. If present, he would vote "yea."

Mr. SHEPPARD. I wish to announce that the Senator from Oklahoma [Mr. THOMAS] is necessarily absent. If present, he would vote "nay." He is paired with the Senator from Rhode Island [Mr. METCALF].

Mr. WALSH of Massachusetts. I desire to announce that my colleague the junior Senator from Massachusetts [Mr. COOLIDGE] is unavoidably absent. If present, he would vote "yea." An announcement of his pair has been made.

The PRESIDING OFFICER (Mr. FESS). The present occupant of the chair announces the following general pairs:

The Senator from New Hampshire [Mr. MOSES] with the Senator from Montana [Mr. WALSH];

The Senator from Idaho [Mr. THOMAS] with the Senator from Montana [Mr. WHEELER];

The Senator from Vermont [Mr. AUSTIN] with the Senator from Utah [Mr. KING];

The Senator from Illinois [Mr. GLENN] with the Senator from Virginia [Mr. SWANSON]; and

The Senator from Rhode Island [Mr. METCALF] with the Senator from Oklahoma [Mr. THOMAS].

The result was announced—yeas 33, nays 32, as follows:

YEAS—33

Ashurst	Bulkley	Hull	Trammell
Bailey	Bulow	Johnson	Tydings
Barbour	Byrnes	Kean	Vandenberg
Barkley	Clark	Kendrick	Wagner
Bingham	Couzens	La Follette	Walcott
Black	Davis	Lewis	Walsh, Mass.
Blaine	Harrison	McKellar	
Borah	Hayden	Pittman	
Bratton	Hebert	Robinson, Ark.	

NAYS—32

Bankhead	Dill	Hatfield	Russell
Brookhart	Frazier	Keyes	Schuyler
Capper	George	Logan	Sheppard
Caraway	Glass	McGill	Shipstead
Connally	Goldsborough	Neely	Steiwer
Costigan	Gore	Nye	Stephens
Dale	Hale	Patterson	Townsend
Dickinson	Hastings	Robinson, Ind.	White

NOT VOTING—31

Austin	Glenn	Norbeck	Smoot
Broussard	Grammer	Norris	Swanson
Carey	Howell	Oddie	Thomas, Idaho
Coolidge	King	Reed	Thomas, Okla.
Copeland	Long	Reynolds	Walsh, Mont.
Cutting	McNary	Schall	Watson
Fess	Metcalf	Shortridge	Wheeler
Fletcher	Moses	Smith	

So the amendment proposed by Mr. ROBINSON of Arkansas to the amendment was agreed to.

ADDITIONAL REPORTS OF COMMITTEES

Mr. MCKELLAR, from the Committee on Post Offices and Post Roads, to which was referred the resolution (S. Res. 349) creating a special committee of the Senate to investigate air mail and ocean mail contracts, reported it with amendments, submitted a report (No. 1229) thereon, and moved that the resolution be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which motion was agreed to.

Mr. KEAN, from the Committee on the District of Columbia, to which was referred the bill (H. R. 6292) to prevent professional prize fighting and to authorize amateur boxing in the District of Columbia, and for other purposes, reported it without amendment and submitted a report (No. 1230) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 11504) authorizing the sale of certain Government property in the District of Columbia, reported it without amendment and submitted a report (No. 1231) thereon.

RECESS

Mr. MCNARY. Mr. President, under the unanimous-consent agreement, I now move that the Senate take a recess until 12 o'clock noon to-morrow.

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 unanimous-consent agreement previously entered into, until to-morrow, Thursday, February 16, 1933, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

WEDNESDAY, FEBRUARY 15, 1933

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, whose light is as the morning and whose glory is as the rising of the sun, we thank Thee that there is not one human life beyond Thy love and care. With relentless determination and unyielding courage may we lose ourselves in unremitting toil in the service of our country. Enable us to set free our fullest and our ripest powers in the solution of the baffling problems which confront us. O stir within us the song of hope, and defeat everlastingly the dirge of despair. Animate us with the faith and the sacrifice of those heroic souls who made possible the glory of our Re-

public, and transform all needless alarms, groundless fears, and false prophecies into abiding victories. Through Jesus Christ our Lord. Amen.

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

CLARENCE R. KILLION

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2148) for the relief of Clarence R. Killion, with House amendments, insist upon the House amendments, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. HILL of Alabama, MONTET, and CHIPERFIELD.

GEORGE W. M'DONALD

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4368) for the relief of George W. McDonald, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after the word "soldiers," insert "and their widows."

Amend the title so as to read: "An act for the relief of the widow of George W. McDonald."

The SPEAKER. Is there objection?

There was no objection.

The Senate amendments were agreed to.

DEPARTMENT OF INTERIOR APPROPRIATION BILL, FISCAL YEAR 1934

Mr. TAYLOR of Colorado. Mr. Speaker, I call up the conference report on the bill (H. R. 13710) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes, and I ask unanimous consent that the statement may be read in lieu of the report.

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

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13710) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 9, 25, and 26.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 27, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter stricken out by said amendment insert "with the exception of attorneys"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$355,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That the unexpended balance of the appropriation contained in the Interior Department appropriation act, fiscal year 1932, for the construction and equipment of the Albuquerque Sanatorium, and employees' quarters, New Mexico, and not to exceed $300,000 of the unexpended balance of the appropriation for the Sioux Sanatorium and employees' quarters, South Dakota, contained in the same act, are hereby continued available for the same purposes until June 30, 1934"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$110,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$210,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,992,500"; and the Senate agree to the same.

EDWARD T. TAYLOR,
W. W. HASTINGS,
FRANK MURPHY,
BURTON L. FRENCH,
Managers on the part of the House.

REED SMOOT,
TASKER L. ODDIE,
GERALD P. NYE,
KENNETH McKELLAR,
JOHN B. KENDRICK,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 13710) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

BUREAU OF INDIAN AFFAIRS

On No. 1: Restores the language stricken out by the Senate modified so as to except attorneys from the group of employees to be appointed after competitive examination by the Civil Service Commission and from an eligible list furnished by such commission.

On No. 2: Eliminates, as proposed by the Senate, the provision of the House bill permitting the use of tribal funds of the Pueblo Indians, New Mexico, for "general purposes, except per capita payments," as might be of direct benefit to the several pueblos.

On No. 3: Appropriates $103,521.67, as proposed by the Senate, instead of $114,430, as proposed by the House, for expenses incidental to the sale of timber.

On No. 4: Appropriates $20,000 as proposed by the Senate, from tribal funds, for insect-control work on the Klamath Indian Reservation, instead of $10,000 as proposed by the House.

On No. 5: Appropriates $355,000 for the purpose of developing agriculture and stock raising among Indians, instead of $315,000 as proposed by the House and $373,000 as proposed by the Senate.

On No. 6: Eliminates the Senate provision making available not to exceed $2,500 to pay in whole or in part expenses of Federal, State, or county extension agents and home-demonstration agents or specialists for work in the Indian Service.

On Nos. 7 and 8: Appropriates $3,000 from tribal funds for industrial assistance of Indians on the Klamath Reservation, Oreg., as proposed by the Senate.

On No. 9: Eliminates the provision inserted by the Senate making $6,000 available for aid of the public-school districts of Uintah and Duchesne Counties, Utah.

On Nos. 10 and 11: Makes the appropriation for construction of physical improvements at Indian schools immediately available and eliminates the appropriation of $11,000 for repairs to the Eastern Navajo School building, as proposed by the Senate.

On No. 12: Continues available during the fiscal year 1934 the unexpended balance of appropriation contained in the Interior Department appropriation act, fiscal year 1933, for shop building, including equipment, at Haskell Institute, Lawrence, Kans., as proposed by the Senate.

On No. 13: Continues available during the fiscal year 1934 the unexpended balance of the appropriation contained in the second deficiency act, fiscal year 1932, for new school building and auditorium, including equipment, at Pipestone, Minn., as proposed by the Senate.

On No. 14: Continues available during the fiscal year 1934 the unexpended balance of the appropriation contained in the Interior Department appropriation act, fiscal year 1933, for central heating plant, Wahpeton School, North Dakota, as proposed by the Senate.

On No. 15: Appropriates $3,755,000, as proposed by the Senate, instead of $4,745,000, as proposed by the House, for nonreservation boarding schools.

On No. 16: Continues available during the fiscal year 1934 the unexpended balance of the appropriation contained in Interior Department appropriation act, fiscal year 1933, for construction and equipment of Albuquerque Sanatorium, and employees' quarters, New Mexico, and not to exceed $300,000 of the unexpended balance of the appropriation for the Sioux Sanatorium and employees' quarters, South Dakota, as contained in the same act, instead of reappropriating the total unexpended balance in each instance as proposed by the Senate.

On Nos. 17 and 18: Appropriate $44,900 for general support of the Klamath Indians, Oregon, as proposed by the Senate, instead of $50,000, as proposed by the House.

On Nos. 19 and 20: Appropriate $35,000 for general support of the Colville Indians, Washington, as proposed by the Senate, instead of $30,000, as proposed by the House.

On Nos. 21 and 22: Appropriate $55,000 for Keshena Indians, Wisconsin, as proposed by the Senate, instead of $50,000, as proposed by the House.

On No. 23: Corrects total.

BUREAU OF RECLAMATION

On No. 24: Provides authority for a 10 per cent interchange of appropriations under the reclamation fund, as proposed by the Senate.

GEOLOGICAL SURVEY

On Nos. 25 and 26: Appropriate $300,000 for geologic surveys, with limitation of not to exceed $265,000 for personal services in the District of Columbia, as proposed by the House, instead of an appropriation of $325,000, with limitation of $280,000 for personal services in the District of Columbia, as proposed by the Senate.

On No. 27: Appropriates $30,000 for continuation of investigation of mineral resources of Alaska, as proposed by the Senate.

On Nos. 28 and 29: Appropriate $110,000 for printing and binding, instead of $100,000, as proposed by the House, and $120,000, as proposed by the Senate.

On No. 30: Appropriates $225,000 for mineral leasing, as proposed by the Senate, instead of $200,000, as proposed by the House.

On No. 31: Corrects total.

NATIONAL-PARK SERVICE

On No. 32: Eliminates language of the House requiring the salary of the superintendent to be subject to compensation reduction or furlough without pay requirement as such language is unnecessary to insure such reduction.

On Nos. 33 and 34: Appropriates $54,200 for administration, protection, and maintenance, as proposed by the Senate, for the Acadia National Park, Me., instead of $49,200, as proposed by the House.

On Nos. 35 and 36: Appropriate $25,000 for administration, protection, and maintenance, Lassen Volcanic National Park, Calif., as proposed by the Senate, instead of $18,500, as proposed by the House.

On Nos. 37 and 38: Appropriate $40,940 for administration, protection, and maintenance, Zion National Park, Utah, as proposed by the Senate, instead of $38,500, as proposed by the House.

On Nos. 39 and 40: Appropriate $70,000 for the park service, the control, and the prevention of spread of forest insects, as proposed by the Senate, instead of $63,000, as proposed by the House.

VIRGIN ISLANDS

On Nos. 41, 42, 43, 44, and 45: Appropriate $197,000 for defraying the deficits in the treasuries of the municipal governments of St. Thomas and St. John and municipality of St. Croix, as proposed by the Senate, instead of $210,000, as proposed by the House.

On No. 46: Corrects the total for Howard University.

EDWARD T. TAYLOR,
W. W. HASTINGS,
FRANK MURPHY,
BURTON L. FRENCH,
Managers on the part of the House.

Mr. TAYLOR of Colorado. Mr. Speaker, I move the adoption of the conference report.

Mr. STAFFORD. Mr. Speaker, will the gentleman inform the House as to the total amount carried in the act, under the original estimate?

Mr. TAYLOR of Colorado. Yes; I can give the figures. The amount of the Interior Department appropriations for 1933 was $67,183,684.35. The amount carried in this bill for 1934 as agreed upon in this conference report is $43,753,935.67. This bill is $23,429,748.68 below the appropriations for 1933 for this department.

Mr. LAGUARDIA. Where are the savings?

Mr. TAYLOR of Colorado. The savings are, I think, equitably scattered all through the activities of the Interior Department from the Arctic Circle to the Equator.

Mr. STAFFORD. My inquiry was directed as to the amount under the Budget estimate, as carried by the bill.

Mr. TAYLOR of Colorado. The amount under the Budget estimate is $2,329,993.33.

Mr. STAFFORD. In scanning the bill I notice the committee only allowed the interchangeable item of 10 per cent, as far as the Reclamation Service is concerned.

Mr. TAYLOR of Colorado. Yes, sir. That is correct.

Mr. STAFFORD. In the appropriation bill for the Department of Agriculture, which is to follow shortly, the committee has recommended an interchangeable item applicable to all items. May I inquire of the gentleman whether, in the administration of the Interior Department, where there was a drastic cut of 10 per cent in last year's appropriation act, there is any evidence that the department suffered by reason of that reduction?

Mr. TAYLOR of Colorado. Of course, the construction work has been reduced and various activities curtailed, but I do not think the general welfare of the Government has suffered any material injury by reason of the reduction of about 35 per cent during the past two years. However, the Senate amendment No. 24, to which the gentleman refers, making 10 per cent of the appropriations available interchangeably for expenditures on the reclamation projects, applies only to that special reclamation fund set apart especially for reclamation and irrigation projects. That provision is necessary to take care of emergency repairs from floods or unusual conditions.

Mr. STAFFORD. But I am directing the attention of the House to the fact that one committee as to one department does not apply any interchangeable allowance of 10 per cent, except as to one minor matter, the reclamation fund, but as to the Department of Agriculture the commit-

tee brings in an interchangeable item of 10 per cent that applies to all the activities of the Department of Agriculture. Apparently there is no uniformity in the position of the Committee on Appropriations as to this interchangeable item.

Mr. TAYLOR of Colorado. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. TAYLOR of Colorado. The Treasury and Post Office Departments appropriation bill carries a general provision of that kind applicable to practically all the general appropriations from the Federal Treasury for the departments.

Mr. STAFFORD. Then what was the need of putting in a limited 10 per cent application as far as the reclamation fund is concerned?

Mr. TAYLOR of Colorado. Because the reclamation fund is a special fund created and set apart for the construction of irrigation works, dams, reservoirs, canals, and ditches throughout the arid States of the West, and I assume the Senate thought that general provision would not apply to the Reclamation Bureau or to that fund.

Mr. STAFFORD. The gentleman is well aware there has been no agreement as to the Treasury and Post Office Departments bill, because it has not yet been agreed upon in conference.

Mr. TAYLOR of Colorado. Yes; I realize that that general provision has not yet become a law.

Mr. SNELL. Will the gentleman yield?

Mr. TAYLOR of Colorado. I yield.

Mr. SNELL. As I understood the gentleman from Colorado, he stated that this bill carried about $2,300,000 less than was estimated?

Mr. TAYLOR of Colorado. Yes. It is that much under the Budget recommendation.

Mr. SNELL. As I understand, practically two millions of that comes about because of no appropriation for Boulder Dam. Is that true?

Mr. TAYLOR of Colorado. The Budget recommended an appropriation of $10,000,000 for the Boulder Canyon project for the fiscal year 1934 and this Interior Department subcommittee reduced that amount to eight millions.

Mr. SNELL. That will probably have to be appropriated later in a deficiency bill.

Mr. TAYLOR of Colorado. The committee did not think $10,000,000 would be needed during the coming year, because they have an unexpended balance of over $10,000,000 from former appropriations. However, if they need it they can and will get it in a deficiency bill. There is no use of appropriating more than they need.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. TAYLOR of Colorado. I yield.

Mr. LAGUARDIA. Will these reductions, aside from the $2,000,000, in any way impair the Indian schools or educational work of the Department of the Interior?

Mr. TAYLOR of Colorado. No; not at all.

Mr. LAGUARDIA. Or conservation work intrusted to that department?

Mr. TAYLOR of Colorado. No; I do not think so. I am confident I voice the sentiment of every member of this subcommittee, of which I am proud to be the chairman, in saying we are doing our utmost for the welfare of the Indians and are constantly trying to aid them in getting into a position where they will become self-supporting and independent and have more comfortable homes and better conditions.

Mr. PATTERSON. Will the gentleman compare the totals reported by the conference committee with those appropriated by the House and the Senate?

Mr. TAYLOR of Colorado. Yes. The Senate increased the amount of the bill as it passed the House by $154,031.67. In conference the House conferees conceded $101,031.67, and the Senate conferees receded to the extent of $53,000. So that, considering the bill carries over $43,000,000 and thousands of items, there is but very little really in controversy.

Mr. Speaker, I move the adoption of the conference report.

The conference report was agreed to.

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1934

Mr. CANNON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 14643) 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, 1934, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 14643, with Mr. PRALL in the chair.

The Clerk read the title of the bill.

Mr. SMITH of Virginia. Mr. Chairman, at the time the committee rose yesterday afternoon I had reserved a point of order against the pending paragraph. I did not at that time have the opportunity of stating what the point was.

The point of order is directed at the language in the bill on line 10, page 2, which reads as follows:

> And the tax rate in effect on the fiscal year 1933 on real estate and tangible personal property subject to taxation in the District of Columbia shall not be decreased for the fiscal year 1934.

I make the point of order, Mr. Chairman, that this is legislation on an appropriation bill.

For the information of the Chair, the existing permanent law on the subject is found in the report of the committee on this bill at page 22. The law is there quoted. I will not take the time of the Chair to read the law, but merely to state its general purport.

This law provides that the Commissioners of the District of Columbia shall annually fix the rate of taxation in a sufficient amount to meet the appropriations and, so to speak, balance their budget.

This provision changes that law. It takes from the District Commissioners the power they have under the general permanent law on the subject.

For the further information of the Chair I may say this provision has been carried for several years in the District of Columbia appropriation bill. This question has been before the House on similar matters. I refer the Chair to a decision made in the Fifty-eighth Congress found in Volume IV of Hinds' Precedents, section 3822. The same question arose there, Mr. Chairman. In that instance there was language in an Army appropriation bill to the effect that no ships might be sold in certain instances without the permission of Congress. A point of order was made against that language of the bill. In reply the committee defended the bill on the ground that similar language had been carried in the bill for four or five years. The Chair sustained the point of order. The decision is found on page 553 of Volume IV. I will read it if the Chair wishes me to.

The CHAIRMAN. The Chair has that decision before him.

Does the gentleman from Missouri wish to be heard on the point of order?

Mr. CANNON. Mr. Chairman, it is not material whether the point of order is sustained or overruled, for the reason that yesterday before this point of order was presented we drafted an amendment to strike out this language and substitute a provision which I will offer as soon as the point of order is disposed of.

The CHAIRMAN. The gentleman from Virginia makes a point of order against the language appearing on page 2, line 10, which reads as follows:

> And the tax rate in effect in the fiscal year 1933 on real estate and tangible personal property subject to taxation in the District of Columbia shall not be decreased for the fiscal year 1934.

The point of order is that this language is legislation on an appropriation bill.

The Chair is of the opinion that it is legislation on an appropriation bill, and, therefore, sustains the point of order.

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

The Clerk read as follows:

Amendment offered by Mr. CANNON: On page 2, line 10, after the word "Columbia," add the following: "And the tax rate on the full value and no less of the real estate and tangible personal property subject to taxation in the District of Columbia shall be $1.50 per $100."

Mr. SMITH of Virginia. Mr. Chairman, I reserve a point of order.

Mr. CANNON. Mr. Chairman, I would be glad to have the attention of the members of the committee for just a minute.

We are just starting on the consideration of this bill. It is my understanding that practically every reduction it makes in the Budget estimates—practically every economy it proposes to effect—will be attacked by amendments proposing to raise these amounts.

Mr. Chairman, the control of the purse strings of a nation is the highest prerogative of a legislative body. And the right to vote to appropriate money from the Public Treasury is the gravest responsibility a Member of Congress can exercise. It is a particularly solemn responsibility at this time. To-day, as never before, the country and the taxpayers are scrutinizing the attitude taken by Members of Congress on appropriations and retrenchments of expenditures.

This demand for economy in government, and this disposition to hold legislators to account for failure to decrease the cost of government, grows daily more insistent. Let me read to you extracts from just a few letters received in this morning's mail on this subject.

Here is a letter from the Board of Commerce of Manistee, Mich., from which I read:

We wish to remind you of the absolute necessity of reducing Federal expenditures at once. This is no time for additional taxation. The most drastic economy is necessary if there is to be any recovery.

Another letter is from Philadelphia, Pa., in which the following statement is made:

Unless some action is taken by your body and something definite done to balance the Federal Budget things will continue to get worse until there is nothing with which to balance it. We are writing you bluntly because it is high time something is done.

The Hartford Chamber of Commerce of Hartford, Conn., writes:

The United States Chamber of Commerce advocates a reduction in Federal expenditures of $800,000,000 for 1934. The directors of the Hartford Chamber of Commerce unanimously indorse this proposal and urge you to give this your favorable consideration.

The Chamber of Commerce of Muskegon, Mich., in a letter just received this morning says:

In view of the tremendous decline in business we again urge upon you the necessity of reducing Federal expenditures for the fiscal year beginning July 1, 1933, to an absolute minimum. The urgency of the crisis impels up to impress upon you and upon your associates in Congress the need for drastic economy.

The Board of Trade of Kansas City, Mo., writes this morning:

Business is universally concerned with the problem of balancing the Federal Budget and a sharp reduction in cost of government. We urge the concentration of your committee on reducing Federal expenditures.

The Chamber of Commerce of Torrance, Calif., in a letter which has just come to hand, admonishes:

There is substantially unanimous agreement that the Federal Budget must be brought into balance. The directorate of the Torrance Chamber of Commerce hereby urges our Members of Congress, both in the House of Representatives and in the Senate, to take full cognizance by means of real economy rather than resorting to the expediency of levying new taxes.

[Here the gavel fell.]

Mr. CANNON. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON. The Mansfield Chamber of Commerce, of Mansfield, Ohio, writes this morning:

The board of directors of the Mansfield Chamber of Commerce in regular session assembled on Monday, February, 6, 1933, by formal action, have instructed me to convey to you as a member of the House Committee on Appropriations the following message: "We are of the opinion that economies totaling upward of $750,000,000 can be effected and we urge upon you a vigorous and militant attitude and action in accomplishing this end."

Mr. BLANTON. Will the gentleman yield?

Mr. CANNON. Yes.

Mr. BLANTON. Has the gentleman the resolution passed by the national chamber of commerce?

Mr. CANNON. It was received by all Members of the Congress several days ago, and I did not consider it necessary to more than refer to it. As the gentleman doubtless recalls, it is even more emphatic in its recommendations and insists on a reduction of at least $800,000,000 in the cost of government.

Mr. BLANTON. I wish the gentleman would refer to it and call attention to what it is demanding.

Mr. CANNON. Here is a letter—apparently a circular letter addressed to all Members of the House—from the Chamber of Commerce of Utica, N. Y., from which I quote:

For the fiscal year ending June 31, 1934, there will be another huge deficit unless the Government's expenses are sharply curtailed. Believing that no other action by Congress can do so much to develop confidence, the Nation's business men are demanding a cut to bring the Federal Budget into balance.

Mr. Chairman, our mails are filled with letters from individuals, but these letters are from boards of trade, chambers of commerce, and other organizations of business men. They come from every section of the country, from the Atlantic to the Pacific.

The people are aroused. They are demanding that any possible waste or extravagance be eliminated from these appropriation bills; and I say to you that, if they are not eliminated and if expenses are not retrenched wherever possible and the business of these departments conducted in a businesslike way, we are going to hear from the country as we have never heard before.

Mr. Chairman, the District appropriation bill is a particularly difficult bill, for the reason that its beneficiaries are on our doorstep. Every man downtown who wants a job in the District government, either for himself or for his friends, every man in the public service who wants to spend more public money, is up here interceding with every Member he knows. Now, there is no objection to that. They have a perfect right to call on Members or appear before committees, and we welcome them. No citizen of the District has ever asked to appear before the District subcommittee who was not granted a hearing. But may I earnestly suggest that, after they have been heard and the bill has been reported, Members take into consideration the personal interest of the applicant and the disinterested position of the committee and investigate fully before they propose increases in appropriations or support amendments to overrule the carefully considered decisions of the committee who have made exhaustive studies of these questions.

[Here the gavel fell.]

Mr. CANNON. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

Mr. GOSS. Mr. Chairman, a parliamentary inquiry. Are we operating under a reservation of a point of order or discussing a point of order?

The CHAIRMAN. The committee is proceeding under a reservation of a point of order.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CANNON. Mr. Chairman, it is always an unpleasant duty to deny appeals for appropriations. It is much easier to be a good fellow and go along and give them what they want. But, Mr. Chairman, no bureau of any department of the Government is ever satisfied. They are constantly asking more employees, more supplies, and more money, and the District government is no exception to the rule. The cost of government in the District is increasing out of all proportion to its increase in population or wealth. At the beginning of the World War, in 1913, the cost per capita with a population

of 353,443 was $30.20; last year, with a population of 491,000, the cost per capita was $96.70. While population has grown 39 per cent, expenditures have grown 220 per cent, and are increasing every year by leaps and bounds. Unless some one can be relied upon to try to hold down the increase in this already vast sum, there is no end to it, and for that reason we are asking you this morning to cooperate with us in this unpleasant duty of holding down these numerous proposals to amend the bill and increase these already generous amounts.

For, Mr. Chairman, we have been very moderate in our economies in the writing of this bill. In comparison with the other appropriation bills we are far down the list in the amounts of our reductions below the Budget estimates. For example, the first deficiency of 1933 cut 10 per cent below the Budget estimates. The Department of the Interior bill of last year was 11 per cent below the Budget estimate. The legislative bill was 10.2 per cent below the Budget estimate, while the District bill made the moderate cut of 9½ per cent.

This year the legislative bill cut appropriations 22 per cent below the estimates submitted by the Budget Bureau, while the District bill before you this morning cuts only 8 per cent below the estimates. It lacks 1½ per cent of being as economical as last year's bill, and yet the District papers are charging that it is the most unreasonable bill ever reported for the support of the District government.

We submit to the House that on the face of these comparative statistics the bill we have reported and which is under consideration here this morning is more than generous to the District and its activities.

[Here the gavel fell.]

Mr. CANNON. I ask unanimous consent to proceed for five additional minutes.

Mr. GOSS. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GOSS. Are we not operating under a reservation of a point of order, the time being controlled by the Chair?

The CHAIRMAN. The gentleman from Virginia reserved a point of order to the amendment, and we are proceeding under the reservation of that point of order.

Mr. CANNON. Mr. Chairman, in the formulation of the District bill we are largely dependent for information and recommendation upon the representatives of the District departments, and especially upon the Board of Commissioners. Let me take advantage of this opportunity to express my high regard—and the regard of every member of the committee—for each of the commissioners who compose this board. They are without exception men of the highest integrity and ability. They have difficult positions to fill and they have administered them with unfailing capacity and fidelity. The committee desires to express to them its appreciation of their invaluable cooperation during the years we have served with them in the formulation of the annual District bills. It is to be regretted that the change in the national administration will probably require the selection of a new board. I am certain that in all the body of the citizenship of the District of Columbia it will be impossible to find three men better equipped for this arduous and exacting work or commissioners who will discharge their duties with more credit to themselves or greater advantage to the District.

Mr. Chairman, the pending amendment proposes to reduce the tax rate on real estate in the District. The present tax rate is $1.70 on $100. I am proposing by this amendment to reduce it to $1.50 on a hundred. That will save the taxpayers of the District from $2,000,000 to $2,500,000 a year. The committee has all along been under the impression—and any Member of the House who reads the hearings on this bill will inevitably get the impression—that the officials of the District wished to accumulate a surplus to their credit in the Treasury. Every year for the last three years when the District officials came before the committee they called attention in their opening statements to the fact that their former surplus of nine and a half million dollars had been so depleted that it stands to-day at about half a million dollars or less. In each of the last three annual hearings this point has been stressed, and the committee received the impression that they objected to the reduction of the surplus and desired to maintain it. Accordingly, with that in mind, when we first drafted the bill we did not include a reduction in the tax rate.

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

Mr. CANNON. With pleasure.

Mr. BANKHEAD. I did not hear all of the gentleman's statement, but as I understand, the purpose of the amendment we are now discussing is to reduce the tax rate in the District of Columbia, the ad valorem tax rate, from $1.70 to $1.50.

Mr. CANNON. Yes; that is correct.

Mr. BANKHEAD. Is it the gentleman's opinion from the information that he has that that reduction, on the present valuation, will afford sufficient fiscal revenues for the District for all of its necessary expenditures, without the District officials coming back to Congress for an increase in the Federal contribution?

Mr. CANNON. The interviews of local officials through the newspapers and the editorials in the newspapers of the District emphasize the fact that if this bill goes through as it is, it will leave a surplus in the Federal Treasury of approximately six and one-half million dollars.

Mr. BANKHEAD. To the credit of the District of Columbia fund?

Mr. CANNON. To the credit of the District in the Treasury.

Mr. BANKHEAD. Another question. Of course, as I understand it, we will be called upon here to add an appropriation of $625,000 for relief in the District of Columbia. If the District of Columbia has that balance to its credit, why can not it spend some of that money for this relief?

Mr. CANNON. That will be taken up when we reach that item in the reading of the bill.

Mr. BANKHEAD. The gentleman then is firm in his conviction that this reduction in the tax rate will not cripple the treasury of the District of Columbia beyond where it would be required to carry on the essential expenses?

Mr. CANNON. As I said before, the only information which the committee has in respect to these fiscal matters is necessarily the information that is given us by the officials of the District in the hearings before the committee, and those officials tell us, and the newspapers of the District call attention to the fact—as does the minority report of the committee—that this bill will create a surplus in the Treasury to the credit of the District of Columbia. We were led to believe they wanted that surplus. It develops now that they do not want it. And so, in response to this demand, we are asking that a reduction be made in the tax rate of the District in order to avoid the accumulation of this surplus and to give the home owners in the district as low a tax rate as possible. Without this reduction, the bill will provide a District surplus in the Treasury of $6,500,000.

This reduction in taxes will take from $2,000,000 to $2,500,000 from that surplus, and if this amendment is passed it will still leave in the Federal Treasury, to the account of the District government, a surplus of $4,000,000 or $4,500,000 at the end of the fiscal year.

Mr. MAPES. Will the gentleman yield?

Mr. CANNON. With pleasure.

Mr. MAPES. Could not the same purpose which the gentleman has in mind be accomplished, and would it not be more equitable, in view of the economic conditions in the District of Columbia, which are better than any other place in the United States, and in view of the fact that the tax burden here is less than almost anywhere else in the United States, if the Federal contribution carried in this bill were reduced this year from $6,500,000 to $1,500,000? In that way the present tax rate of $17 per $1,000 of assessed valuation would probably be required to raise enough money to balance the Budget without carrying this rate provision in the bill and without building up a surplus.

Mr. BANKHEAD. Would it interrupt the gentleman to ask another question?

Mr. CANNON. May I answer the gentleman's question first? In response to a request from the Commissioners of the District of Columbia, as expressed in the hearings before the committee, we took up the problem of making an appropriation for District relief from the exclusive funds of the District.

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

Mr. CANNON. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. Without objection it is so ordered. There was no objection.

Mr. CANNON. There are only two ways in which that can be accomplished. One is the method adopted by the committee, and carried in this bill, levying a specific tax for that specific purpose. The other is the method just suggested by the distinguished gentleman from Michigan [Mr. MAPES]. It could be done either way. Either the amount could be raised by separate taxation in the District, or the Federal contribution could be reduced by that amount. Both methods would comply with the request of the commissioners to supply the item from purely District funds. One would be as effective as the other. If they do not prefer the method suggested by the committee, then they can adopt the method suggested by the gentleman from Michigan [Mr. MAPES]. Either would be satisfactory to the committee.

Mr. BANKHEAD. I am simply asking for information. I desire to go along with the gentleman. As I understood the gentleman's amendment, it proposes to reduce the tax rate, based on the full value of property in the District of Columbia?

Mr. CANNON. That is true.

Mr. BANKHEAD. Is property assessed at full value under the present arrangement?

Mr. CANNON. That is the information given the committee by the assessor.

The purport of this amendment is, in brief, to reduce taxes on real estate in the District. It was not included in the bill originally because it was our understanding that they wished to replace the surplus formerly carried in the Treasury. Now that they have indicated their objection to the accumulation of a surplus, we are glad to avoid such a surplus by reducing the tax rate. That is what we propose to do by this amendment.

Mr. BLANTON. Mr. Chairman, I offer a substitute for the gentleman's amendment.

The CHAIRMAN. The gentleman from Virginia [Mr. SMITH] has reserved a point of order. Does the gentleman withdraw his point of order?

Mr. BLANTON. I would like to have the substitute before the House. The gentleman might be willing to accept one of the amendments.

Mr. SMITH of Virginia. If the gentleman will yield for a moment, I wish to make a brief statement. The very object I had in view in making the original point of order was in order that the people of the District of Columbia might enjoy a reduction in their taxes if their budget justified it. The amendment which the gentleman has offered does the very thing that I sought to do in making the point of order against the original language of the bill, and it reduces the tax rate from $1.70 to $1.50. I think that is highly commendable. While I do not agree with the principle of legislation on an appropriation bill, nevertheless I will withdraw the reservation of the point of order.

Mr. BLANTON. Mr. Chairman, I offer a substitute.

Mr. HOLADAY. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. HOLADAY. This amendment is legislation the same as the other. The Chair just sustained a point of order. One was $1.70 and the other is $1.50.

The CHAIRMAN. Does the gentleman from Missouri [Mr. CANNON] desire to be heard on that point?

Mr. CANNON. Mr. Chairman, this amendment would obviate a situation referred to in the minority report. If the minority prefer to repudiate the report, there will be no objection. We propose here to reduce taxes for the District of Columbia. The minority report objects to the maintenance of a surplus fund to the credit of the District. This will reduce that surplus and at the same time reduce taxes of the home owners of the city.

The CHAIRMAN (Mr. PRALL). The Chair is ready to rule. The Chair sustains the point of order.

Mr. BLANTON. Mr. Chairman, I offer the following amendment:

Page 2, line 7, strike out "$6,500,000" and insert in lieu thereof "$1,500,000."

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 2, line 7, strike out "$6,500,000" and insert in lieu thereof "$1,500,000."

Mr. BLANTON. Mr. Chairman, this amendment carries out the judgment and wisdom and suggestion of the gentleman from Michigan [Mr. MAPES]. When I first came here the tax rate in the District of Columbia was 90 cents on $100. At that time we had an outrageous plan here which made the people of the United States, after paying their own taxes at home, their State, county, city, school taxes, their water tax, their paving tax, and all their other municipal taxes, they then had to pay one-half of the city tax here in Washington for the people living here.

Then, the rate was increased to $1, then to $1.10, then to $1.20, and we increased the proportion that the District should pay of its own taxes to three-quarters instead of one-half. Finally, the taxes went up to $1.30, and then $1.60, and $1.70.

If the District were to cut down its waste and cut out its extravagances the tax rate here ought not to be over $1.50. I just want to call your attention to one of the extravagances of the city. If you will look at page 516 of the hearings you will see that our subcommittee required the District Commissioners to put in here the amounts they had expended for sending various officials connected with the District, little and big, off on junket trips over the United States. Look at some of them! Here is a bunch of policemen they sent off to police school. Here is Mr. W. A. Van Duzer, a good friend of ours, we all like him; he was sent off on several junket trips. They sent him up to New York at an expense of $16.28; up to New York again; then up to New York a third time at $16.28; then to Chicago at $16.95; then back to Chicago again at an expense of $38.43. Those are his junket trips—just one employee of the District government, all since July 1, 1932.

Then, coming down the list you will see they send the Hon. Sibyl Baker of the playgrounds department off on a junket way out to Los Angeles, Calif., at a cost of $300 to the people of the District and to the people of the United States. The District Commissioners allowed her to spend $300 on that junket trip to the west coast. Then they sent her on another trip, Hon. Sibyl Baker, to Toronto, Canada, at a cost of $87.96 more.

Then they sent Richard S. Tennyson to Toronto, Canada, at a cost of $78.02. Then the commissioners sent Mr. Herbert L. Davis down to my State, to Houston, where I was born, and to Galveston, at a cost of $171.29. Then they sent him up to New York for $50 worth, and they sent him to Chicago for $74.97 worth. Then they sent him up to Portland, Oreg., and Los Angeles, Calif. He had to go out to Hollywood and it cost $300 more.

Is not this ridiculous?

I know what my friend, the gentleman from Indiana [Mr. WOOD], thinks about these matters.

It ought to stop! It ought to stop!

So you can go through the whole list. Mr. Chairman, I ask unanimous consent to extend my remarks and include therein this whole list showing the junket trips since July 1, 1932, the commissioners have paid for out of the public exchequer for various officials.

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

There was no objection.

Mr. BLANTON. I quote from the hearings:

"In regard to the expense of a trip to Detroit made by employees and officials of the District government in January, 1933, the following statement is submitted:

"W. A. Van Duzer, H. C. Whitehurst, and F. M. Davison, paid by American Road Builders' Association.

"H. F. Clemmer, paid by District; estimated cost, $100.

"J. N. Robertson and R. L. Bourgeois, paid by District; estimated cost, $150."

Mr. CANNON. I should also be glad to have in this connection a report of the expenses of all who have attended meetings at a distance at District expense for the past year.

Mr. DONOVAN. For the fiscal year 1932, and up to this date in the fiscal year 1933?

Mr. CANNON. Yes.

Official travel authorized by the Commissioners of the District of Columbia for the period July 1, 1931, to January 15, 1933

Name of employee	Destination	Purpose	Amount expended
Police department:			
J. E. Fondahl	Harrisburg, Pa	National Police School	$30.00
E. C. Moore	do	do	30.00
K. G. McCormack	do	do	30.00
B. F. Bean	do	do	30.00
G. M. Stewart	do	do	30.00
William Engeart	Rochester, N. Y	Fingerprint School	34.50
Do	do	do	7.35
Do	do	do	28.00
E. W. Brown	Chicago, Ill	Annual Safety Congress	31.95
Do	do	do	16.50
Do	do	do	24.00
Paul W. Jones	do	Testify in United States court	41.67
P. D. Glassford	Philadelphia, Pa., New York, N. Y., Providence, R. I., and Boston, Mass.	Study police procedure in those cities	27.95
Department of vehicles and traffic:			
W. A. Van Duzer	New York, N. Y	Conference of motor-vehicle administrators	16.28
Do	do	do	4.88
Do	do	do	16.28
Do	Chicago, Ill	National Safety Council	16.95
Do	do	do	38.43
Playgrounds department:			
Sibyl Baker	Los Angeles, Calif	First International Recreation Congress	300.00
Do	Toronto, Canada	Conference of playground directors	87.96
Richard S. Tennyson	do	do	78.02
Insurance department:			
Herbert L. Davis	Houston and Galveston, Tex., and New Orleans, La.	National convention of insurance commissioners	171.29
Do	New York, N. Y	do	50.00
Do	Chicago, Ill	do	74.97
Do	Portland, Oreg., and Los Angeles, Calif	do	300.00
Board of Public Welfare:			
Geo. S. Wilson	Indianapolis, Ind	Convention of welfare associations	78.65
Do	Philadelphia, Pa	National conference of social workers	44.89
Corporation counsel's office:			
R. E. Lynch	do	Helen Marie Fink estate case	1.25
Assessor's office:			
W. P. Richards	New York, N. Y	National Tax Association	20.03
John T. Bardorff	Atlanta, Ga	National tax conference	162.82
W. P. Richards	do	do	63.00
Office of inspector of plumbing:			
A. R. McGonegal	Rochester, N. Y	Society of Sanitary Engineers	70.00
Do	Richmond, Va	Annual meeting of the American Society of Sanitary Engineers	36.70
Do	Wilmington, Del	Witness tests of refrigerant gases	22.72
Do	Richmond, Va	Convention of American Society of Sanitary Engineers	22.72
Do	Atlantic City, N. J	Meeting of American Gas Association	40.00
Water department:			
Ray M. Dowe	Tamaqua, Pa	Inspect pipe	42.45
D. W. Holton	Memphis, Tenn	Convention of American Water Works Associations	36.25
Do	do	do	20.26
Do	do	do	50.36
Health department: Wm. C. Fowler	Montreal, Canada	Convention of American Public Health Association	76.29
Sewer department:			
Ellwood Johnson	Pittsburgh, Pa	Conference of International Association of Public Works	13.75
Do	do	do	2.25
Do	do	do	2.25
David V. Auld	Cumberland, Md	Conference of Maryland-Delaware Water and Sewerage Association	20.62
Electrical department:			
Walter E. Kern	New York, N. Y	Conference of International Association of Electrical Inspectors	26.25
J. S. Zebley	do	do	20.00
Walter E. Kern	do	do	5.63
Do	Pittsburgh, Pa	do	31.50
J. S. Zebley	New York, N. Y	do	8.14
Walter E. Kern	do	do	8.14
J. S. Zebley	do	do	8.14
Walter E. Kern	do	do	8.14
J. S. Zelbey	do	do	1.88
F. C. Lyman	Pittsburgh, Pa	Convention of Illuminating Engineers Society	22.50
Walter E. Kern	do	Conference of International Association of Electrical Inspectors	21.80
Do	do	do	6.00
Do	New York, N. Y	do	1.88
Do	do	do	16.28
F. C. Lyman	Pittsburgh, Pa	do	16.35
Walter E. Kern	Atlantic City, N. J	National Electric Light Association Convention	8.70
F. C. Lyman	do	do	8.90
City refuse division:			
T. L. Costigan	Pittsburgh, Pa	Conference of International Association of Public Works	45.02
Do	New York, N. Y	International Association of Public Works Officials	46.24
Purchasing Office: J. L. Gelbman	Philadelphia, Pa	Investigate plant and equipment of Eagle Bookbinding Co	23.82
Municipal architect's office:			
C. A. Bennett	Detroit, Mich	Witness and participate in tests conducted on commercial stoker	78.46
H. H. Marsh	Philadelphia, Pa	Investigate stage equipment	26.10
Chas. G. Achstetter	do	do	25.90
C. A. Bennett	Cleveland, Ohio	Convention of American Society of Heating and Ventilating Engineers.	58.76
Public Library: Clara W Herbert	New Orleans, La	Conference of American Library Association	100.00
Highway department:			
J. N. Robertson	Detroit, Mich	Annual convention of road show of American Road Builders' Association.	75.39
L. P. Robertson	do	do	75.39
E. N. Chisholm	do	do	97.28
Fire department: John S. West	Pittsburgh, Pa	In connection with repair of self-contained oxygen breathing apparatus.	79.60
Director of inspection:			
Hugh P. Oram	New York, N. Y	Meeting of committee to consider tests in waterworks in connection with Federal aid.	36.32
Do	Detroit, Mich	Annual convention and road show of American Road Builders' Association.	75.39

Official travel authorized by the Commissioners of the District of Columbia for the period July 1, 1931, to January 15, 1933—Continued

Name of employee	Destination	Purpose	Amount expended
Assistant engineer commissioners:			
D. A. Davison	Richmond, Va	Annual meeting of American Society of Sanitary Engineers	$18.56
Do	Newburgh, N. Y	Sign regulations	46.40
Do	Richmond, Va	Annual meeting of American Society of Sanitary Engineers	4.00
H. L. Robb	Buffalo, N. Y	National conference on government	69.76
Total			3,546.86

Mr. BLANTON. Do not you think that the foregoing shows a pretty good-sized travel expense for the employees of one city the size of Washington, for a little over six months, to wit, since July 1, 1932, to the date of these hearings?

Mr. HOLADAY. If I remember correctly, last year, the gentleman from Texas voted for this appropriation.

Mr. BLANTON. No; I did not. I have not voted for any travel allowances, because I do not believe in junkets; I never take them myself.

[Here the gavel fell.]

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

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

There was no objection.

Mr. BLANTON. I want to call special attention to a few of these travels. Here is Mr. Richards, our tax assessor. He had to take a trip to New York and it cost $20.03. Then he had to go to Atlanta, Ga., at a cost of $63. And here is Dr. William Fowler, of the health department. He had to go to Montreal at a cost of $76.29. There is a whole bunch of them here. Hon. Clara W. Herbert, of the library department, had to take a trip to New Orleans, at a cost of $100. It ought to stop.

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

Mr. BLANTON. I yield.

Mr. MAPES. As I understand it, if the gentleman's amendment reducing the Federal contribution from $6,500,000 to $1,500,000 should be adopted and the total amounts carried in this bill should be appropriated, the District still would not have to raise the present tax rate on real estate and tangible personal property above $17 per $1,000, which is lower than the tax rate in almost any other city in the United States, in order to balance the Budget?

Mr. BLANTON. That is correct. It would merely eliminate this surplus the gentleman from Illinois [Mr. HOLADAY] objected to.

I wish the Members who are not familiar with it would take the other supply bills, not only the District bill, but the other supply bills, and check up and see just how many millions of dollars this Government is appropriating for local matters, nothing in the world but local civic matters. Why, there is nearly $1,000,000 extra that was put into the Interior bill for Howard University above its regular appropriations. That does not come in the District of Columbia appropriation bill; that is in the Interior Department appropriation bill. You will find millions after millions for local matters here in the District of Columbia that do not come out of the District Treasury at all, but come out of the pockets of all the people of the United States. It ought to stop! It ought to stop!

Mr. Chairman, you will not find a single capital of any State of the 48 making up this Union where the rest of the people of the Union pay any part of the civic expenses of that capital. They are paid by taxation of the people who live in the capital, not by the people of the 48 States.

Mr. MAY. Will the gentleman yield?

Mr. BLANTON. Certainly.

Mr. MAY. How does the public indebtedness of the District of Columbia, as well as the tax rate, compare with the indebtedness and tax rate of municipalities and cities outside the District?

Mr. BLANTON. The District does not have any public indebtedness. The Government of the United States has been paying all the public indebtedness here. Every other city has public indebtedness; but as long as you have a Federal Treasury here with the doors wide open, with hungry, lean, lanky arms always reaching into it, you are not going to have any public indebtedness against Washington people.

Mr. MAY. The gentleman proposes by his amendment to reduce the contribution of the Federal Government exactly $5,000,000, and I want to vote for the amendment.

Mr. BLANTON. And if you reduce it $5,000,000, you still will not raise the taxes. The present tax rate here of $1.70 per $100 will produce every dollar they need and you will still have a surplus of possibly $1,500,000 in the treasury, will you not, Mr. Chairman?

Mr. CANNON. That is true.

Mr. BLANTON. You will still have a surplus of possibly $1,500,000 left in the treasury.

Mr. FULBRIGHT. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. FULBRIGHT. I would like to ask the gentleman if he has undertaken to estimate the cost of these pleasure trips that have been made over the country at the expense of the Government?

Mr. BLANTON. I have a few moments ago put this table in the RECORD which shows you exactly what they have amounted to, just for the employees of the District of Columbia city government alone since July 1, 1932.

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

Mr. Chairman, I had not intended to take any particular part in this discussion to-day. I know something of the burdens of handling this bill and I know something of the work that our colleague from Missouri [Mr. CANNON] has done on it; I know something of the long hours of labor he has put in and I know just how thankless the task is that he is undertaking to perform. With due regard to all that I want to appeal this afternoon to the House of Representatives to exercise a bit of good, common sense with reference to this bill.

We have gone through this fight year after year. The House of Representatives in this Congress is on record fixing the amount of a fair contribution to the District of Columbia at $6,500,000. This has been done as the basis of a report of a special committee of the House. This Congress adopted the report, as I remember it, unanimously, or almost so. Now, why, in this way, repudiate the action of the Mapes committee and the House of Representatives on this special report?

To say that you can put through a bill in this Congress cutting the Federal contribution for the support of the District of Columbia to $1,500,000 is absurd. Anything like that in this bill will mean the defeat of the bill in this Congress.

I am not one of those, as the House well knows, who shares the idea that the Federal Government ought to contribute a great amount to the support of the District of Columbia, but we ought to be fair. The statement has been made by the gentleman from Texas, and supported by my good friend from Missouri [Mr. CANNON], that if this amendment is put in the bill there will still be a surplus of $1,500,000 in the District treasury. If this is true, why did they not tell the House so in their report? I am reading now from the report of the committee headed by Mr. CANNON

at page 3, showing that the gross surplus if this bill is adopted, as written by the committee, will be $5,060,000. But of this amount, according to the report, only $4,329,205 is a general-fund surplus. So that if you adopt the amendment of the gentleman from Texas [Mr. BLANTON] you are automatically creating a deficit in the District treasury and creating a situation that is going to cause discord and turmoil in District finances.

We have had a well-balanced bill. The Federal contribution under this bill, as well as the District set-up, has been such that the revenues of the District have been sufficient and the District has been properly financed; and my appeal now to the House is that you not disturb this balance which has been maintained for these years between the Federal Government and the District of Columbia in this bill.

In passing, my good friend from Texas [Mr. BLANTON] has referred to various expenditures here. They are expenditures that have been made during all the years by the District officials, and I am ready to defend the sending of public officials on public business to get information. Here are the traffic director, the chief of police, and the assessor of the District; and there is not a more public-spirited, self-sacrificing, competent official in the District government than the assessor. These men are not out on junketing trips. They have not been on pleasure trips. They have been out getting themselves better equipped to serve the people of this District, and we should commend them for it. The total expenditures carried by all this tabulation amounts to $3,546.86. This is not an extravagant expenditure.

[Here the gavel fell.]

Mr. SIMMONS. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SIMMONS. We do have, in my opinion, in the District of Columbia a government that is as free from graft and is as honest and efficient a government as exists anywhere in the United States and probably is superior to the government of any large city anywhere in this country.

I make this statement after eight years of intimate contact with the officials in the District government. The District Commissioners and the personnel of the District government are honest, efficient, courageous public servants, and they ought not to be questioned with reference to an expenditure of this kind; and I am confident that my friend from Texas did not mean to leave that inference.

Mr. BLANTON. Since the gentleman has mentioned me, will he yield?

Mr. SIMMONS. Gladly.

Mr. BLANTON. If the gentleman will look in the Herald this morning, he will see the statement that in 1928 the rate was reduced to $1.70 and at that time the District had a surplus of approximately $10,000,000 in the Federal Treasury.

Now, if they can have a surplus of $10,000,000 in 1928, with a tax at $1.70, why can not they have a $6,500,000 surplus in 1933, when property has almost doubled in taxable value since 1928?

Mr. SIMMONS. There has been a material increase in expenditures, largely on the salary rolls.

Mr. HOLADAY. Will the gentleman yield?

Mr. SIMMONS. I yield.

Mr. HOLADAY. In order to keep the record straight, it may be that some of the items mentioned by the gentleman from Texas are necessary, and some unnecessary, but I want to say that the gentleman from Texas, along with myself, voted for every dollar of those expenditures. The RECORD shows that the gentleman from Texas voted for every dollar that has been expended under those items.

Mr. BLANTON. Show me the RECORD.

Mr. HOLADAY. Look at the vote last year when the bill was passed.

Mr. BLANTON. Oh, I voted for the big supply bill on final passage, because we had to have a bill, but I never voted for those items.

Mr. HOLADAY. The gentleman voted for all the items in the bill.

Mr. BLANTON. Just as you vote for the naval bill or the legislative bill—you vote for those bills on final passage, but you don't approve of every item in them.

Mr. HOLADAY. The gentleman can not stand up here and say he did not vote for each and every one of those items in the bill.

Mr. BLANTON. Oh, that is ridiculous. Of course I voted for the supply bill on final passage; but it is just like a conference report—you have to vote it up or vote it down, but you do not vote for everything in the conference report.

Mr. SIMMONS. Now, I want to make this closing appeal to the House, that it use its common sense in handling this matter. I have gone through this several times. Frankly, I do not believe that the reductions that can be made as the result of the surplus in the District government ought to all go to the credit of the United States. The District taxpayers have contributed their part of it. By this method to credit all the surplus to the United States is in effect to levy a tax on the property of the District of Columbia for the benefit of the United States. To me such a proposal is indefensible. I also believe that before the bill becomes a law the greater part of the surplus referred to will have been expended in necessary appropriations for the District of Columbia. The report shows that there is approximately $4,000,000 in the general fund, approximately half a million dollars in the gasoline fund, and $150,000 in the water fund, and I venture to say that a greater part of it, if not the whole, will be appropriated for expenses in the District of Columbia before this bill becomes a law.

[Here the gavel fell.]

Mr. COCHRAN of Missouri. Mr. Chairman, just such speeches as the gentleman from Texas [Mr. BLANTON] has made go out and are printed in the newspapers and cause editorials reflecting upon Congress. I want the RECORD to show that the Federal Government has buildings throughout the entire District for which not one dollar in taxes is collected. Police and fire protection is furnished to the Government for its public buildings. If the people of the country know the situation, do you think upon reflection that they would be heartless enough to ask the residents of the District to bear the entire burden of the cost of government in the district? The contribution of $6,500,000 carried in this bill is for the purpose of paying the share of the Government toward maintaining the Capital of the Nation as it should be maintained. If there have been abuses in administration then eliminate the abuses, but we should not eliminate the aid that the Government has always extended to the District.

I repeat, the people of the United States do not expect the people of the District of Columbia to maintain a city to house Government offices. When they analyze the situation, they will want some contribution to be made toward the expenses of the city by the Government.

The gentleman from Texas [Mr. BLANTON] talks about junkets. He puts one side of the matter into the RECORD; and if it is not answered, we will be subject to criticism for letting officials spend money in that way. I ask permission to place in the RECORD at this point a statement by Colonel Grant, and I think this House has confidence in Colonel Grant, in reference to at least one of the junkets.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend in the RECORD a certain statement made by Colonel Grant. Is there objection?

Mr. BLANTON. Mr. Chairman, reserving the right to object, and I shall not, I want this RECORD here to show that these items that I mentioned and the table of trips I inserted are traveling allowances made by the Commissioners of the District of Columbia. Colonel Grant had nothing in the world to do with them. He is a colonel in the United States Army, and is not an officer of the District of Columbia. He is a United States Government officer in charge of Government institutions here wholly disconnected from the Government of the District of Columbia. What Colonel

Grant said related only to a little item of $300 for some of his employees to travel. It did not refer to travel of District employees.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COCHRAN of Missouri. Colonel Grant has control over the spending of about $2,000,000 of this appropriation.

The statement of Colonel Grant follows:

Mr. CANNON. You are also asking, for the first time, an appropriation of $300 for attendance at meetings. Those are national meetings of park officials?

Colonel GRANT. Park officials and technical people of one kind or another connected with our work, such, for instance, as the Park Executives' Institute and the Road Builders' Association.

We have developed, I think, a very good type of road, a very excellent type of road, with the help of the Bureau of Public Roads. Where we have had any money to rebuild an old road, or to build new roads, this type has been so successful that we have had practically no maintenance cost at all on any of the roads that have been rebuilt in that way, or built new in that way, unless there was a slip in the ground. Sometimes we have had slight repairs due to unequal compacting of the ground on which the road was built.

In order that the people who are doing that work should be up to date and know the latest methods and the best ways of saving money, they should be able to come in contact with the people doing the same sort of work from all over the country. They will learn a great deal more for the benefit of the District than the small amount it costs to send them to such meetings, and yet they are not people who are receiving salaries high enough for them to be able to afford to attend such conventions and meetings at their own expense.

Mr. CANNON. How have these expenses been met in former years?

Colonel GRANT. Sometimes, and sometimes not. Sometimes they have taken the money out of their own pockets * * *.

The District bill at the beginning, I think, provides for that sort of thing for the District officials, and it has been understood that that language did not apply to the technical people in my office. This is not an additional appropriation; it is merely an authority to send them for that purpose.

Mr. COCHRAN of Missouri. In reply to the gentleman from Texas [Mr. BLANTON], let me say that on page 515, under the subhead Appropriations for Attendance at Meetings, Colonel Grant testified before the subcommittee, and on the next page what the gentleman refers to will be found.

In regard to the engineers, here is what Mr. Donovan, the auditor, said:

TRAVELING EXPENSES IN ATTENDING CONVENTIONS BY DISTRICT HIGHWAY DEPARTMENT

Mr. DONOVAN. It is being held at Detroit, and the expenses of such District officials in attendance at that meeting, whose expenses are being paid by the District, are paid from the item on page 55 of the bill, where there is an authorization of $4,000.

You have an item of $3,000 for—

"Traveling expenses not to exceed $3,000, including payment of dues and traveling expenses in attending conventions when authorized by the Commissioners of the District of Columbia."

Mr. CANNON. How many are in attendance at this meeting at Detroit?

Mr. DONOVAN. I could not give you that information. But I am pretty certain that the District is not paying Captain Whitehurst's expenses. Mr. Eldridge is also there.

Mr. CANNON. Mr. Eldridge is there at the expense of the District?

Mr. DONOVAN. No; at his own expense.

Mr. CANNON. Captain Whitehurst is there at his own expense?

Mr. DONOVAN. I do not know about that, but I will check up on that and give you the information in the morning.

(The statement referred to is as follows:)

"In regard to the expense of a trip to Detroit made by employees and officials of the District government in January, 1933, the following statement is submitted:

"W. A. Van Duzer, H. C. Whitehurst, and F. M. Davison, paid by American Road Builders' Association.

"H. F. Clemmer, paid by District; estimated cost $100.

"J. N. Robertson and R. L. Bourgeois, paid by District; estimated cost $150."

I know Major Gotwals, the engineer commissioner. He was the United States district engineer for the Engineer Corps of the Army in my city. He is a wonderful commissioner. He was brought to Washington and was appointed engineer commissioner for the District of Columbia, and you all know what an excellent record he has made. You can go all over the United States and you can not find a more capable or honest man or a man that could give better service to the District than Major Gotwals has given. Captain Whitehurst is an excellent man and so is Major Davison. A mistake will be made if men of this type are not retained in their positions. Outstanding public service must be rewarded, and these men are giving that. They did not go to Detroit at the expense of the Government, and it is so stated by Mr. Donovan in the hearings. Still, they went there to get information. They went there to get the latest data on road building. They went there to learn how to construct roads for a less amount than they had been paying. They went there to get information that in the end will be beneficial to the District of Columbia.

I think it would be highly unfair to reduce this appropriation of $6,500,000 to $1,500,000, as the gentleman from Texas suggests. I repeat, the people of this country do not want the people of the District of Columbia to maintain Government offices and space for Government offices and buildings here. In the last few years we have bought an enormous amount of property down here in the Mall on the south side of Pennsylvania Avenue on which taxes were being paid to the District of Columbia. When the Government took the property over, the District of Columbia received no more taxes. The people who formerly owned that property paid taxes on it to the District. If I am wrong, I wish some one would correct me.

The assessor of the District of Columbia is responsible for the statement that as of June 30, 1932, the value of Federal property in Washington was estimated at $506,651,848. Not one dollar in taxes is paid upon this outstanding amount. There can be deducted from this amount, however, $144,-305,109, the value of property such as large and small parks dedicated to the use of the District, and also one-half of the water plant. This leaves $362,346,739 for assessment purposes, if the law permitted assessment.

There is the other factor in favor of the District that must not be overlooked. That is whenever the Government purchases property, ground and buildings the District loses the taxes that previously had been paid by the private individual from whom the property was purchased.

At $1.70 a hundred the total holdings of the Government, if owned by private individuals, would pay taxes of $8,337,-608. When property becomes a Government reservation, it does not pay taxes here or elsewhere. You reduce the revenue of the District of Columbia whenever the Government buys a piece of property in the District. If that statement is not so, I would like to have some one correct me. In the absence of a correction I take it I have stated the fact.

Mr. CLARKE of New York. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN of Missouri. Yes.

Mr. CLARKE of New York. What is the tax rate of the District of Columbia in comparison with cities of the same size?

Mr. COCHRAN of Missouri. I do not know that. I have no knowledge as to that.

Mr. CLARKE of New York. Is it not a fact that the tax rate of the District of Columbia is lower than that of cities of the same size generally throughout the United States?

Mr. COCHRAN of Missouri. I repeat I do not know, but if that is true it is evidence of good management. I do know this, that industries are not invited to the District of Columbia. You do not want industries here—industries that would pay large taxes toward the revenues of the District; in fact, you discourage industries from coming. This is a district set aside for the Capital of the Nation, and it should be looked upon as such and treated as such.

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

Mr. MAPES. Mr. Chairman, I rise in opposition to the pro forma amendment. Inasmuch as some reference has been made to the report of the special committee, of which I was a member, I would like to say just a word. This debate here and the situation in which we find ourselves today are fair illustrations of the difficulties involved in trying to adjust the fiscal relations between the Federal and the District Governments. The report of the special committee did not contemplate that the tax rate, already low in the District of Columbia, would be made still lower, as it may be

as the result of the point of order made by the gentleman from Virginia [Mr. SMITH] and sustained, and correctly so, I presume, by the Chair. It may lower a tax rate which is already lower than that of any other like community probably in the United States. The report of the special committee said that for the present the committee thought that a contribution of $6,500,000 per year would be equitable, but it also said that the time might come when it would be fair and reasonable to expect the property and the citizens within the District of Columbia to take care of all of the expenses of the District government.

The gentleman from Missouri [Mr. COCHRAN] has discussed the building program within the District of Columbia and the fact that some private property is thereby taken off the assessment rolls. The assessor for the District of Columbia, Mr. Richards, testified that that does not lessen the revenues of the District, but, as a matter of fact, it increases them, because it raises the value of the adjoining property, and the former tenants or owners of the private property that is taken over by the Government have to move into other sections of the District and carry on their businesses in new locations, and that the general effect over a series of years is, as the District assessor testified before the Committee on Appropriation a few years ago, to add to the tax rolls and to add to the tax receipts in the District. So that instead of being a hardship to the residents of the District it is a benefit.

I think it is unfortunate that the gentleman from Virginia [Mr. SMITH] saw fit to make a point of order against the provision which would prevent the District commissioners from fixing a rate below the present rate of $1.70 per $100 or $17 per $1,000 on the assessed valuation of real estate and tangible personal property. No one can claim that that rate is overburdensome when considered in the light of existing economic conditions in the District of Columbia as compared with those throughout the United States outside of the District. I repeat that I think it is unfortunate that the gentleman saw fit to make a point of order against that provision.

Mr. SMITH of Virginia. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. SMITH of Virginia. The gentleman is of course aware of the fact that under the law as it exists now, the commissioners have the power, and it is their duty to fix the tax rate. They can fix it up or down. They can raise it or lower it. That is the present law.

Mr. MAPES. Can they do that regardless of the necessities of the budget?

Mr. SMITH of Virginia. The law does not say anything about the budget. The law says they must fix a levy that will raise sufficient taxes. The chairman of the committee has shown by his amendment that a reduction of 20 cents will raise sufficient money.

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

Mr. MAPES. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. MAPES. What the gentleman has said is true, with this limitation, as I understand it, that the District Commissioners are required to fix a tax rate that will raise the amount of the budget or appropriations as carried in the appropriation law, but they can not provide for a surplus, as I understand it. This matter of surplus is very largely a matter of bookkeeping. The money goes into the Federal Treasury. It is not earmarked but is paid out of the general fund as required to meet the expenses of the District government. It is very probable that the appropriations in this bill are reduced to a minimum, lower perhaps than the District would be satisfied with in normal times. As soon as we get back to normal conditions the District will be insisting upon additional appropriations, and this tax rate will have to be raised, or the Federal Government will have to contribute a very much larger item than $6,500,000, carried in this bill.

To adjust this matter equitably over a series of years, the $17 per $1,000 ought to be carried in this appropriation bill. If it is not, I do not believe that it is inequitable to reduce the contribution of the Federal Government for this particular year.

I read only yesterday in one of the local papers that while the House passed the report of the select committee, which recommended a contribution of $6,500,000, by subsequent action in adopting the report of the conferees, it raised the amount to $7,775,000 and thereby reversed its former action and established a precedent for a larger contribution. The District people watch every action of the House in this respect and they will cite this action as a precedent and argue that this House believes in a lower rate for the District than the present rate of $17 per $1,000 if the provision as reported by the subcommittee is not carried in this bill as it has been for the last few years.

Mr. BLANTON. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. BLANTON. Answering the remarks of the gentleman from Missouri [Mr. COCHRAN], is it not a fact that the evidence offered before the gentleman's committee in the hearings on the Mapes bills showed that every building which the Government owns here is an asset to the District government? For instance, the Congressional Library, the Lincoln Memorial, the Washington Monument, the $3,000,000 Key Bridge, the $14,000,000 bridge to Arlington, and all of the various important buildings of the Government attract hundreds of thousands of people here as visitors every month in the year who spend millions here. Is that not a fact?

Mr. MAPES. I think there is no question about that.

Mr. MAY. Will the gentleman yield further?

Mr. MAPES. I yield.

Mr. MAY. There is some information I would like to have. Can the gentleman tell the House just what percentage of rise in the assessable value of the property of the people of the District of Columbia would be necessary to balance their budget, without any appropriation whatever from the Congress?

Mr. MAPES. I can not give the gentleman the exact figures. It would not have to be raised very much over the present rate to raise the amount appropriated in this bill.

[Here the gavel fell.]

Mr. SMITH of Virginia. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I wish to say a few words on this matter of taxation in the District of Columbia as it compares with other communities of like size. I would like it understood that anything I may say with respect to this question of taxation in the District of Columbia is said with the greatest deference to the gentleman from Michigan [Mr. MAPES]. I read his very splendid report. I know that no Member of the House, with the possible exception of the gentleman from Missouri [Mr. CANNON], has given more time and more thought and more unselfish study to the troublesome problem of fiscal relations between the Federal Government and the District of Columbia. While I find it necessary to differ sometimes with matters in that report and with some provisions in the pending bill. I do so with the greatest deference, both to the gentleman from Michigan [Mr. MAPES] and the gentleman from Missouri [Mr. CANNON].

Mr. STAFFORD. Will the gentleman yield for a question?

Mr. SMITH of Virginia. I yield.

Mr. STAFFORD. Will the gentleman inform the House as to how the rate prevailing in the District of Columbia compares with the rate prevailing across the river in his own district, for instance?

Mr. SMITH of Virginia. Yes. I can do that. I do not know that the rate in my district is typical, but I will be glad to give the gentleman the information. In my home city of Alexandria the tax rate is $2.50. In the District of Columbia the tax rate is $1.70. Gentlemen will say " a much lower rate," but here is the catch in this thing, and I hope the House will recall it: In every community I know of in Virginia, and I imagine it goes throughout the entire coun-

try, the assessors, in fixing the valuation of property, assess that property anywhere from 25 to 50 per cent of its market value.

Mr. STAFFORD. In my own city of Milwaukee it is at full value.

Mr. SMITH of Virginia. Now, what is the result? I would say that a fair average of the whole thing would be that property generally is assessed at about 30 per cent of its actual cash value. A piece of property in the District of Columbia valued at $100,000, at the tax rate of $1.70, would make the taxes on that property $1,700 per annum. Let us assume the property was in some city where the tax was $3. Whereas the taxes on that property in the District of Columbia would be $1,700, assessed upon its full market value, that same property in your State or my State where there is a lower rate of assessment, say, 30 per cent of the market value, would pay a tax of only $1,200.

Mr. FULBRIGHT. Will the gentleman yield?

Mr. SMITH of Virginia. I yield.

Mr. FULBRIGHT. Does the gentleman mean to say that the property in the District of Columbia is assessed at its full market value?

Mr. SMITH of Virginia. At its actual full market value, scientifically ascertained by the assessors.

Mr. FULBRIGHT. That was not revealed by the various hearings that have been had before committees.

Mr. SMITH of Virginia. It is revealed by the hearings before the Committee on Public Buildings and Grounds, of which I am a member.

Mr. FULBRIGHT. They do not show that the cost to the Government of this property was up to four or six times its assessed valuation.

Mr. SMITH of Virginia. I am not defending the effort of some individual property owners to try to get more money from the Federal Government for their property than it is fairly worth.

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

Mr. SMITH of Virginia. I yield.

Mr. McSWAIN. Does the gentleman remember a case that came up before the Committee on Public Buildings and Grounds, of which the gentleman from Virginia is a distinguished member, in which the evidence showed that property owners, believing that the public acquirement of property was coming in their direction, increased their assessments upon their own motion two and one-half times?

Mr. SMITH of Virginia. I remember the discussion. I remember the gentleman from South Carolina was present. I do not think that has any particular bearing on the question I am now discussing.

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

Mr. SMITH of Virginia. I would like to yield but also I would like to have some of the time for myself.

Mr. STAFFORD. We will get the gentleman more time. The gentleman has been very active opposing this provision which came from the committee.

Mr. SMITH of Virginia. I yield.

Mr. STAFFORD. I can name a city where property is assessed at full value and the rate of taxation is about $2.60 per hundred—my home city. How can the gentleman justify his position when the rate in his own city is much higher?

[Here the gavel fell.]

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman from Virginia be allowed to proceed for five additional minutes.

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

There was no objection.

Mr. SMITH of Virginia. I am not sure I understand the gentleman's question.

Mr. STAFFORD. The gentleman stated as his premise, if the gentleman will permit, that in the District of Columbia, the taxation is against the assessed value and that the assessed value is the full value of the property. I said that in my home city of Milwaukee, where the population is about the same as it is in Washington, the assessment is at the full value and the rate of taxation is at least $2.60, and a few years ago, $2.80 per hundred.

How, then, can the gentleman say the people in the District of Columbia are paying higher taxes? And that is the very basis of the comprehensive report made by the distinguished gentleman from Michigan. His committee had an expert compare all these rates, and the finding was that the taxpayers of the District were not paying anything comparable to what taxpayers were paying in other cities of like size.

Mr. SMITH of Virginia. Now, if the gentleman is through, and I understand that what he has said is put in the form of a question, I shall be pleased to answer it if the gentleman will give me his attention. I assume the gentleman wants me to answer the question.

Mr. STAFFORD. Oh, yes.

Mr. SMITH of Virginia. I think the gentleman's town is all wrong. If property is assessed at a fair market value, the tax rate is too high.

Mr. STAFFORD. If the gentleman will permit——

Mr. SMITH of Virginia. I have not yielded further, I may say to the gentleman. Now, if the people of Milwaukee are paying too high a rate on their property, that is no reason why this Congress should overtax the people of the District of Columbia.

Mr. STAFFORD. I can not let the gentleman's statement go unchallenged that the people of my city are all wrong. At least, there is one Representative here on the floor of the House who takes the position that he is not all wrong.

Mr. MARTIN of Oregon. The gentleman from Virginia understands the gentleman from Wisconsin is working under the Wisconsin system that has practically bankrupted that State.

Mr. STAFFORD. The gentleman is acquainted with a condition that is nonexistant.

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

Mr. SMITH of Virginia. I yield.

Mr. UNDERHILL. I think the gentleman may very well answer these criticisms by laying the blame at the door of Congress. Congress is responsible for the whole of this situation. Congress, instead of going out, as it should, and getting refusals, or bonding property when it wants to buy a piece of property, advertises that it is in the market to buy that property, and what is the result? The price goes sky-high; it goes up three or four times what it was before.

Congress has burdened the District with 127 bureaus, commissions and officers; and they are trying to do business with 127 different communities, or groups. So the fault is with Congress.

There is a good deal to be laid at the doors of the District itself. I served for eight years on the Committee on the District of Columbia. This is the first time in 12 years' history that I believe the contribution to the District is a fair and equitable one based upon a real investigation of the relations between the District government and the Federal Government.

I know of one instance where a connecting link was wanted between the parkways. That land could have been bought by a private citizen, or by us if we had gone out and bonded it, for $450,000. However, the Committee on Appropriations insisted that Colonel Sherrill should tell them the very land they wanted. The result was that when the property was bought, the Government had to pay $635,000 when it could have been bought for $450,000.

Do not blame the District of Columbia when Congress itself is to blame.

Mr. SMITH of Virginia. I thank the gentleman from Massachusetts very much for his contribution.

Mr. FULBRIGHT. Mr. Chairman, I would like to call this to the attention of the gentleman from Virginia: In the hearings before the Subcommittee on the District of Columbia, at page 337, Mr. Donovan was testifying and said among other things:

The owners would not agree to sell the property at what the District considered to be a reasonable price, and thereupon the commissioners ordered the corporation counsel to institute condemnation proceedings. A verdict was handed down by the first condemnation jury for $105,000. The owner of the property appealed to the Court of Appeals, and the case was thrown out by the Court of Appeals because the assessor was permitted to testify. Thereafter, the case went to a second condemnation jury. The second condemnation jury awarded $294,000.

[Here the gavel fell.]

Mr. WOODRUM. Mr. Chairman, I ask unanimous consent that the gentleman from Virginia be given five additional minutes, and that he use the time himself. He has very generously yielded to all who have asked him to yield.

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

There was no objection.

Mr. FULBRIGHT. If the gentleman will permit, I would like to finish this question. Mr. CANNON asked this question:

What is the assessed valuation?

And Mr. Donovan replied:

The assessed valuation, as I recall it, was considerably under $105,000.

This condemnation price was fixed by the people of the District of Columbia who are supposed to know the value of property here, and that is a very good standard to determine whether or not property here is assessed at its actual value or at a very low value.

Mr. SMITH of Virginia. I do not think that was at all fair, and I agree with the gentleman that that was outrageous and should not have happened; but because some individual has gouged the Federal Government in the sale of his property through a condemnation jury, is no reason why this Congress should not be fair with the taxpayers of the District of Columbia in determining the amount of Federal contribution or the amount of their taxes.

Mr. Chairman, I have before me what seems to be a very pertinent table with respect to taxation per capita in the larger cities of the United States, and I ask unanimous consent to include this in my remarks, as it is very brief.

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

There was no objection.

Per capita tax for calendar year 1933 of certain cities as compiled by the Associated Press and Universal News Service, except for Washington, which figure is for the fiscal year 1933

New York	$75.00
Boston	48.00
San Francisco	65.00
Philadelphia	57.00
Cleveland	55.00
Baltimore	42.00
St. Louis	46.00
Detroit	44.00
Chicago	36.00
Los Angeles	30.00
Milwaukee	53.00
Pittsburgh	31.00
Denver	24.00
Richmond	45.00
Kansas City	47.00
Louisville	32.00
Houston	22.00
New Orleans	17.00
Washington	67.85

Mr. SMITH of Virginia. This was prepared by the Associated Press and the Universal News Service and shows the per capita tax in all the large cities of the United States. The per capita tax for the District of Columbia is $67.85. The only city in the United States that exceeds this per capita tax, so far as shown on this list, is the city of New York, where it is $75 per capita.

Mr. CANNON. Will the gentleman yield?

Mr. SMITH of Virginia. Yes.

Mr. CANNON. What did the gentleman say was the per capita cost of government in the District of Columbia?

Mr. SMITH of Virginia. This is headed "Per capita tax, $67.85." I do not vouch for the accuracy of it. It was handed to me as having been prepared by the Associated Press and the Universal News Service.

Mr. CANNON. Does the gentleman mean the per capita tax or the per capita cost of government?

Mr. SMITH of Virginia. It is headed "Per capita tax."

Mr. CANNON. Has the gentleman also statistics on the cost of government in the various cities?

Mr. SMITH of Virginia. No; I have not those figures.

May I call the attention of the House to this fact, because I know that the question of fairness in dealing with these matters always appeals to the Membership of the House, and this has already been called to the attention of the House by those who have preceded me on the floor. Every year a large amount of property is withdrawn from local taxation by reason of property being acquired by the Federal Government. This goes on from year to year, and millions and millions of dollars of property in the last two or three years has been withdrawn from local taxation by the acquisition of the Mall property, and this will go on. These properties are in the heart of the city. They are of assessable values, which are the highest in the city; and as this property is withdrawn from taxation, the burden upon the remaining property owners in the city becomes greater. It is, therefore, all the more urgent that a fair and reasonable contribution should be made by the Federal Government to the revenues of the District; and after a most exhaustive study and a most thorough and painstaking study, and I am sure an unprejudiced study, the gentleman from Michigan [Mr. MAPES] in his report recommended as a permanent basis a contribution of $6,500,000; and it seems to me this is a very poor time to undertake to change this in the present Congress.

Mr. MAY. Will the gentleman yield for a question?

Mr. SMITH of Virginia. Yes, if I have any time remaining.

Mr. MAY. The rate as given by the gentleman from Virginia in his home city of $2.50, as compared with $1.70 in the District of Columbia, leaves a difference of 80 cents on the $100 in the taxable rate of the two cities, with just a river between them. What amount per $100 would be necessary to be raised on the assessed valuation in the District of Columbia, based on the present assessed value of property, to equal the amount of this appropriation that the Congress is proposing to make?

Mr. SMITH of Virginia. I have not those figures.

Mr. MAY. Would it be very materially greater or would it be just an ordinary raise?

Mr. SMITH of Virginia. I have no idea, because I have no figures on that.

[Here the gavel fell.]

Mr. COLLINS. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, I was a member of the special committee on fiscal relations. Mr. MAPES was the chairman of this special committee. Considerable time was given by this committee to the subject of taxation in the District of Columbia. Prior to this I was a member of the District subcommittee on appropriations for several years. I feel therefore that I am conversant with District matters, particularly the subject of taxation in the District of Columbia.

It is my opinion that real-estate taxes in the District are lower than they are in any other city of comparable size in the United States; also that the taxes collected in the District of Columbia come almost entirely from land taxes. Even in the case of intangibles, the only intangible taxes of consequence collected are taxes from mortgages or deeds of trust on land. Such taxes are listed as intangibles in this District and they are taxed on the basis of $5 per $1,000.

The Mapes committee had a very excellent adviser in the person of Mr. Lord. Mr. Lord is very progressive in his tax views. He is not wedded to the real-estate tax as the proper way to collect taxes, and neither am I, but he was of the opinion that Washington real-estate taxes are lower than the average in cities of comparable size throughout the country.

It is commonly asserted that the property in the District of Columbia is assessed at its real value. The assessor states that property here is assessed at 92 per cent of its real value.

As a matter of truth, it is much less than this, for values are determined by the assessor by taking all sales that are made in a particular locality over a period of time and averaging these sales with the assessment that the other property adjacent to it bears to the sales price. This is about as good a way as one can use, but all of us know that in times like these the sales price of property is no index of value. So if I were going to make a guess, I would say that property in the District of Columbia is assessed at around 60 per cent of its true value, or about the same as property elsewhere, in your State and in mine, is assessed.

Nearly all the States have the constitutional provision that all property shall be assessed at its real or true value, and the assessors in all jurisdictions contend that property is assessed at its true value or thereabouts, and I am sure their statements are believed to be true. I am sure the District assessor is earnestly trying to give to his task the best thought possible and that he is doing his very best.

I believe taxes are too high everywhere. I believe they are too high in the District and much too high elsewhere. They should be reduced, and the correct way to bring about reductions is by lopping off useless expenditures as the splendid chairman of this committee and his associates are doing in their task of writing this bill.

Mr. HOLADAY. Mr. Chairman, I move to strike out the last four words. While as a member of the subcommittee I was not consulted in the actual preparation of the report, and a great many of the items in the bill I knew nothing about, and therefore personally I do not want to be held responsible for the report.

However, this item was informally discussed, and I fully agree with the report on this item prepared by the chairman of the subcommittee.

The Mapes committee, of which I was a member, went very carefully into this question. Mr. MAPES was chairman. Mr. COLLINS, of Mississippi; Mr. FREAR, of Wisconsin; Mr. DAVIS, of Tennessee, were members; and they devoted a great deal of attention to this question, and after the most careful investigation they decided that six and one-half million dollars was the proper amount for the United States Government to contribute to the District of Columbia. While my personal opinion might have been a little below that figure, the report was presented to the House, and the bill was passed by the House.

The subcommittee, in placing the figures at $6,500,000, followed what I consider to be the policy laid down by the House. Now, without any consultation, without any basis upon which the amendment should be framed, it is proposed to reduce this appropriation to $1,500,000, which, in my opinion, can not be maintained in any way. I believe it is a mistake to disregard the report of the Mapes committee and disregard the policy of the House and put in the bill a figure which we can not maintain in conference. Therefore, I think the amendment ought not to prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. BLANTON. I do not ask for a division, Mr. Chairman. I realize that it is absolutely impossible to get such an amendment through this Congress.

Mr. COCHRAN of Missouri. I demand a division.

The committee divided, and there were 16 ayes and 23 noes.

So the amendment was rejected.

Mr. MAY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 2, line 7, strike out the figures "$6,500,000" and insert in lieu thereof "$4,000,000."

Mr. MAY. Mr. Chairman, I offer this amendment not for the purpose of having an opportunity to speak on it but I want to explain to the membership the fact that I have made a calculation from the committee report of the amount of reduction that the bill will stand and still create an actual balance in the District budget. By the reduction of this amount it leaves a small balance in the treasury.

It is not so drastic as the one on which you have just voted, but merely takes off $2,500,000 from the amount provided in the bill. I do not care to go into the question of the merits of the valuation of the property in the District here by the assessor, or anything of that kind, but it does seem to me, in view of the situation throughout the country, that it is generally known everywhere that municipalities and cities are so heavily involved in debt that they are practically insolvent; that it would be ridiculous before the country for the Congress of the United States to make an appropriation that will create a surplus in the treasury of the District of Columbia merely because the Government happens to own some property in the District. I think it is a question that ought to be approached by every Member of the House in the attitude of an impartial juror. We ought to consider it without prejudice against the District or partiality for the Congress or the Government.

When we do that, and when we have an amendment here that leaves the account balanced, how will you explain to your constitutents when you go back home, when they ask you why it was that you voted a surplus into the treasury of the District of Columbia? You may be able to explain it to yours, but I will not be able to explain it to my constituents, if I should vote for the $6,500,000 carried in the bill. I think upon its face that it ought to be considered and this amendment ought to be agreed to. I think the Government of the District of Columbia ought to be provided with the necessary revenues to operate the Government intelligently and economically, regardless of the values of property, and yet I feel that the people who live in Washington and have homes in Washington and have business property in Washington, have many, many advantages which they can enjoy by reason of the activities of the Government of the United States here that people in the country do not have.

This is the most interesting historic city in the world. We maintain in Washington great historic societies, vast free public libraries, great historic buildings, and numerous other attractions that bring here hundreds of thousands, yea, millions of visitors and tourists from all over America and from foreign countries, and by that the business of the people of the District of Columbia is augmented by multiplied millions. I think that the chairman of the Board of Trade of the District of Columbia on the radio just a few nights ago said that the tourist trade in the District of Columbia, by reason of governmental attractions here, amounted to more than forty million dollars a year. With that increased trade, the profits of which go into the pockets of taxpayers of the District of Columbia, they ought to be glad to go a little further on the question of the increased rate of taxation, and the increased value of their property, with all these advantages at their doors. I think my amendment ought to be agreed to. I am actually in earnest about it, and I shall expect this House, with a view to practicing real, genuine economy, to vote for the amendment, instead of creating a surplus in a treasury that does not need it. Thousands of Government employees live in Washington and receive their pay checks from the Government of the United States every month. There is no missing of pay rolls as is the case in many industrial cities and sections where pay rolls have very largely ceased to exist. Where thousands continue idle and multiplied millions of women and children look to charity for their daily bread, and yet here in Washington the Government by its ever-increasing pay rolls helps to relieve Washington taxpayers of charity obligations, and still Members of this House are willing to vote a surplus into the District treasury while the Federal Treasury has a constantly increasing deficit now running into billions. If you can do this then do it and make atonement to your constituents afterwards if you can.

Mr. LOZIER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kentucky. In

my opinion, the findings of the Mapes committee were wholesome and sound, well supported by indisputable facts, and the committee's recommendations measure the full degree of liability on the part of the District of Columbia.

We should not lose sight of the fact that the District of Columbia was carved out of the wilderness and established as our National Capital. Our constitutional forefathers wisely decided not to locate our Capitol in any of the large cities, but to establish the seat of our Government on the banks of the Potomac, where they believed it would be free from the selfish, sordid, and sinister influences which even at that time dominated Boston, New York, Philadelphia, and other important cities.

The Federal Government is not an interloper or a sojourner here in the District of Columbia. Washington has grown to be a great city of nearly half a million population, all as a result of the action of the American people in selecting this particular area as our seat of government. Those who have come to the District of Columbia to live and carry on their various vocations are here at the will and by the sufferance of the Federal Government. Washington is primarily and essentially a Federal city, and the United States Government need not apologize to the people of Washington for its presence here, or for having reared monumental structures to house its multitudinous and far-reaching activities. It is exceedingly ungracious for the people of Washington to complain that the Federal Government pays no taxes on its own property in its own city, which was established primarily as the seat of our Government. The city of Washington owes its prosperity, its beauty, and its accomplishments as a great city solely to the fact that it is the Nation's Capital.

Other than the activities of the Government, there are few commercial, industrial, or business resources to support or maintain the city of Washington and its population. Without the Capitol and the enormous Government pay rolls, this proud city would quickly lose much of its population and many of its stately mansions would be tenanted by bats and owls. What right has the District of Columbia to levy a tax against Federal Government property?

The selection of the District of Columbia as the seat of our Government grew out of political exigencies and emergencies. Before the adoption of our Constitution the Continental Congress met ten times in eight different cities, and in 1783 it was dispersed by riotous soldiers because Congress had failed to grant their demands. Our constitutional forefathers recognized the necessity of establishing our seat of Government far removed from those tumultous and turbulent centers of population; and as the result of a compromise between Washington, Jefferson, and Hamilton the Capitol came to the banks of the Potomac.

Conditions here are different from those prevailing in any other capital in the world, except Australia, where a few years ago, on virgin soil and in almost the heart of a wilderness, the city of Canberra was established as the capital of the Commonwealth of Australia. London, Paris, Rome, and Vienna were cities generations or centuries before they became the capitals of their respective nations. But in the District of Columbia we have an essentially national city. The people of the District, instead of being critical and complaining, should at all times be moved by a spirit of profound gratitude for what the Federal Government has done for Washington. The complaint that the properties of the United States are not subject to taxation for District purposes is unjustifiable, ungenerous, and ungracious. The merchants and business and professional groups of the District are beneficiaries of the Nation's bounty and governmental activities.

In a period of unprecedented economic distress throughout the Nation the people of Washington scarcely feel the touch of depression. The pay rolls of the Government always insure prosperity and plenty for the people of the District. Within the last few years a public-building program has been launched in the District of Columbia which, when consummated, will involve the expenditure of approximately $400,000,000. The people of Washington get the benefit of these enormous expenditures of public funds.

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

Mr. LOZIER. Not now. While it is right and proper for the Federal Government to make a reasonable contribution toward the maintenance of the government of the District of Columbia, it is the prerogative of Congress to determine what is a fair and just contribution. Power to pass upon that question is not lodged with the people of the District of Columbia, but it is exclusively a Federal function.

I would not deal in a parsimonious manner with the people of the District of Columbia. I think we should deal generously with them. I would not withhold from the District of Columbia $1 that is justly and fairly due from the United States to the District for the support of the District government. On the other hand, I do not think that we should contribute a sum larger than our just proportion of District expenses.

Following the Civil War, Washington had growing pains and began an aggitation for local self-government, which Congress granted in 1871. The District was given a miniature legislature and allowed to select a full complement of municipal officers. Sinister forces seized the reins, and extravagance, prodigality, and corruption ran riot. Taxes became unbearable. Budgets were in a chronic state of unbalance. The people were exploited. A ruthless political machine ruled with an iron hand, and during this saturnalia of maladministration the proud Capital of the Nation was dominated by a political boss, Mr. Sheppard, whose statue stands in front of the District Building at the other end of the Avenue. These untoward and intolerable conditions soon satiated the artificially stimulated appetite of the people of Washington for local self-government.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. LOZIER] has expired.

Mr. LOZIER. Mr. Chairman, I ask unanimous consent to proceed for three additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LOZIER. So when the District of Columbia was given local self-government it made a sorry mess of its opportunities. After six or seven years of local self-government the people of Washington petitioned Congress to again take over the administration of the affairs of the District.

Mr. MAY. Will the gentleman yield?

Mr. LOZIER. In just a moment.

The pending bill makes a fair, just, and reasonable contribution to the expenses of the District of Columbia. It would be unfair to increase this appropriation. It would, in my opinion, be unjust to reduce it.

I now yield to the gentleman from Kentucky.

Mr. MAY. The gentleman has given quite an interesting historic statement as to the old existence of the governments of the District of Columbia, but can the gentleman tell the House any reason that will justify this Congress for voting a surplus into the treasury of the District of Columbia when the Federal Government is in the financial condition it is in, and the municipalities of every State in America are insolvent?

Mr. LOZIER. If $5,000,000 or $6,000,000 is a fair and just contribution of the Federal Government to the expenses of the District of Columbia it ought to be paid without regard to whether or not the District of Columbia has a surplus or has a deficit. In other words, if five or six million dollars is what we should pay for the support of the District of Columbia for the fiscal year ending June 30, 1934, we ought to pay it, whether the District has a surplus of $5 or $5,000,000. The financial ease of a creditor does not relieve the debtor of the obligations to pay his just obligations.

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

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

Mr. Chairman, every argument previously given to the House by the gentleman from Nebraska [Mr. SIMMONS]

and the gentleman from Illinois [Mr. HOLADAY] would stand in opposition to this amendment as they did to the other. I know of no two men in the House who are better qualified to speak on this subject than those two gentlemen, and I know of no other two gentlemen in the House at the present time, and only one in the last several years, who has ever received the amount of abuse that those two gentlemen have, from the newspapers of the District of Columbia, because of their penurious attitude toward the District of Columbia. If they say the present report is fair and square to the District, I do not think anyone should question it in the least, because they certainly, in years gone by, have stood steadfast in the protection of the Federal Government. There is only one other man, and that was Mr. Cramton, of Michigan, who has ever been abused as those two men have, because he had tried, as they had, to bring to the District an equitable, fair, and just contribution from the Federal Government, based upon an investigation of the facts.

It was Mr. Cramton and myself who first introduced to this House a bill for the lump-sum appropriation to the District of Columbia, instead of the old idea of a 50-50 or 40-60 proposition. As I said a few moments ago, the Congress is largely to blame for the situation that exists in the District. It has burdened the District with a great deal of expense, but at the same time, as the gentleman from Missouri has said, it is because of the integrity of the Government in the District that the taxes are so low.

I know of no other city where there are less charges of graft or corruption or where there is more honest administration of public affairs than there is in the District of Columbia. Oh, they make mistakes; they make errors, but they do not begin to make the mistakes and errors that Congress has made. We are continually burdening the District. Take the triangle, for instance. I would like to get this into the RECORD just as an illustration of the shortsightedness of Congress. I introduced a bill for the purchase of the triangle many years ago. At that time the entire property was assessed for something like $7,500,000. The House listened to me and were very generous in their support of the proposition, but they did not pass the bill. They did pass a bill, however, for the building of a bridge costing $15,000,000. What was the result? An immediate increase of the valuation of the property on the triangle, because of the approaches to the bridge. There was an increase in valuation of over $1,500,000.

I tried when that bridge bill came in, by way of an amendment, to secure the purchase of this property that was then assessed for $8,500,000 or $9,000,000. I failed on a point of order. Later on, when the House passed the so-called Underhill bill for the purchase of the triangle, the whole property could have been bought for less than $23,000,000. The Senate turned it down. The very man who opposed the proposition at that time, afterwards secured passage through the Senate of a bill under his own name, the triangle bill, at an expense of over $37,000,000. That covered a period of less than five years. You see what it cost the people of the United States because of the shortsightedness of Congress and because of the inability of another body to see the necessity for the purchase of this land.

This is the first time I have ever taken the floor in defense of the District. I served for over eight years on that committee and I tried during all that time to bring about an equitable adjustment of the amount of contribution there should be on the part of the Federal Government to the District government. This is the first time there has ever been anything scientific about it. This is the first time it was based upon a study of the situation; and we paid over $15,000 for the expenses of this committee which studied the situation, and now we are going to throw their findings into the waste basket. I think it is a very unfair and unwise proposition.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. UNDERHILL] has expired.

Mr. BLANTON. Mr. Chairman, I offer a substitute, to strike out "$6,500,000" and insert in lieu thereof "$3,000,000."

The Clerk read as follows:

Amendment offered by Mr. BLANTON as a substitute for the amendment offered by Mr. MAY: Page 2, line 7, strike out "$6,500,000" and insert in lieu thereof "$3,000,000."

Mr. BLANTON. Mr. Chairman, the gentleman from Kentucky must not fool himself into thinking that he is going to pass his amendment, because he is not; and I am not fooling myself into thinking that my amendment is going to pass.

There is not a chance in the world in this Congress to change this situation in Washington. The gentleman from Massachusetts [Mr. UNDERHILL] has just admitted to you here on the floor that if his first bill on that triangle had been passed, the property could have been bought by the Government for $7,000,000. He then told you that when Congress finally did pass the bill the land cost the Government $37,000,000. In other words, the people owning that property here in Washington charged the Government an extra $30,000,000 for putting in all this improvement; they held up the Government for another $30,000,000 profit. Washington has thus mulcted the Government on all occasions.

The great trouble is that most of the Members who speak here on District matters do not understand the facts or the situation like my friend from Nebraska, BOB SIMMONS; they do not understand the situation like my friend from Michigan, Mr. MAPES; they do not understand the situation like my friend from Missouri, Mr. CANNON, who has made an exhaustive study of it. They merely guess at it, and guess wrong most of the time.

Why, my friend from Massachusetts, Mr. UNDERHILL, yesterday made a statement on the floor of the House indicating that the House library was not used, and he thought he was telling the truth. He asked, "How many Members of the House know there is a House library?" And then he said there is one "down in the basement of the House Office Building." It is not in the basement. It is on the first floor.

Mr. UNDERHILL. Mr. Chairman, a point of order.

The CHAIRMAN (Mr. O'CONNOR). The gentleman from Massachusetts will state the point of order.

Mr. UNDERHILL. Mr. Chairman, I make the point of order the gentleman is not speaking to the subject matter of his amendment.

The CHAIRMAN. The gentleman will proceed in order.

Mr. MAY. Mr. Chairman, will the gentleman yield for a question?

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to withdraw my substitute amendment.

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

There was no objection.

Mr. BLANTON. Mr. Chairman, I move to strike out the enacting clause of the bill.

Mr. BULWINKLE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BULWINKLE. The rules of the House provide that all motions shall be in writing.

Mr. BLANTON. Not this motion.

Mr. BULWINKLE. Yes; all motions. The gentleman should have his motion in writing.

The CHAIRMAN. The point of order is sustained.

The question is on the amendment offered by the gentleman from Kentucky.

The question was taken; and on a division (demanded by Mr. MAY) there were—ayes 26, noes 42.

Mr. MAY. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. BLANTON. Mr. Chairman, I offer an amendment in writing.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 1, lines 1 and 2, strike out the enacting clause.

Mr. BULWINKLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BULWINKLE. In addition to being in writing should not the motion to strike out the enacting clause state after the words striking out the enacting clause that the committee shall rise and report the bill back to the House?

The CHAIRMAN. The Chair will state that the proper motion is that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken from the bill.

Mr. BULWINKLE. Mr. Chairman, I make the point of order that the motion of the gentleman from Texas is out of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Effective for the fiscal year ending June 30, 1934, the Commissioners of the District of Columbia shall increase the rate of taxation on intangible personal property to a rate which is $1 per thousand more than the rate in effect on such property during the fiscal year ending June 30, 1933, and the proceeds from such additional levy for the fiscal year ending June 30, 1934, shall be deposited in the Treasury of the United States to the credit of the District of Columbia in a special fund to be designated the "District of Columbia emergency relief fund, 1934," and such fund shall be available to meet expenditures under the appropriation for emergency relief hereinafter provided. Pending the collection of the revenues from such additional levy there may be transferred to such fund from other revenues of the District of Columbia such amounts as may be necessary to meet expenditures currently chargeable to the fund; such advances shall be repaid from such fund as soon as tax collections under such levy are available and the total amount expended from the fund in no event shall exceed the aggregate of the amounts to be collected from such additional levy on intangible personal property.

Mr. WOOD of Indiana. Mr. Chairman, I make a point of order against the paragraph.

Mr. BLANTON. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman will state it.

Mr. BLANTON. Mr. Chairman, I move to strike out the enacting clause.

The CHAIRMAN. In the opinion of the Chair the proper procedure is first to dispose of the point of order raised by the gentleman from Indiana. The gentleman will state his point of order.

Mr. WOOD of Indiana. The basis of my point of order is that the language changes existing law and, in consequence, is legislation upon an appropriation bill.

The CHAIRMAN. Does the gentleman from Missouri desire to be heard upon the point of order?

Mr. CANNON. Undoubtedly the section is subject to a point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLANTON. Mr. Chairman, as a member of the committee, in order to be able to correct the matter which I know the gentleman from Massachusetts wants corrected, I ask unanimous consent to proceed out of order for three minutes.

Mr. UNDERHILL. Mr. Chairman, reserving the right to object, I stated I wanted this bill disposed of. If the gentleman will confine himself to questions under the bill, I am perfectly willing he go on for half an hour, but I do not think he ought to take time on some other subject matter.

Mr. BLANTON. I want to correct a statement made by the gentleman from Massachusetts yesterday.

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

Mr. HOLADAY. Mr. Chairman, I object.

Mr. BLANTON. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. BLANTON moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. BULWINKLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BULWINKLE. Must not the motion carry with it the statement that the committee now rise?

The CHAIRMAN. The motion so provides.

Mr. BLANTON. The gentleman overlooked that part of it.

Mr. UNDERHILL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. UNDERHILL. Is the gentleman from Texas under the motion obliged to confine himself to a discussion of the bill?

The CHAIRMAN. The gentleman from Texas must discuss the bill.

Mr. BLANTON. Mr. Chairman, I am going to direct my few remarks to the part of the bill that embraces the library system here in the District of Columbia. The gentleman from Massachusetts attempted to speak yesterday on the library system——

Mr. UNDERHILL. Mr. Chairman, I raise the point of order that the library in the House Office Building is not under the jurisdiction of the District and has nothing to do with the matter contained in this bill.

Mr. BLANTON. O Mr. Chairman, there is always latitude allowed in debate.

The CHAIRMAN. If the gentleman from Texas will point out where the library is included in the bill, the statement will be in order.

Mr. BLANTON. Mr. Chairman, I have the right to discuss the whole bill and anything in it. On page 9 I direct the Chair's attention to the "free Public Library and for books and periodicals and newspapers and other printed material" and all the paragraph that follows there for several pages.

The CHAIRMAN. The Chair understands that pertains to libraries of the District of Columbia, and not the House library or the Congressional Library.

Mr. BLANTON. It applies to the library service here.

The CHAIRMAN. The Chair does not believe it applies to the Library of Congress, because that is an entirely different appropriation.

Mr. BLANTON. I want to discuss these items of the library in the District of Columbia in connection with the usual rules of debate.

The CHAIRMAN. The gentleman will proceed in order.

Mr. BLANTON. Mr. Chairman, we have in this bill quite an appropriation for library service. It embraces not only the main library on New York Avenue, but also embraces all of the many branch libraries. We passed a bill here the other day for additional librarians in the schools. There is a system here of interchange of books between all of these libraries, including the Congressional Library, the Supreme Court library, and the library we have here, as well as the library over on the first floor of the House Office Building.

Mr. HOLADAY. Will the gentleman yield?

Mr. BLANTON. Not now.

Mr. HOLADAY. The gentleman is off on his facts, and I want to put him right.

Mr. BLANTON. Yesterday our friend from Massachusetts [Mr. UNDERHILL] was off on his facts when referring to the library in the House Office Building.

Mr. UNDERHILL. Mr. Chairman, I raise the point of order that I referred on yesterday to the House Office Building library and to none of the District libraries, and I object to having my name connected with any such suggestion.

The CHAIRMAN. The Chair does not believe the point of order is well taken. The gentleman from Texas will proceed in order.

Mr. BLANTON. The gentleman from Massachusetts [Mr. UNDERHILL] asked yesterday, "How many Members know there is a library in the House Office Building?" He said there was not 1 per cent of them who had ever obtained any books there, and lo and behold, on yesterday at that

very time this library had 137 Congressmen charged with books they had not yet returned.

Mr. UNDERHILL. Mr. Chairman, will a point of order lie now?

The CHAIRMAN. A proper point of order will always lie. The gentleman will state his point of order.

Mr. UNDERHILL. I object to the remarks of the gentleman as they do not concern the bill under discussion.

The CHAIRMAN. The gentleman must confine his remarks to the bill and to the libraries mentioned in the bill.

Mr. BLANTON. I am going to. [Laughter.]

Mr. Chairman, there is an interchange of books between all these libraries in the District, and I have here the names of 137 Congressmen who yesterday had books they had not yet returned charged against their names from this library in the House Office Building.

Mr. UNDERHILL. Mr. Chairman, I insist on the point of order.

Mr. BLANTON. That is all I wanted to say. The gentleman just missed it—137 Congressmen who yesterday had unreturned books charged against them in that library—137 of them.

Mr. MAY. Will the gentleman yield for a question?

Mr. BLANTON. No; I am through. I just wanted to correct the gentleman from Massachusetts [Mr. UNDERHILL], and it was a lot of trouble to get to correct the statement he made, but I have now corrected it.

Mr. MAY. Does the gentleman from Texas mean to say that the libraries around here are open to the people of the District of Columbia and yet we are expected to make an appropriation for their government of $5,000,000 or $6,000,000 in addition to that?

Mr. BLANTON. This Government has been spending millions of dollars annually for the people of Washington, and it is a tremendous job to get it stopped. But referring again to this House Office Library, our Resident Commissioner from the Philippines [Mr. OSIAS] had books charged against him yesterday, when the gentleman from Massachusetts [Mr. UNDERHILL] made his speech. Our Resident Commissioner from Puerto Rico [Mr. PESQUERA] had books charged against him yesterday in that library. Our Resident Commissioner from the Philippine Islands [Mr. GUEVARA] had books charged against him in that library yesterday. There were nine committees of this House that had books charged against them in that library when Mr. UNDERHILL spoke yesterday. The legislative service had books charged against them in that library yesterday. The gentleman from Massachusetts [Mr. UNDERHILL], I am afraid, lately, has become like the ostrich, who buries its head in the sand and does not know what is going on around him.

Mr. UNDERHILL. Will the gentleman yield?

Mr. BLANTON. Yes; always.

Mr. UNDERHILL. Could they not get all those books from the Congressional Library or from the House library?

Mr. BLANTON. Possibly. They prefer, however, to get them from this special-service library that looks up special references for them and gathers statistics for them. They are using something that if the gentleman from Massachusetts [Mr. UNDERHILL] would use also, his information would be more authentic and correct.

I do not like for the gentleman from Massachusetts to malign the former Speaker of this House. The gentleman said he went to the Speaker three or four years ago and the Speaker told him he did not know there was such a library over there. I am sure the then Speaker must have been better informed on such matters, for the present Speaker had books from this library charged against his office as not yet returned when the gentleman from Massachusetts spoke yesterday.

I want to say if there is any other Member here like my friend from Massachusetts [Mr. UNDERHILL], who does not know the value of that library over in the House Office Building, he ought to go over there and get acquainted with it. It will be helpful to him in his work here. You not only can get books there but you can have them look back through the records and procure valuable data for you, just like I sent over there and got a list of the names of Congressmen now using their books from them. I have got a list of the 137 Congressmen who yesterday had unreturned books charged to them at the very time the gentleman from Massachusetts [Mr. UNDERHILL] stated in the RECORD that not 1 per cent of the Members here knew there was a library there.

The House having granted me consent to extend my remarks in the RECORD, I am going to put these names of these Members furnished me by said library in the RECORD just to show my friend from Massachusetts how far off the facts he was yesterday, and just to show how many statements are made here from time to time when Members have not investigated and do not know what are the real facts.

It so happens that on yesterday when the gentleman from Massachusetts [Mr. UNDERHILL] asked the question, "How many Members of this House know there is a House library?" and he stated, "I doubt if 1 per cent of the Members ever were in it or ever got a book from it," as shown on page 4069 of yesterday's RECORD, this same little library on the first floor of the House Office Building then, at that very time, had 137 Congressmen charged with books not yet returned, and then had eight big committees and the Speaker's office, and the Clerk of the House, and the Legislative Counsel's office, and Hon. William Tyler Page, our former Clerk of the House, all charged with books not yet returned. It then had the Ways and Means Committee, the Judiciary Committee, the Committee on Rules, the Committee on Revision of Taxes, the Naval Affairs Committee, the Committee on Patents, the Committee on Immigration, and the Commitee on Interstate and Foreign Commerce all charged with books not yet returned. The Members of Congress who on yesterday were charged on the books of this library with having books out that they have not yet returned are the following, whose names have been furnished me by said library, to wit: LAGUARDIA, MALONEY, BOEHNE, BLACK of New York, FRED M. VINSON, LOZIER, LANKFORD, GIFFORD, MARVIN JONES, SWANK, SCHAFER, A. T. SMITH, WITHROW, Mrs. OWENS, CAMPBELL of Iowa, CARTWRIGHT, BLANTON, WASON of New Hampshire, POU, MCSWAIN, HARE, CRAIL, KNUTSON, SABATH, KUNZ, RANDELL, H. W. SMITH, CLARK of Missouri, DISNEY, MAY, SMITH of West Virginia, ALMON, SANDERS, BLOOM, MANSFIELD, MAPES, GUINN WILLIAMS, DONALD SNOW, PETTENGILL, RANKIN, HARDY, PARKER of New York, PEARSON of Illinois, TINKHAM, MCCORMACK, LEWIS, EATON of Colorado, SEIBERLING, SOMERS of New York, BOLAND, GARBER, BRAND of Georgia, COLTON, HOGG of West Virginia, CROSS, WOLVERTON, PEAVEY, PATMAN, REED of New York, DREWRY, RAINEY, CABLE, WICKERSHAM, DICKSTEIN, SANDERS of Texas, MICHENER, HESS, HANCOCK of North Carolina, WILLIAM E. HULL, COLLINS of Mississippi, GRANFIELD, GILCHRIST, CONNOLLY, DOUGLAS, HOPE, CLARK of North Carolina, SIMMONS, KOPP, HASTINGS, KARCH, GRISWOLD, CELLER, MONTAGUE, SWANK, GAMBRILL, KETCHAM, MOUSER, REID of Illinois, SMITH of Virginia, HOUSTON, HARLAN, SCHNEIDER, MCKEOWN, MEAD, COX, RAGON, COOKE, BOILEAU, WRIGHT, SWING, DOUGHTON, WARREN, LUDLOW, RUTHERFORD, NORTON of New Jersey, MILLER, BACON, GIBSON, BEEDY, BUCHANAN, GRIFFIN, BUSBY, TAYLOR, PATTERSON, O'CONNOR, AMLIE, CHAVEZ, PALMISANO, SNELL, GAMBRILL, STRONG, STEVENSON, CHAPMAN, GUEVARA, RAMSEYER, COCHRAN of Missouri, BROWNING, LAMBERTSON, BOYLAN, and a number of former colleagues, such as Snyder, Crisp, and others. That is a pretty fair cross section of our Members here.

The above will explain, also just why such a strenuous effort was made to keep me from speaking, and to keep me from making this proper correction. This is one of the greatest public forums in the world. A Representative of the people can always find a way to be heard, if he knows the rules, and frivolous points of order can not crush him, and can not keep him from presenting his facts, if he will use the rules of the House, and bide his time. The gentlemen who tried to gag me, and who tried to obstruct me, and to keep me from presenting the facts, merely wasted their own time and efforts, and did not suppress anything.

The CHAIRMAN. The question is on the motion of the gentleman from Texas to strike out the enacting clause.

Mr. BLANTON. Mr. Chairman, that was pro forma, and I withdraw the motion.

Mr. GOSS. Mr. Chairman, I object to the gentleman from Texas withdrawing the motion.

Mr. BLANTON. I am not even going to vote for my own motion.

Mr. HOLADAY. Mr. Chairman, I rise in support of the motion. While I do not always agree with the gentleman from Texas, on this occasion I am glad, as a minority member of the subcommittee, to join with the majority member in this motion to strike out the enacting clause, which will allow the whole matter to go back to the committee for further consideration, which I believe is desirable.

I believe this bill has been ill considered, and I heartily agree with the gentleman from Texas that it is a desirable thing that it be sent back to the committee for further consideration. Therefore, I am glad to support his motion.

The CHAIRMAN. The question is on the motion of the gentleman from Texas to strike out the enacting clause.

The question was taken, and on a division (demanded by Mr. BANKHEAD) there were 48 ayes and 63 noes.

So the motion was rejected.

Mr. SMITH of Virginia. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Virginia: Page 2, after line 10, insert a new paragraph, as follows:

"PUBLIC WELFARE

"Emergency relief of residents, District of Columbia: For the purpose of affording relief to residents of the District of Columbia who are unemployed or otherwise in distress because of the existing emergency, to be expended by the Board of Public Welfare of the District of Columbia, by loan, employment, and/or direct relief, under rules and regulations to be prescribed by the Board of Commissioners, and without regard to the provisions of any other law, payable from the revenues of the District of Columbia, fiscal year 1934, $625,000: *Provided*, That not to exceed $50,000 of this appropriation shall be available for administrative expenses including necessary personal services."

Mr. GOSS. Mr. Chairman, I reserve a point of order on the proposed amendment.

Mr. CANNON. Mr. Chairman, I make the point of order that it is not in order at this place in the bill. It is not germane to this particular section. It comes under the head of public welfare, and if it is germane at all, it should be offered at page 64.

Mr. SMITH of Virginia. I will withdraw it for the present and let it lie on the desk and offer it at the proper place in the bill.

The CHAIRMAN. The amendment is not germane at this point in the bill.

Mr. MAY. Mr. Chairman, I offer the foHowing amendment.

The Clerk read as follows:

Page 2, line 7, strike out the figures "$6,500,000" and insert "$3,500,000."

Mr. STAFFORD. Mr. Chairman, I make the point of order that we have passed that paragraph.

The CHAIRMAN. The paragraph is still pending.

Mr. STAFFORD. Will the Chair indulge me a moment? The point of order is that amendments to the first paragraph which have been presented should have been presented before the reading of the second paragraph which began on line 14, page 2.

The CHAIRMAN. The gentleman is correct, and the point of order is sustained. The Clerk will read.

The Clerk read as follows:

No part of the appropriations contained in this act shall be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Utilities Commission requiring the installation of meters in taxicabs: *Provided*, That this prohibition shall not be construed to affect any order or part of an order of such Public Utilities Commission other than with respect to the requirement of the installation of such meters.

Mr. HARLAN. Mr. Chairman, I make the point of order against this paragraph for the reason that it is legislation on an appropriation bill. The Public Utilities Commission here apparently has a combined executive and administrative function. This paragraph imposes such a limitation, particularly the last portion thereof, that it becomes an affirmative direction to an executive branch of the Government. The law involved is set forth in Thirty-seven Statutes, page 992, paragraph 88.

Mr. CANNON. Is the point of order against the entire paragraph, or merely against the proviso?

Mr. HARLAN. The point of order is against the entire paragraph, my position being that the proviso vitiates the entire paragraph.

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

Mr. HARLAN. Yes.

Mr. GOSS. It seems to me that that portion of the paragraph contained in lines 14, 15, 16, and 17 and a portion of 18, down to the taxicab provision, is not subject to the point of order, but that the proviso is. If the gentleman makes the point of order on the paragraph, the committee can reoffer the first portion of it, and then the whole order would be void. I know that the gentleman does not want to do that. I am sure the committee can offer an amendment to make it in order, and then, with the proviso knocked out, it will work a hardship and would not be antagonistic to meter taxicabs.

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

Mr. HARLAN. Yes.

Mr. BLANTON. The whole paragraph is clearly a limitation and it has been held to be a limitation.

Mr. HARLAN. Oh, the gentleman can get recognition to present his argument in his own time I imagine. Paragraph 88 of the act of March 13, 1913, Thirty-seventh Statutes, specifically grants and directs the Public Utilities Commission to provide regulations for rates controlling taxicabs. The Supreme Court of the District of Columbia has passed upon that paragraph and declared that it is within the power of this commission to pass this taxicab regulation. It is my contention, first, that the first part of the paragraph so limits the action of the Public Utilities Commission that it vitiates the power already granted to them in this act, and that the second part, from the proviso down, is such a limitation as to become a direction to the Public Utilities Commission in their functions.

Mr. CANNON. Mr. Chairman, this is a limitation. It complies with every requirement of the unwritten rule that has been in force since the days of Jefferson.

It is a limitation, pure and simple, and the proviso to which the gentleman refers merely restricts the application of the limitation. The limitation would be more comprehensive without the proviso, and the last section of the paragraph only adds to its immunity. It is clearly a limitation upon an appropriation bill, and the gentleman's point of order is not well taken.

Mr. STAFFORD. Mr. Chairman, I wish the Chair to indulge me while I present an argument to uphold the position that the paragraph violates the rule against legislation on an appropriation bill, and that applies not only to the proviso, but also to the main part of the paragraph. I have high regard for the parliamentary attainments of the gentleman from Missouri [Mr. CANNON], who has charge of the bill, and who at one time was parliamentary adviser to the late Speaker, Mr. Champ Clark.

This provision was not contested when the bill was under consideration a year ago, as I recall. I take it that the present occupant of the chair has some general knowledge of the rule of limitations. I invite the chairman's attention to an exhaustive ruling made by the chairman of the committee, former Representative Frederick C. Hicks, on January 8, 1923, when he reviewed all of the decisions relating to limitations. This paragraph infringes the rule for the reason that it impairs and intrudes upon the right and the power of the Utilities Commission to determine how they shall exercise their functions. The authority which is vested in the Utilities Commission over these taxicabs is

found in paragraph 88, which has been called to the attention of the Chair by the gentleman from Ohio [Mr. HARLAN]. It reads as follows:

That whenever, after hearing and investigation, as provided in this section, the commission shall find that any rate, toll, charge, regulation, or practice of any public utility in the District is unreasonable or discriminatory, it shall have the power to regulate, fix, and determine the same as provided in this section.

There is nothing in that paragraph which says how the Utilities Commission shall exercise its authority over these taxicabs, and yet the committee here is attempting to tell the Utilities Commission how it shall exercise its authority, by forbidding it from enforcing one of its orders in respect to taxicabs.

I briefly now advert to one or two of the excerpts referred to in that elaborate opinion, delivered by former Representative Hicks, as found in section 953 of the manual. Among others he refers to paragraph 3967, IV Hinds' Precedents, in which this language is used:

A limitation is negative in its nature and may not include positive enactments establishing rules for executive officers.

This limitation here establishes a positive direction as to how the utilities commission may exercise the functions vested in it by Congress and to that extent it is legislative. I am not referring to the matter contained in the proviso, but I am referring to the main inhibition forbidding the utilities commission from exercising its right and power to determine how it shall enforce its determination of the regulation of taxicabs in this District.

Further, from section 3966, IV Hinds' Precedents:

Limitations which directly, or indirectly, vest in any executive officer any discretion or impose any duty upon the officer, directly or indirectly, in the expenditure of money, would be obnoxious.

Then also paragraph 3936, IV Hinds' Precedents:

The fact that a paragraph on an appropriation bill would constitute legislation for only a year does not make it admissible as a limitation.

Further, 3942, IV Hinds' Precedents:

While it is not in order to legislate as to qualifications of the recipients of an appropriation, the House may specify that no part of the appropriation shall go to recipients lacking certain qualifications.

Then he refers to a decision rendered by Mr. Speaker Cannon and pays high compliment to Mr. Cannon for this decision, as the Speaker was then in the House, but many years removed from the time when he delivered the opinion.

May I say for the benefit of the parliamentary clerk and also the occupant of the Chair, that the opinions of Speaker Cannon, in almost every instance during the four terms he was Speaker, during which time I had the honor to serve as a Member here, were prepared at the instance of that great Parliamentarian, Asher D. Hinds, who has compiled these precedents? This is what Speaker Cannon stated at that time, construing what is in order on limitations and what is not.

Mr. BLANTON. Mr. Chairman, I ask for the regular order.

Mr. STAFFORD. Mr. Chairman, I do not intend to allow the gentleman from Texas, after he has used so much time to-day, to take me off the floor. It rests with the Chair whether he wishes to hear me or not, and not with the gentleman from Texas.

Mr. BLANTON. The rules permit me to ask for the regular order, Mr. Chairman. That leaves it to the discretion of the Chair as to whether he wants to hear further argument.

Mr. STAFFORD. The gentleman has no right. I am proceeding in order. If the gentleman does not know that much parliamentary law after his long service here, he ought to be told that it is in the indulgence of the Chair.

Mr. BLANTON. The gentleman will lose his temper if he does not be careful. If the Chair can stand further argument, we can likewise.

Mr. STAFFORD. No. I am not losing my temper. I am trying to acquaint the gentleman from Texas with the first elements of parliamentary law, with which he seems to be entirely unacquainted.

Mr. BLANTON. The gentleman's breakfast did not set well, apparently. The ruling of the Chair on the point of order will determine the extent of our parliamentary knowledge.

Mr. STAFFORD. Oh, I just had a beefsteak and a good cup of tea, and I am in fighting mood. I paid a dollar for it, too. [Laughter.]

If a limitation, whether it be affirmative or negative, operates to change law or to enact law in effect, then it is subject to the rule that prohibits legislation upon a general appropriation bill.

This limitation infringes on the discretion of the Utilities Commission in the way it shall properly function in determining how it shall carry on the general powers, as provided in paragraph 88 of the Public Utilities Commission law, which provides that—

Whenever, after hearing and investigation as provided in this section, the commission shall find that any rate, toll, or regulation * * *.

It is an attempt by direction, not by indirection, to tell the commission it can not exercise its full authority, which that general law vests in the commission so to do.

Mr. HARLAN. Will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. HARLAN. I do not want to intrude on the gentleman's argument, but further in that same opinion the Speaker held that no matter how artful the amendment may be drawn we must look to the purpose back of the amendment as well as to the express words in which the amendment is drawn.

Mr. STAFFORD. I will read merely that paragraph which is in the summary of the Chairman's opinion:

Is the limitation accompanied or coupled with a phrase applying to official functions, and, if so, does the phrase give affirmative directions in fact or in effect, although not in form?

I respectfully contend, after giving this subject some consideration at the request of the gentleman from Ohio [Mr. HARLAN], who made the point of order, that this is violative of the rule of limitations, in that it attempts to curtail and impair the full discretion of the commission in the exercise of its general powers in the regulation of taxicabs.

Mr. CANNON. Mr. Chairman, in all due deference to the position taken by my good friend from Wisconsin, it is only necessary to call attention to the fact that there is not a single word of affirmative direction in this provision. It in no way seeks to curtail or impair the rights, authority, prerogatives, or activities of the commission. So far as this paragraph is concerned, the commission may go ahead and take any action it deems wise or do anything in the world it wants to do. The only thing we say in this provision of the bill is that if they do of their own volition take certain designated action it can not be paid for out of the funds provided by this bill. It is merely a limitation, Mr. Chairman, and there is no other interpretation that can be placed on it, and the point of order does not lie.

The CHAIRMAN (Mr. PRALL). The Chair is ready to rule. The Chair does not believe that the paragraph interferes with the power of the Utilities Commission. The Chair believes that the limitation is proper in that it is merely a restriction upon the use of the money appropriated.

Further, the Chair would like to quote from a ruling of Chairman SNELL on January 18, 1930, in which he said:

A negative restriction on the use of money appropriated in a bill or proposed to a bill in the form of an amendment is a limitation and in order.

He further states:

A limitation on the use of money appropriated may change existing law to the extent of forbidding the use of the money for the propositions that are authorized by law, and in such form is in order.

The Chair therefore overrules the point of order.

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

The Clerk read as follows:

Amendment by Mr. HARLAN: Page 7, line 14, strike out all of line 14 to and including line 21.

Mr. HARLAN. Mr. Chairman, the amendment involved would permit the Utilities Commission to proceed with the regulations which they adopted a few years ago. That regulation has been attacked in the courts. The Supreme Court of the District of Columbia approved not only the legal side of that regulation but also the factual necessity of such regulation.

In this District there are at the present time something like 6,000 taxicabs roaming about the city. Forty per cent of their mileage is consumed in occupying the streets and blockading necessary traffic. Last year there were 8,000 traffic accidents in the city of Washington—almost a disgrace. There was an average of 10 deaths a month in this city, the Capital of the United States.

In 1931 there were 1,725 accidents involving taxicabs alone. Others involved general traffic, but those accidents are due to the crowded condition of our streets, which is absolutely needless. We do not need that. We can have just as good service. The regulation of the Utilities Commission puts a charge of 25 cents for a 2-mile ride, 5 cents more than we pay now. It would permit insurance. It would permit those men to keep their cabs in repair; it would permit them to keep their brakes in good condition. It would permit them to keep them clean. All of the things that we have been calling for on the floor of the House that are needed at an additional charge of 5 cents.

Mr. Chairman, the average ride in the District is less than 2 miles. We have a zoning ordinance here that allows a person riding in one direction to go 7 miles for 20 cents, but in another direction if he rides half a mile it will cost him 60 cents.

The Utilities Commission have tried for years to get some kind of a sensible fare-zoning ordinance, but it can not be done, and the court says that it can not be done.

The gentlemen who oppose this regulation say they are doing it on behalf of the poor soldier boys who are making a living driving cabs. When this matter was before the Utilities Commission only one driver appeared favoring it. The men do not want it. They want to have a chance to charge a fare under which they can give good service and make a livelihood.

The testimony before the committee showed that some men were working 18 hours a day. One man testified that he had worked 20 hours out of the previous 24, trying to eke out a bare living. Your children and my children are walking the streets of Washington facing the hazard of drivers who have worked 18 and 20 hours at a stretch. We should protect their safety in crossing the streets.

Eight thousand accidents in one year is too much to pay in order to save 5 cents fare. It is nothing but money saved out of the blood of the citizens of Washington, yet we come in here without any real consideration at all and write this restriction into this bill as legislation.

Let me read the statement of a justice of the supreme court. This is not a statement from the Public Utilities Commission, but this is a statement made by the judge of the supreme court who passed on this question:

> In my judgment, the zone system has been possible only through the exploitation of labor. Under the system the owner furnishes a new car to the driver at a rental paid each day. Men are compelled to work from 12 to 16 hours daily or be supplanted by some one else.

We can not impose insurance, Mr. Chairman, unless we give these taxicab drivers enough funds to pay for it.

[Here the gavel fell.]

Mr. BLANTON. Mr. Chairman, as a member of the committee I rise in opposition to the amendment.

Mr. Chairman, there are two interests in Washington that want meters. One is the street-railway companies that have been robbing the people, charging them a big fare nearly double that authorized by their charters, until the people have rebelled and stopped riding on their street cars; they want to stop this cheap taxicab service so the people will be forced to ride on their street cars again. The other interest is the big Diamond cab organization and the Black and White and Yellow monopoly. If Brother WOOD and I, notwithstanding he has been chairman of the Committee on Appropriations and has been an honored Member of Congress for years and has been at the head of the Republican organization here, if he and I were to go over to the Union Station now driving our own car we could not drive in next to the building, we would have to get out about the second or third driveway and climb in between all those Yellow and Black and White taxicabs, because they still have a monopoly at that Union Station. They are the ones who are trying to run the independent taxicabs off the streets of Washington; and how on earth they got in here and persuaded some of our friends to back them up I can not understand.

Mr. HOLADAY. Not the Diamond.

Mr. BLANTON. The Diamond is one of them. The Diamond is becoming one of the biggest and most autocratic taxi organizations in Washington.

Mr. HOLADAY. It is an organization made up of independent owners.

Mr. BLANTON. But they are now in the monopoly class, and in favor of putting meters on the taxicabs to ruin the independents. They, the Yellow cabs, and the Black and White cabs want to run every real independent off the street.

Let me tell you what we have involved here. We have 1,500 ex-service men who went to France, who served their country in the World War, who are driving taxicabs right now in Washington, making a living for their families here in the Nation's Capital; and until they got to driving their taxis their wives and children were hungry, without shelter to cover their heads, and with no means of getting food. Fifteen hundred of them are making a living now. They tell me they make from $3 to $8 per day and that they are satisfied.

Read the hearings and see what General Patrick said. See what will happen if you strike out this provision. General Patrick appeared before the committee and in substance said:

> Gentlemen, if you fail to put that limitation back in the bill I am going to put meters on the cabs.

He said it in the hearings.

I said:

> General, when you know the House passed this limitation unanimously, and when you know the Senate passed it unanimously, when you know it is the expressed will of Congress not to have meters put in cabs in Washington to run the independents off the street, why not be a good sport and enter into a gentleman's agreement with this committee not to put meters in the cabs, so that when we go home we will not be afraid you will do it in our absence?

He said:

> If you do not put that limitation in the bill, I am going to put meters in the taxis.

After he found out we were going to put it in—the committee voted on it right there—he came around to my office and said:

> I will make the gentleman's agreement with the committee.

It was too late.

Within the last 10 days three of my friends, one gentleman from Hanover, Pa., and two from Texas, were charged 75 cents apiece for riding from the Union Depot to the Willard and Washington Hotels.

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

Mr. BLANTON. The gentleman has had his time.

Mr. HARLAN. I merely wished to state that that is one of the reasons why cabs should have meters in them.

Mr. BLANTON. No; it is not. Just the reverse. People coming to Washington, not knowing there is a 20-cent zone system, take a cab to a hotel, then ask the driver how much they owe him, and he says, "Seventy-five cents"; and they do not argue with him but pay the holdup.

If you strike out this provision and let General Patrick put meters back on these cabs, every time you ride from this Capitol to some hotel in the downtown district you will be charged 75 cents; and you will pay him rather than have a fuss with him, even though you know it ought not to be more than a quarter. Are you going to let your constituents

come to Washington and be robbed by those cabs? They will ride from the station to the Roosevelt or Wardman Park Hotels, ask the driver how much they owe him, and he will tell them a dollar and a quarter. They are not going to fight the cab driver on the street but they will pay the dollar and a quarter. That is exactly what will happen if you strike out this provision.

[Here the gavel fell.]

Mr. BOYLAN. Mr. Chairman, I move to strike out the last two words.

The gentleman from Texas is in error when he makes the statement that we are going to put the veterans off the streets.

This morning I rode to the House of Representatives in a taxi. I spoke to the driver. He told me it cost him $3 a day for the rental of his cab. He worked 14 hours yesterday and his total receipts were something like $5.

He paid nearly one dollar for gas; he paid $3 for rental of the taxi, and his net income for working 14 hours yesterday was $1.

Surely it is not a fair proposition to have men working 14 hours a day on the streets of Washington for $1. Surely the gentleman is again in error when he says that you could take a taxi at the Capitol and go to any of the hotels and pay 75 cents. Why is he in error? He is in error according to the figures I put in yesterday's RECORD, which show that the first drop is 25 cents and for that 25 cents you can go 2 miles under the rate fixed by the Utilities Commission. You can reach any of the hotels in Washington from the Capitol, practically, within a radius of 2 miles.

Mr. BLANTON. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. BLANTON. Our friend sitting right here [Mr. McSWAIN], who is the chairman of the Military Affairs Committee and a prominent Member of the Congress, whom we all love, told me a moment ago that last night a taxi driver charged him 65 cents and not the 20 cents others charge, and he paid it because he did not want to have an argument with the cab driver.

Mr. BOYLAN. The gentleman should know that the Utility Commission's rates are not in effect. That is what I am trying to explain to the gentleman. Mr. McSWAIN paid the old rates.

Mr. BLANTON. Oh, but if you put in the meters, when you get out of the cab and they tell you the charge is $1.25, you will pay the $1.25 or have a fight. And you had rather pay it.

Mr. BOYLAN. The gentleman speaks of meters that are installed under the old system. That is why I want some regulation. There is now no regulation. These meters that are now in are meters that were installed three or four years ago and they do not register the rates as provided by the Public Utilities Commission.

Mr. BLANTON. Suppose we adopt this new meter system, beginning with the initial charge of 25 cents, and my friend from New York, who is very peaceful, gets into a taxicab and drives out to the Roosevelt Hotel, within the 25-cent limit, and gets out expecting to pay 25 cents and hands the driver 25 cents and the driver says, "You owe me $1.25," and you say, "There is a 25-cent meter system here," and he says, "Pay me $1.25." the gentleman will pay him the $1.25 rather than have a brawl.

Mr. BOYLAN. Can I not get the gentleman out of the error of his way? Is the gentleman so "sot" in his ways that he will not see the light?

Mr. BLANTON. Oh, I know these things from a practical standpoint and not from a theoretical standpoint. After you put in meters authorizing 25 cents, they will hold you up for $1.25 whenever you do away with the 20-cent zone system.

Mr. BOYLAN. But the gentleman persists in quoting the rates formerly fixed on the meters. They are the rates that are in force now, and not the new rates as proposed by the Public Utilities Commission.

Mr. BLANTON. But suppose you put in the meters authorizing a new rate of 25 cents and you go from here to the Roosevelt Hotel and the gentleman gets out of the car and hands the driver a quarter and he says, "Pay me a dollar and a quarter," what is the gentleman going to do? Argue that it should be 25 cents? No; he will not get in a brawl. He will pay the $1.25 demanded.

Mr. BOYLAN. That is ridiculous because the meter would only register 25 cents under the new schedule.

Mr. BLANTON. How does the gentleman know. It may be run up to $1.25. What is the gentleman going to do when the taxi driver demands the $1.25? Is the gentleman going to argue with him? Is he going to engage in a street fight?

Mr. BOYLAN. The gentleman speaks beside the point at issue.

Mr. HARLAN. Will the gentleman yield for a question? I think the gentleman can get additional time.

Mr. BOYLAN. Yes.

Mr. HARLAN. Is the gentleman aware that the very point raised by the gentleman from Texas as to disputes arising out of taxicab fares with taxi drivers is one of the reasons the court said this new regulation should be enforced. Here is what the court said:

> The system increases cruising in congested areas, causes drivers to refuse unprofitable hauls and causes frauds and disputes.

Under the present system one company may recognize the present zoning system and another company may refuse to recognize it. A stranger here does not know where one zone begins or ends. One is half a mile wide and another may be 7 miles wide, and this produces disputes. I had the record here some time ago and I think the disturbances of the peace average something like seven cases a month, arising out of taxicab disputes because of the present chaotic conditions, which is the thing that the Utility Commission wants to correct.

Mr. BOYLAN. I thank the gentleman for his able contribution to a worthy cause.

[Here the gavel fell.]

Mr. HARLAN. Mr. Chairman, I ask unanimous consent that the gentleman may have five additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOYLAN. I would like first to confine myself to the statement of the gentleman from Texas. The gentleman is very painstaking and I do not think any man in this House works harder than he does to get at the facts; but, unfortunately, he has not got them right this time, and why? When he says that the distinguished chairman of the Military Affairs Committee was charged a certain amount under the meter rate I agree with him, but that is the old meter rate. That rate has not been changed because the Public Utilities Commission has not been permitted to use any money to regulate installed meters. I admit that is what we want to get away from, and how are we going to get away from it except by permitting the Public Utilities Commission to use whatever part of these funds they may need in order that the rates they promulgate may be effective, not only on one but on every taxicab in the city of Washington.

Mr. BLANTON. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. BLANTON. There are approximately 2,500 of these independents whom meters will ruin and put out of business. The peoples' counsel is a lawyer here named Richmond B. Keech, who is paid a big salary to represent the people of Washington and I wish you would look in the Washington Herald of this morning and notice his statement that meters will ruin the independents and that they do not want to change back to meters. These 2,500 independent taxies say they are making a living and they want this present system of a 20-cent zone continued. If they are satisfied, why does the gentleman want to interfere with the business? I quote this from this morning's Herald:

> Keech has the support of the Federation of Citizens Associations and other civic organizations in his fight against the meter order.

Mr. BOYLAN. I will say to the gentleman that he spoke a moment ago about the Diamond Cab Association being a

big monopoly. Every one of the members of the Diamond Cab Association is an independent owner. Does the gentleman know that?

Mr. BLANTON. No; there are just about one-third of them who are individual owners. There are men who own several Diamond cabs and employ other men to drive them.

Mr. BOYLAN. No; the gentleman is again in error.

Mr. BLANTON. I have checked that up, and know it to be a fact. And they are bound in an ironclad way by all the regulations of the company and if not controlled it could be one of the biggest monopolies in Washington.

Mr. BOYLAN. It is not a company, it is an association of independent drivers.

Mr. BLANTON. Well, an association is a company.

Mr. BOYLAN. No; they are independent drivers banded together for mutual protection.

Now, if the gentleman will look at the CONGRESSIONAL RECORD of February 14, page 4098, he will find this statement:

> Of the present 3,746 cabs, 2,556 of them, or 70 per cent, are owned by independent owners; while of the remaining 1,190 company-owned cabs, 706 belong to rental companies and only 484 belong to the seven different companies that might be classed as taxicab companies. Among the latter, the Black and White and Yellow Co. has only 200 cabs operating, and at its all-time peak had only 500 cabs, while of the remaining six taxicab companies not a single one now has, or has ever had, more than 50 cabs.

Mr. BLANTON. Who wrote that?

Mr. BOYLAN. I want to say that I am as receptive of information from all sources as is the gentleman from Texas. I do not ask him where he gets some of his statements. [Laughter.]

The Bell Cab Association—298 cabs—the Premier Cab Association—175 cabs, and other cooperative associations of independent owners, will certainly not be put out of business by enforcement of the meter order.

Now, gentlemen believe in a certain degree of safety, so if you get into a taxicab you want to arrive whole and not arrive at your point of destination in sections.

Mr. BLANTON. If you put meters in cabs and let them charge $1.25, you still have to protect your people from accidents. Meters do not protect them.

Mr. BOYLAN. Meters alone do not protect, but they cause safer driving and the commissioners can compel them to carry liability insurance.

Mr. BLANTON. You can not do it without law. The Public Utilities Commission holds that it is now without authority of law to require insurance.

Mr. CANNON. Mr. Chairman, I ask unanimous consent that all debate on this paragraph be closed in 27 minutes.

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

There was no objection.

Mr. BOYLAN. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BOYLAN. Now, if we are going into the question of liability insurance, we ought to have liability insurance here. All the large cities and towns of the country demand that liability insurance be carried by taxicabs. The gentleman from Texas knows there are judgments to the amount of half a million dollars unpaid in the city of Washington that have not been paid on account of irresponsible taxicab drivers.

Mr. COLLINS. The House has already passed a liability insurance act and sent it to the Senate, and the bill is pending there.

Mr. BOYLAN. Well, the Lord only knows when that will become a law.

Mr. HOLADAY. Will the gentleman yield?

Mr. BOYLAN. Yes.

Mr. HOLADAY. Where does the gentleman get his information that there is half a million dollars of judgments outstanding in the city of Washington?

Mr. BOYLAN. I received the information from several prominent attorneys in the city of Washington who are in a position to know.

Mr. HOLADAY. I have not been able to receive any such information, and I wonder if the gentleman's information is authentic.

Mr. BOYLAN. Perhaps I worked harder to get the information. The judgment record will show it.

Mr. BLANTON. I think that information is the most reliable of all the information the gentleman has.

Mr. BOYLAN. I thank the gentleman, and I am glad we agree on one thing. Just think of it, a half million dollars in judgments that can not be collected. You and I know that if you are unfortunate enough to meet with an accident immediately your expenses are doubled, trebled, or quadrupled, and yet if you want to avail yourself of a cheap taxicab ride you take your life in your hands for 20 cents. You get into a taxicab to-day at the Capitol to go to your dwelling place for 20 cents, and on the way you collide with another cab operated by a driver who has worked 14 hours and made only a dollar for himself. He has to get through as quickly as he can and get you to your destination in order to get a new fare. Therefore, he takes all kinds of chances. Assuming then that you were in a collision and you fractured a limb. What would that cost you? How far would the 20 cents go toward paying expenses attendant upon a fractured limb?

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

Mr. BOYLAN. Yes.

Mr. BLANTON. The gentleman knows that a good meter costs $85.

Mr. BOYLAN. Oh, no; you can get a good meter, guaranteed for two years, for $35.

Mr. BLANTON. Only a cheap or second-hand meter could be bought for $35. The kind that I would ask them to use, a reliable one, would cost $85.

Mr. BOYLAN. I am not going to ask the men to pay $85 for a meter when these poor fellows can get a meter for $35. Why should I ask them to spend $85?

Mr. BLANTON. To get one reliable. But the $35 meter would not be reliable. I am fighting against all meters because they would run independents out of business. The $35 meter is no good.

Mr. BOYLAN. Oh, yes; it is guaranteed for two years.

Mr. FULBRIGHT. Will the gentleman tell us how much accidents have increased since the fare has been reduced over what they were before that time?

Mr. BOYLAN. Oh, yes. They are killing at the rate of 10 a month.

Mr. FULBRIGHT. How many were they killing before that?

Mr. BOYLAN. About three.

Mr. BLANTON. Has the gentleman looked at the mile post of fatal accidents kept up daily in New York City to find the number they killed up there? They have such a mile post, corrected daily, where every day they report the number of people who have been killed in New York by traffic accidents.

Mr. BOYLAN. Of course, the appropriation for the District of Columbia has not yet included the empire city of New York.

Mr. BLANTON. The last time I looked at it, it was up in the many thousands.

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

Mr. PALMISANO. Mr. Chairman, I rise in opposition to the amendment. I have listened to the discussion of the amendment with some interest. The gentleman from New York [Mr. BOYLAN] argues that the mere fact that there is half a million dollars worth of judgments rendered against taxicab companies is one reason why we ought to meter them. I think the answer to that is that we ought to make them obtain insurance in order to take care of the public, and not meter them.

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

Mr. PALMISANO. In a moment. We have had some experience in Baltimore City. Two years ago the State legislature passed a law metering every taxicab in Baltimore City. The consequence was that the little fellows who had to pay $80 or $90 for a meter were put out of business and had to quit, and a lot of sharks came along, such as the Sun Taxi Co. and the General Taxi Co. and they ran around like wild cats. The little fellow who was trying to make a living had to go out of business as these monopolies were created, charging a quarter. There is nothing that prevents the Utilities Commission from raising the rates on the zones here. If 20 cents is not enough, permit them to charge 25 cents and make them obtain insurance, and if the bill comes in the next House before the Committee on the District of Columbia, I shall be in favor of compelling them to obtain insurance in order to take care of the public. In Baltimore there is but one taxicab that is worth while driving in, and that is the cab of the company that pay their men a regular salary, the Yellow cab. But you take your life in your hands, because they travel in the city at 40 and 45 miles an hour, in this kind of weather. I say, let the commission raise the rate and let it cut down the hours, or if it can not cut down the hours that these chauffeurs may work, let us pass a law compelling them to work no more than 8 or 10 hours a day, whatever is reasonable. I think you should vote down this amendment and let us get a proper regulation by way of insurance. I travel every evening from the House Office Building to the Union Station. When you get on one of the meter taxicabs it costs you 45 cents just to drive about half a mile.

Mr. BOYLAN. The gentleman knows, as I explained, that those are the old meters and not the meters provided by the Utilities Commission under this provision.

Mr. PALMISANO. I say to the gentleman from New York that the meters did not take care of the public in Baltimore and will not take care of the public here. Make them obtain insurance, and cut down the hours that the chauffeurs are required to work. In Baltimore I may say that they run 2½ miles, and some companies 3½ miles, for 25 cents.

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

Mr. STAFFORD. Mr. Chairman, I move to strike out the last two words.

Mr. HOLADAY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOLADAY. Is it my understanding the debate has been limited?

The CHAIRMAN. The gentleman is correct.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent to proceed for seven minutes.

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

There was no objection.

Mr. STAFFORD. Mr. Chairman, the question before the committee is whether the system is a fair method of determining the charge that should be levied or whether the existing zone system should be continued. The gentleman from Texas has cited the abuses that arise from no regulation under the existing zone system, of how taxicab drivers exact a tribute of 75 cents in going from the Union Station to the Willard Hotel, a mile and a half. That condition could not exist if we had the meter system.

Anyone who has the barest acquaintance with the meter system in effect in other cities knows that you pay according to the mileage. I say that a 25-cent rate, as established by the Utilities Commission, plus 5 cents for every one-third of a mile in excess of the first 2 miles, or 40 cents for 3 miles, is a reasonable charge.

In no other city in the country do the intolerable conditions exist which exist here. I venture this statement: That if it were left to the operators of the taxicabs in the District of Columbia to-day they would vote in favor of the meter system. It is not going to result in any curtailment of service. It will result in a little more added revenue. I do not believe it is fair, under the existing system, to have Government employees or any other persons in the District, four in number, get into a cab and be driven 7 miles and pay the taxicab driver only 20 cents. That is outrageously unremunerative. If any gentleman, rising in protest of the establishment of the meter system, can point out where the establishment of a rate of 25 cents for the first 2 miles and 5 cents for every third of a mile in excess is exorbitant and unfair, let him so rise.

There is no question here as to liability insurance. The supreme court has denied that the District Commissioners have the right to exact liability insurance. The only question is whether we shall come to the rescue of the people, particularly the drivers. I sympathize with those drivers in being required to work 12 or 14 hours a day for a stipend of a dollar. Let us give them a living wage, and not let it be said that in the House of Representatives you voted against allowing those men 25 cents for a 2-mile ride. I yield to the gentleman from Illinois.

Mr. KELLER. Who says these men only make a dollar a day?

Mr. STAFFORD. It has been stated time and time again. I have asked them how much they make under the existing system. The mere placing of a meter costing $35 or $50 will not place an undue burden on those drivers.

Mr. CAMPBELL of Iowa. Will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. CAMPBELL of Iowa. I have ridden in those taxicabs many times, and I have made inquiry, and no man has told me that he has made less than $3 a day.

Mr. KELLER. Nor me either.

Mr. STAFFORD. Well, what is $3 for a man working 16 hours a day? The question is whether the rate established by the Public Utilities Commission of 25 cents for 2 miles is a reasonable rate. I do not believe we should discriminate. I do not believe persons should get into those cabs and travel 7 miles and give the taxicab driver only 20 cents or 25 cents. I am not going to state what my practice is. I use the street cars whenever it is fair weather. When it is rainy weather I use the taxicabs. When I use the taxicab I do not give them a mere 25 cents. I believe that traveling 2 miles is worth at least 50 cents.

We have had the meter system in use in many cities. We have had low meter rates in Detroit; we have had low meter rates in Milwaukee; we have had low meter rates in other cities. The question is whether you are going to do justice to the drivers; whether you are going to establish a fair and remunerative rate; whether you are going to compel those who are abusing the zone rate, traveling 7 miles for 20 cents, to pay a fair stipend.

A meter speaks for itself. It is based upon distance. It is not based upon time. Who is here to say that 25 cents is an exorbitant charge for going 2 miles in the District of Columbia? I wish to get rid of these overcharges, these holdups cited by the gentleman from Texas [Mr. BLANTON]. I want a register, so that when I get in I will know the distance I have traveled and the amount the driver is entitled to receive. If I see fit to give him a little tip in addition, I want to know what the distance charge is. That is fair. Let us establish once and for all time a remunerative rate for distance carried, and not allow the cut rate, cutthroat system that is in effect at present, by which we are imposing upon these poor drivers the necessity of working 12 or 14 hours a day.

Mr. KELLER. Will the gentleman yield?

Mr. STAFFORD. I again yield to the bellwether.

Mr. KELLER. How much does the gentleman pay for riding 2 miles on a street car?

Mr. STAFFORD. Oh, the street car has been called into this debate by the gentleman from Texas, supported by the valuable ally, the gentleman from Cairo. [Laughter.] Why, Mr. Chairman, it is not a question of street cars. The street car is a separate institution. They should be patronized. I believe in patronizing the streets cars and I believe in patronizing the railroads instead of busses. I patronize

street cars because I believe it is my duty to see that that system should be supported. I am appealing to the membership of this body to establish a reasonable means of paying a remunerative rate to the drivers of taxicabs. I appeal to those in this body who use taxicabs.

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

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. Let the Chair say to the gentleman from Oklahoma that the time limit of 27 minutes was set with the understanding that certain gentlemen would be recognized to speak on this amendment.

Mr. McCLINTIC of Oklahoma. Mr. Chairman, I ask unanimous consent to address the House for three minutes on this subject.

The CHAIRMAN. The Chair has promised to recognize the gentleman from Arkansas for five minutes.

The Chair recognizes the gentleman from Arkansas.

Mr. GLOVER. Mr. Chairman, I certainly hope this amendment will be voted down.

When the matter of the consolidation of the two street-railway companies in Washington was before us a short time ago I had in mind that this thing was coming on. Whenever you start a concentration of these big interests you can never satisfy their greed. The purpose, as everybody knows, is to put the taxicabs out of business here so that the street-railway systems and the cabs will be one and the same thing. That is exactly what we are driving into. We are driving into a situation where they can exploit the public.

I say to you there is not a city in the United States that has better cab service than Washington City has right now. It is entirely satisfactory to the public. It is entirely satisfactory to those engaged in it.

I, too, have talked to drivers of taxicabs, but I have not yet talked to a driver who has ever told me he made less than $3.50 a day and who has not said he could live on that, and live nicely under present conditions.

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

Mr. GLOVER. I yield.

Mr. PALMISANO. I call the gentleman's attention to the fact that when the consolidation of the railway companies was before the Committee on the District of Columbia the question then rose of permitting the railway companies to operate taxis, and the committee refused to allow it.

Mr. GLOVER. Absolutely. That is what they are seeking to do. The effect will be to turn the cabs over to the street-railway systems. Also it will put 1,500 ex-service men out of jobs and submit every man and woman who comes into Washington City and uses cabs to extortionate fees for driving a short distance. I have had the same experience these other gentlemen have had. The other night I drove from a downtown hotel to Congress to attend a night session. I got in a cab without thinking whether it was a 20-cent cab or not, with the result that I had to pay 70 cents, when I could have gotten here for 20 cents and had just as good service.

Men talk to you about having no protection under the present system. I want to say that I never saw more cautious drivers than we have in Washington City now. I never drive my car, although I have it here. I would not undertake to drive it in this city with the traffic there is here, without having a better knowledge of driving than I have. I feel absolutely safe when I get into one of these taxicabs, because the drivers know the rules of driving and observe them. Suppose the 435 Members of the House and the 96 Members of the Senate undertook to drive their cars in Washington City; the result would be more cripples than we now have.

Mr. BOYLAN. What about the $500,000 in unsatisfied judgments arising out of accidents due to inefficient and careless operation of cabs?

Mr. GLOVER. Oh, that is mere idle talk. Who knows about that? I heard the gentleman's statement a while ago, made in somewhat uncertain terms, that it might be this or it might be that. The inference is justified that the gentleman did not have any accurate information upon it at all.

Mr. BOYLAN. There was nothing uncertain about the $500,000. That is a matter of record.

[Here the gavel fell.]

Mr. McCLINTIC of Oklahoma. Mr. Chairman, these are perilous times. It seems to me every Member should take into consideration the exact conditions existing with respect to labor.

Anyone who has resided in Washington several years knows that a few years ago we were confronted with a kind of monopoly here on the part of two companies that brought about a situation not fair from any standpoint. We likewise know that when the zone system was put into effect these companies brought large numbers of cars here from other cities for the purpose of crushing those who were forced to go out and do the best they could to make a living.

My sympathy has always been with the little fellow. I know, and you know, that if you require these individuals to pay a high price for a meter many of those who are now barely able to make a livelihood can not afford to go to this extra expense. As far as I have been able to learn, there is no dissatisfaction at present with the taxicab service. If this be true and we compel cabs to be equipped with meters we will be taking the means of making a living from those who were forced by economic conditions out of good jobs to take up taxi driving to make a livelihood for themselves and their families.

Why should we attempt to put into effect a measure which would enrich some big company to the extent that it would force out of business these fellows who are not able to get meters to-day?

I venture the assertion that if the Members have taken an inventory, or have asked those who drive taxicabs what was their former occupation, it has been found that many of those at present driving cabs have held lucrative positions, but because of inability to get any other kind of work have gone into the taxicab business and are able to make $3, $4, or $5 a day, thus keeping the wolf away from the door.

So, these conditions it seems to me make it necessary that we do nothing that would in any way bring an injury to those who are now making an honest livelihood in this occupation. They should not be penalized. Therefore, in my opinion, this amendment should not be adopted.

[Here the gavel fell.]

Mr. HOLADAY. Mr. Chairman, for a great many years in Washington a very unsatisfactory condition existed with reference to the monopoly held by two taxicab companies at the Union Station and at the hotels. The then commissioners refused to take any action. New commissioners were appointed and some changes were made.

Then came the investigation and the decision of the Public Utilities Commission, and an order was entered for meters.

Mr. Chairman, bear in mind that the issue in this case is simply between the two taxicab companies that formerly had a monopoly, and want it again, and the street-car companies on one side, and the independent drivers of taxicabs and the public on the other side.

This order was issued by General Patrick, and General Patrick when appearing before our committee—I am reading from page 100 of the hearings—with reference as to whether or not the residents of Washington were satisfied with the present condition, said:

> I should say the consumers are highly satisfied.

This is the testimony of General Patrick himself.

If this provision is taken out it means that the independent operators, including the Diamond Taxicab, which is a cooperative organization with about 1,200 members, will be practically put out of business. As far as I have been able to ascertain by inquiring of various drivers for the past 15 months, they make on the average about $3 or $3.50 per day, occasionally more and occasionally less. You may say they are not making enough. If this amendment prevails it

means you have thrown them out of business and they do not make a dollar.

The reasonable thing to do is to accept the suggestion of the gentleman from Maryland that this limitation be continued in the bill until the District of Columbia Committee shall have had time to thoroughly investigate the matter and report appropriate legislation.

It is simply a question of whether or not you are going to throw out of employment these 1,200 members of a cooperative concern functioning as the Diamond Taxicab, as well as a great many other independents, and turn the thing back to where the big companies can again secure the monopoly which they had at one time.

Mr. BOLAND. Will the gentleman yield?

Mr. HOLADAY. I yield.

Mr. BOLAND. Does the gentleman wish to state to the House that in his opinion $3.50 a day is a fair day's pay for these taxicab drivers?

Mr. HOLADAY. I say it is better than no pay at all, and that is the question involved here. It is not a question of whether $3 or $3.50 is fair, but whether or not you want to throw these men out of employment and take their $3 a day and give it as profit to the owners of a monopoly. [Applause.]

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

The question is on the adoption of the amendment offered by the gentleman from Ohio [Mr. HARLAN].

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 10, noes 71.

So the amendment was rejected.

The Clerk read as follows:

DEPARTMENT OF VEHICLES AND TRAFFIC

For personal services, $68,320.

Mr. WOOD of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOOD of Indiana: Page 9, line 5, strike out "$68,320" and insert in lieu thereof "$74,280."

Mr. WOOD of Indiana. Mr. Chairman, I desire to explain the purpose of this amendment.

If this amendment prevails it will add to the sum granted by the committee and the amount will then be in accordance with the recommendation of the Budget.

I desire to call the attention of the committee to the fact that this is one of the services that is not only self-sustaining, but brings to the District a large amount of money. It has to do with the permits that are granted for automobiles and vehicles as well as registration of titles. The registration of titles was added in 1923 and this has brought into the treasury of the District the sum of $166,750, and all of these items each year bring into the treasury $658,000.

This department has dispensed, voluntarily, with the temporary services that they employed from time to time, which amounted to $5,000.

I am not in favor of increasing appropriations except when the increase of an appropriation will bring some return. We might as well say that we should decrease the appropriation for our Customs Service, which is one of the means of raising revenue for the United States. We might as well say that we will reduce or cripple the service of the Internal Revenue Bureau, which is one of the great agencies bringing money into the Treasury of the United States.

I am informed by those who have charge of the Traffic Department that by reason of the additional service that is required on account of their title work, it will be absolutely impossible for them to efficiently do the work that is required of them or that they should do, and at the same time get the amount of revenue that should be paid into the Treasury from these different sources. I therefore hope because of the fact this is a money raiser, the committee will agree to the adoption of the amendment.

Mr. CANNON. Mr. Chairman, a great many go on the theory that if we make money we ought to spend it simply because we have it, and the more we make the more we ought to spend. The committee takes the position that the criterion of expenditure should be not the amount of income but the amount required to maintain adequate, efficient, and economical service. The amendment here even proposes to increase the sum over the Budget estimate. It goes to show how utterly inconsiderate these bureau chiefs are when they come to Congress asking for money. Apparently there is no limit to which they will not go in increasing the cost of government. Back in the year 1928, only a little while ago, we were only appropriating $25,000 for this purpose. I submit, Mr. Chairman, that the committee was generous in their allowance for this item, and not a dollar should be added to the amount provided by the bill.

Mr. WOOD of Indiana. Will the gentleman yield?

Mr. CANNON. Certainly; with pleasure.

Mr. WOOD of Indiana. The gentleman says that a while ago the appropriation was $25,000.

Mr. CANNON. Yes; in 1928.

Mr. WOOD of Indiana. And the receipts at that time were $73,302, while in 1933 it amounted to $348,000.

Mr. CANNON. That is true, but we are making the appropriation on the basis of service. One reason why we made this reduction was that they had four places down there that they wanted money appropriated for that were not filled and have not been filled for months.

Mr. WOOD of Indiana. Mr. Chairman, I wish to modify my amendment. I intended to make it on the recommendation of the Budget, but through a mistake it is over the recommendation of the Budget.

The CHAIRMAN. The Clerk will report the modified amendment.

The Clerk read as follows:

Page 9, line 5, strike out "$68,329" and insert "$73,780."

Mr. CANNON. Even that amendment appropriates for four more men than they need.

Mr. STAFFORD. Mr. Chairman, I would like to ask the gentleman how he arrived at the sum of $68,320, the appropriation in the bill? What was the basis of it?

Mr. CANNON. We took off the furloughs, which, of course, should be taken off in all these appropriations, and we took out the positions that had not been filled. They have been vacant since July.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was rejected.

Mr. COYLE. Mr. Chairman, I move to strike out the paragraph for the purpose of calling the attention of the committee to the fact that the gentleman from Ohio [Mr. HARLAN] has been attempting to do a rather seriously good job. I think perhaps like myself he is accustomed to being in the minority, and certainly we both consider ourselves right.

In connection with that I want to call your attention to some words of Andrew Jackson 100 years ago in his message to Congress that bears on this question of appropriations for the District of Columbia. It is so pertinent and up-to-date that I am imposing it on your attention.

Andrew Jackson in December, 1831, in his annual message to Congress said:

I deem it my duty again to call your attention to the condition of the District of Columbia. It was doubtless wise in the framers of our Constitution to place the people of this District under the jurisdiction of the general Government (was Old Hickory's tongue in his cheek as he wrote it?) but to accomplish the objects they had in view it is not necessary that this people should be deprived of all of the privileges of self-government. Independent of the difficulty of inducing the representatives of distant States to turn their attention to projects of laws which are not of the highest interest to their constituents, they are not individually, nor is Congress collectively, well qualified to legislate over the local concerns of this District. Consequently, its interests are much neglected, and the people are almost afraid to present their grievances lest a body in which they are not represented and which feels little sympathy in their local relations should, in its attempt to make laws for them, do more harm than good. * * * Is it not just to allow them at least a delegate in Congress, if not a local legislature, to make laws for the District, subject to the approval or rejection of Congress? I earnestly recommend the extension to them of every political right which their interests require and which may be compatible with the Constitution.

I read that to the committee at the present time because it is directly in line with a few suggestions that have been made that would serve to take the immense detail of these local concerns off the shoulders of the Congress, and place it in some measure on the shoulders of the people of the District of Columbia, where there is really an immense amount of latent ability, that might very well be called into service. I know that the gentleman from Texas [Mr. BLANTON] in many ways agrees with exactly what I have said.

Mr. BLANTON. I do in some things, but if we were to have a legislature here in the District, about the first thing it would do would be to pass a law that the Government should not have any rights here at all in its own District.

Mr. COYLE. I agree with my friend from Texas in that I do not believe the people of the District of Columbia should have a legislature, and neither do I believe that they should have unlimited franchise. I know the history of that, and the way it developed, but I do believe, in line with President Jackson's suggestion, that when the time comes that the people of the District of Columbia, like the people of Puerto Rico or the people of Alaska or any one of the Territories or island possessions, shall have a Delegate to present the views of the people of the District of Columbia here in Congress, then we will begin to get somewhere. [Applause.]

The Clerk read as follows:

For purchase, installation, and modification of electric traffic lights, signals and controls, markers, painting white lines, labor, maintenance of non-passenger-carrying motor vehicles, and such other expenses as may be necessary in the judgment of the commissioners, $63,200: *Provided*, That no part of this or any other appropriation contained in this act, or that is now available shall be expended for building, installing, and maintaining street-car loading platforms and lights of any description employed to distinguish same.

Mr. CANNON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. CANNON: Page 9, line 11, strike out the comma at the end of the line and the words "or that is now available."

Mr. CANNON. Mr. Chairman, this is merely to correct a typographical error.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LANKFORD of Georgia. Mr. Chairman, I move to strike out the last word. Is this the usual provision carried in the bill, with reference to street-car loading platforms?

Mr. CANNON. It was carried in a former bill and was inadvertently included here.

Mr. LANKFORD of Georgia. Does that mean that in the future we will have less loading platforms and other necessary facilities for people who are waiting for street cars?

Mr. CANNON. No. This in no way affects present accommodations.

Mr. LANKFORD of Georgia. It does not, then, mean a lessening of the number of loading platforms and other protection for the pedestrian who uses the street cars?

Mr. CANNON. No. The street-car companies maintain them and will continue to provide all needed facilities of the kind.

Mr. LANKFORD of Georgia. And the money for this purpose is derived from another source?

Mr. CANNON. Yes. These platforms are merely a part of the equipment of the transportation companies, and they take care of all expenses incident to their construction and maintenance.

Mr. LANKFORD of Georgia. Mr. Chairman, I do not want anything done to lessen the protection now afforded those of us who use street cars, and am glad that loading platforms and other similar facilities are to be maintained in the future.

Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

REGISTER OF WILLS

For personal services, $60,000.

Mr. HOLADAY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HOLADAY: Page 10, line 16, strike out "$60,000" and insert in lieu thereof "$68,490."

Mr. HOLADAY. Mr. Chairman, this amendment adds $8,490 to the bill and brings the amount available for the register of wills back to the Budget figures. The register of wills is a fee office and, strange as it may seem, the business of that office has been increasing. It was more last year than it had ever been before, and it will be more this year. That is brought about by the fact that many estates in process of being administered are insolvent. Therefore there is greater demand upon the office of the register of wills. In 1932 the register of wills collected $93,000, which was about $3,000 more than the year before, and there has been a steady increase of something like two or three thousand dollars a year. I apprehend that this figure was cut without a full realization of the condition. If this amendment is not adopted, it means that some five or six employees of the office will be dropped. The business of the office has been increasing, so that with his present force he has not been able to keep the work current, and at the present time the work is behind and is gradually falling behind. In about all of the other offices the work is current. I believe it is a mistake to allow this office where the work is increasing to be decreased in personnel through a decrease in the appropriation and thus throw out of employment five or six people and get the office into worse and worse shape as the weeks go by. The $8,490 brings it to where it was last year. There has been an increase of only one employee in this office since 1927, and I believe that in the interest of wise administration the amendment should prevail.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the amendment. Yesterday I put in the RECORD a list of all of the Government employees in the District of Columbia who were drawing over $2,500 a year, showing the increases they obtained under the classification act of 1923. Among them happened to be the register of wills, Mr. Theodore L. Cogswell. It showed that his salary under the 1923 classification act was raised from $4,000 to $6,400. Then I put in a table of the auditor showing that Mr. Cogswell was one of those who, in addition to his $6,400, had been retired under the emergency officers' retirement act at $125 per month retired pay.

Then I mentioned that last year Mr. Cogswell got $700 from the Howard University as professor of wills, for delivering lectures there. He claimed it required three or four hours a day to prepare those lectures. In no way did I attack him. When I referred to him I started out by saying, "Here is Theodore Cogswell, a splendid, good fellow," but I mentioned those facts. Were not they pertinent facts? Was not it well for Members here to know about them? My friend from New York [Mr. GRIFFIN] later took the floor just before we adjourned, and he intimated that I had done Mr. Cogswell an injustice when such was not the fact, and he used this language in referring to Mr. Cogswell:

He is entitled to the pay of an emergency officer, and I fear my colleague gave the impression that he was drawing such pay. I want to make it clear to my colleague that he is not drawing such pay as an emergency officer, but only his pay as register of wills.

Now, the facts are that as soon as that disabled emergency officers' retirement act was passed Mr. Cogswell applied for retirement and for retirement pay. He was retired at $125 per month for life additional to the salary of $6,400 per year he was drawing from the District government as register of wills. He claimed to be disabled 45 per cent. He was retired upon the basis of 38 per cent permanent disability. Immediately there was a check handed him for $180.93, up to that date. Under that retirement act he has drawn from the United States Government, and I got these authentic figures from the department this morning, $6,399.67 in cash as a disabled emergency retired officer, and that is additional to his salary of $6,400 per year as register of wills. If he is

38 per cent disabled permanently, how can he earn $6,400 per year and also $700 for lecturing?

Mr. HOLADAY. Will the gentleman yield?

Mr. BLANTON. In just a minute. This is just why we can not stop abuses. Whenever we try to put important facts before Congress, somebody tries to hamstring us. We are not inveighing against the acknowledged integrity of individuals. We are merely discussing facts. I was inveighing against the 1923 classification act as unduly raising salaries and arguing for its repeal, and then somebody not posted gets up and tries to destroy every effort made to remedy conditions. This is the reason the Congress will never change conditions and will never properly reduce governmental expenses. You will always find somebody who is a friend of the fellow, or of the bureau, or of the department who will get up here and defend, when he does not know the facts and is not well posted.

Mr. HOLADAY. Will the gentleman yield?

Mr. BLANTON. I yield now.

Mr. HOLADAY. I wish the gentleman would bear in mind that my amendment does not affect the gentleman about whom the gentleman from Texas is talking at all. This goes to five or six employees in the office. I fully agree with what the gentleman says about the Personnel Board, and all the gentleman may say about the register of wills may be true, but this does not affect him at all.

Mr. BLANTON. Now, if my friend from Illinois will wait just a minute, I will give the gentleman some information that will appeal to him after I am through with my present subject. The Washington Herald this morning, in speaking of that incident, said:

Cogswell called upon BLANTON in the latter's office and sought his assistance in having this amount restored. BLANTON is said to have promised to help restore the appropriation, but instead he arose yesterday and accused Cogswell of conducting a lobby.

Now, who knew about his calling on me except myself, my secretary, and Mr. Cogswell? Nobody. So that newspaper item must have come from Cogswell, because my secretary does not give interviews. I made no such promise to Mr. Cogswell, and Mr. Cogswell will not say that I made such a promise.

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

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BLANTON. I told Mr. Cogswell about some idleness and "pink teas" going on in his office, and told him that if he would require more diligence of his employees he could dispense with some of them. And I told him that I would recheck his office and see whether we had cut him too deep. I made no other promise to him. I did recheck his office.

Mr. GRIFFIN. Will the gentleman yield?

Mr. BLANTON. Yes; certainly.

Mr. GRIFFIN. I took occasion to make some comment about Mr. Cogswell, and I found that Mr. Cogswell has not drawn a cent from the emergency officers' retirement fund.

Mr. BLANTON. Now, if the gentleman will just wait a minute until I get through, I will give him all the facts. The gentleman is mistaken. I have the facts here before me authenticated by the records of the department. Mr. Theodore Cogswell has drawn in cash $6,399.67 from that retirement fund, that he has kept, as a disabled emergency officer, 38 per cent permanently disabled. Now, if the gentleman will just wait a minute, he will have all the facts.

Mr. GRIFFIN. Up to what time?

Mr. BLANTON. Up to last October. You remember that I got the Committee on Military Affairs to hold hearings on my House Joint Resolution No. 355, when we kicked William Wolff Smith out, and that last year we passed an act that provided that any employee who was receiving a salary from this Government of as much as $3,000 could not draw this disabled emergency officers' retirement pay. Why? Because in drawing the retirement pay he is supposed to be disabled; and if he is disabled, he can not earn a salary of $6,400 per year as register of wills, and also earn $700 additional as professor of wills lecturing in Howard University.

Therefore we made that provision in the law, and automatically those who drew salaries of as much as $3,000 from the Government were not permitted to draw further payment from the retirement fund. But the bureau, after stopping his pay, after the passage of that act, looked up his record and found that he was wounded in France. There was a proviso in that bill which provided that those wounded in actual battle would be allowed to draw their retirement pay regardless of any salary they draw. So, after having stopped his pay, the bureau restored it, and when they sent him his check in October, 1932, he sent it back; and I want to commend him for it.

Mr. GRIFFIN. And he has sent it back ever since.

Mr. BLANTON. Yes; but just wait a minute until I tell you what happened. I know more about it than my friend does. He sent his October check back, and this is exactly what he said, as I quote—

I hope to be able to continue this action—

That is, of sending the checks back—

at least until conditions are improved.

Indicating that when things get better he is going to draw his retirement pay again.

Now, I commend him for what he has done; but my friend, the gentleman from New York [Mr. GRIFFIN], evidently did not know he had drawn $6,399.67 from this disabled emergency officers' retirement fund when the gentleman made his speech yesterday.

Mr. GRIFFIN. Oh, yes; I did.

Mr. BLANTON. Then the gentleman's speech was not quite fair either to me or to the House.

Mr. GRIFFIN. But I know he discontinued it.

Mr. BLANTON. Now I want to use the rest of my time.

Over in Virginia, splendid old Commonwealth, my father was a Virginian, the clerk of the court there probates all wills. The clerk of the court grants letters testamentary. The clerk of the court grants guardianship letters. You can probate a will there in four days' time and it costs the people interested in that matter less than $5 to do it. Here in Washington it takes about 12 months or more to probate a will. It costs a minimum of about $35 to probate a will in the District of Columbia. Old, archaic procedure. Instead of letting the clerk attend to it, instead of letting Mr. Cogswell attend to it, there is a $10,000-a-year judge here who has to sign every order. These $10,000-a-year judges in Washington designate one of their number to sign probate orders. You could change the system in that office and put some of the proper, common-sense rules in it that they have in Virginia and save two-thirds of the expense of that office and have a better system here. Chairman CANNON and his committee have been very fair to Mr. Cogswell and this amendment should not be passed.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the last two words.

Mr. CANNON. Mr. Chairman, will the gentleman yield to permit me to make a unanimous-consent request?

Mr. GRIFFIN. I yield.

Mr. CANNON. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in 10 minutes.

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

There was no objection.

Mr. GRIFFIN. Mr. Chairman, I have a great deal of respect for the vigilance and earnestness of my friend the gentleman from Texas. He takes a great deal of trouble to make researches as to the operations of the various offices of the Government, and I commend him for it; but I do not believe he will think it is fair, nor will we think it is fair, to penalize an existing establishment, or the occupants of an office the creation of which, the support of which, depends upon ourselves, the Members of Congress. It may be that it is more expensive to probate a will in the District of Columbia than it is elsewhere. I know it is not more expensive

here than it is in New York. I had one experience in the District in the probate of a will, and it was done very promptly, expeditiously, and efficiently.

If there is to be any change in probate procedure in Washington, it is a matter for the legislative committee of the House and is not for a subcommittee of the Committee on Appropriations to undertake at the behest of one economy enthusiast to cut the appropriation for the office by one-third or one-half without deliberation, without thought. Changing probate procedure is a legislative matter. So long as the procedure remains as it is, so long as we have the office there with this staff of 36 employees, I think it is wrong and unjust to deprive this office of the appropriation to which it is entitled. It should be remembered that last year this office brought in a revenue of $93,000. Surely Congress does not want to have this self-supporting office help make up the deficits in other departments? Last year it made a profit of $25,000. The appropriation allowed by the Budget is $68,640. I believe the sole purpose of the amendment of the gentleman from Illinois is to restore the Budget allowance.

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

Mr. GRIFFIN. I yield.

Mr. BLANTON. We are giving this office in this bill $68,000. Does the gentleman know that is twice as much as the same office in Richmond, Va., gets? Richmond, Va., would compare favorably with Washington, D. C., in the matter of population, and so forth, would it not?

Mr. GRIFFIN. No; this bill gives them $60,000, not $68,000; and the population of Richmond is only 183,000 against 487,000 in Washington.

Mr. BLANTON. I am not talking about the $8,000; I am talking about the total, $68,000, when the same office in Richmond, Va., gets only half that much.

Mr. GRIFFIN. I think what they do in Richmond is hardly relevant to the matter now under consideration.

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

Mr. GRIFFIN. I yield.

Mr. HOLADAY. Let me suggest that the clerk has nothing to do with the law governing the probate of wills. It may be, as the gentleman from Texas says, that the Virginia law is much better than the District of Columbia law. In Virginia the clerk may administer the law, but that has no bearing upon the question now before us. It is simply a question whether we want to curtail the activities of this office by dismissing six employees and causing the office to become further and further behind in its work.

Mr. GRIFFIN. In other words, demoralizing the office. This is an office that brings in $93,000 a year. Are we to begrudge them the amount the Budget allowed, $68,000? Should we not respect the recommendation of the Budget and not penalize a number of innocent employees in the office and compel their discharge and probably interfere with the administration of the office?

I think we ought to appropriate the $68,000 the Budget recommended, and even then we would not be doing too much, because the office shows a profit of $25,000 a year, even if we allow them the $68,000.

[Here the gavel fell.]

Mr. CANNON. Mr. Chairman, the committee is very anxious to provide every facility for the operation of these offices. We have been told that by the use of ordinary business efficiency this office could save and ought to save a great deal more than $8,000. We felt we were very generous in providing this amount for its maintenance.

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

Mr. CANNON. I yield.

Mr. COLLINS. How many employees are there in this office?

Mr. CANNON. There are 35 employees there.

Mr. BLANTON. There are 34 besides Mr. Cogswell.

Mr. COLLINS. They must write the same records over and over, day after day.

Mr. CANNON. There must be some circumlocution of some sort. In the Virginia State office which handles this work for the entire State they require only five employees to perform the duties for which this office employs 35.

Mr. COLLINS. They have five at Richmond.

Mr. CANNON. Yes; at Richmond, Va.

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

Mr. CANNON. Certainly.

Mr. HOLADAY. I understood the gentleman to say that the evidence before the committee indicated they could get along——

Mr. CANNON. No; the gentleman apparently misunderstood me. I said that we were told that the office could be efficiently managed for much less.

Mr. HOLADAY. The evidence before the committee was that it was difficult for them to get along with the present appropriation; that even if you increased it they could not keep the work current.

Mr. CANNON. The gentleman has had sufficient experience with testimony adduced at these hearings to know that on every application for an appropriation from the public funds they always submit ample and convincing evidence. In one item before this committee last year they asked for over $300,000 when it later appeared that less than $100,000 was required.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. GRIFFIN. Mr. Chairman, on that I demand a division.

Mr. BLANTON. Mr. Chairman, this matter is of such importance I think we ought to have a quorum present. I make the point there is not a quorum present.

Mr. CANNON. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. PRALL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 14643, the District of Columbia appropriation bill, had come to no resolution thereon.

MEMORIAL SERVICES FOR THE LATE PRESIDENT CALVIN COOLIDGE

Mr. STEVENSON. Mr. Speaker, I call up a privileged Senate concurrent resolution (S. Con. Res. 42).

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That there shall be compiled, printed with illustrations, and bound, as may be directed by the Joint Committee on Printing, 25,000 copies of the oration delivered by Hon. Arthur P. Rugg in the House of Representatives during the exercises held in memory of the late President Calvin Coolidge on February 6, 1933, including all the proceedings and the program of exercises, of which 8,000 copies shall be for the use of the Senate and 17,000 copies for the use of the House of Representatives.

With the following committee amendments:

In line 4, strike out "25" and insert in lieu thereof "15"; in line 9, strike out "8" and insert "5"; in line 10, strike out "17" and insert "10."

Mr. MICHENER. Will the gentleman yield?

Mr. STEVENSON. Yes.

Mr. MICHENER. Will these documents be distributed through the folding room or the document room?

Mr. STEVENSON. Through the folding room, as I understand it.

Mr. MICHENER. Then each Member will get his quota?

Mr. STEVENSON. Each Member will get his own quota.

The committee amendments were agreed to.

The concurrent resolution was agreed to.

On motion of Mr. STEVENSON, a motion to reconsider the vote by which the concurrent resolution was passed was laid on the table.

PANAMA CANAL

Mr. LEA. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 49) and ask unanimous consent for its immediate consideration.

The Clerk read as follows:

HOUSE CONCURRENT RESOLUTION 49

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House is hereby authorized and

directed in the enrollment of the bill (H. R. 7522) entitled "An act to provide a new Civil Code for the Canal Zone and to repeal the existing Civil Code," to omit Senate amendments numbered 15 to 23 inclusive.

Mr. BLANTON. Mr. Speaker, reserving the right to object, the adoption of this resolution will not require the reprinting of all of this document?

Mr. LEA. It will not. That is the object of proceeding in this way.

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

There was no objection.

The concurrent resolution was agreed to.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. WYANT (at the request of Mr. DARROW), for balance of the week, on account of important business.

To Mr. MONTAGUE, indefinitely, on account of illness.

ENROLLED BILL SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 6456. An act to amend section 98 of the Judicial Code, as amended.

ADJOURNMENT

Mr. CANNON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 33 minutes p. m.) the House adjourned until to-morrow, Thursday, February 16, 1933, at 12 o'clock noon.

COMMITTEE HEARINGS

Tentative list of committee hearings scheduled for Thursday, February 16, 1933, as reported to the floor leader:

EXPENDITURES

(10.30 a. m.)

Hearings on the administration of seed and crop production loans.

DISTRICT OF COLUMBIA—SUBCOMMITTEE ON PARKS AND PLAYGROUNDS

(10 a. m.)

Hearings on H. R. 14568, commercial airport for the District of Columbia.

WAYS AND MEANS SUBCOMMITTEE

(10 a. m.)

Hearings on the establishment of foreign-trade zones.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. LONERGAN: Committee on Interstate and Foreign Commerce. H. R. 14537. A bill authorizing Essex Shore Way (Inc.), its successors and assigns, to construct, maintain, and operate a bridge across the Merrimac River at or near Plum Island Point, Mass.; with amendment (Rept. No. 2034). Referred to the House Calendar.

Mr. KELLER: Committee on the Library. H. R. 14412. A bill to enable the United States Roanoke Colony Commission to carry out and give effect to certain plans for the comprehensive observance of the three hundred and fiftieth anniversary of the birth of English-speaking civilization in America; without amendment (Rept. No. 2035). Referred to the Committee of the Whole House on the state of the Union.

Mr. SWING: Committee on the Public Lands. H. R. 14534. A bill to provide for the selection of certain lands in the State of California for the use of the California State park system; with amendment (Rept. No. 2036). Referred to the Committee of the Whole House on the state of the Union.

Mr. KNUTSON: Committee on Indian Affairs. H. R. 13960. A bill to amend the description of land described in section 1 of the act approved February 14, 1931, entitled "An act to authorize the President of the United States to establish the Canyon De Chelly National Monument within the Navajo Indian Reservation, Ariz."; without amendment (Rept. No. 2037). Referred to the House Calendar.

Mr. McCORMACK: Committee on Ways and Means. H. R. 12843. A bill to change the name of the retail liquor dealers' stamp tax in the case of retail drug stores or pharmacies; without amendment (Rept. No. 2038). Referred to the House Calendar.

Mr. HUDDLESTON: Committee on Interstate and Foreign Commerce. H. R. 14665. A bill authorizing the State of Georgia to construct, maintain, and operate a toll bridge across the Savannah River at or near Lincolnton, Ga.; with amendment (Rept. No. 2039). Referred to the House Calendar.

Mr. McREYNOLDS: Committee on Foreign Affairs. House Joint Resolution 580. Joint resolution to prohibit the exportation of arms or munitions of war from the United States under certain conditions; with amendment (Rept. No. 2040). Referred to the House Calendar.

Mrs. ESLICK: Committee on Public Buildings and Grounds. Senate Joint Resolution 237. Joint resolution authorizing the erection in the Department of State Building of a memorial to the American diplomatic and consular officers who while on active duty lost their lives under heroic or tragic circumstances; without amendment (Rept. No. 2041). Referred to the House Calendar.

Mr. LANHAM: Committee on Public Buildings and Grounds. S. 5588. An act authorizing the acceptance of title to sites for public building projects subject to the reservation of ore and mineral rights; without amendment (Rept. No. 2042). Referred to the Committee of the Whole House on the state of the Union.

Mr. STEVENSON: Committee on Printing. Senate Concurrent Resolution 42. Concurrent resolution to compile, print, and bind the proceedings of Congress in connection with the exercises in memory of the late President Calvin Coolidge; (Rept. No. 2043). Ordered to be printed.

Mr. CELLER: Committee on the Judiciary. H. R. 14395. A bill relating to the prescribing of medicinal liquor; without amendment (Rept. No. 2044). Referred to the Committee of the Whole House on the state of the Union.

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 14461. A bill to provide for placing the jurisdiction, custody, and control of the Washington city post office in the Secretary of the Treasury; without amendment (Rept. No. 2045). Referred to the Committee of the Whole House on the state of the Union.

Mr. CONNERY: Committee on Indian Affairs. H. R. 14648. A bill providing for an alternate budget for the Indian Service, fiscal year 1935; without amendment (Rept. No. 2046). Referred to the House Calendar.

Mr. SUMNERS of Texas: Committee on the Judiciary. S. 4020. An act to give the Supreme Court of the United States authority to prescribe rules of practice and procedure with respect to proceedings in criminal cases after verdict; without amendment (Rept. No. 2047). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. MICHENER: A bill (H. R. 14683) authorizing persons, firms, corporations, associations, or societies to file bills of interpleader, or bills in the nature of interpleader; to the Committee on the Judiciary.

By Mr. ALLEN: A bill (H. R. 14684) authorizing R. L. Metcalf, of Omaha, Nebr., and W. E. Wright, of Kansas City, Mo., to construct, maintain, and operate a toll bridge across the Mississippi River, between the cities of Davenport, Iowa, and Rock Island, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. JENKINS: A bill (H. R. 14685) to repeal the first proviso of section 24 of the immigration act of February 5, 1917; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 14686) to make uniform the method of appointing immigration officials in charge of districts, ports, or stations; to the Committee on Immigration and Naturalization.

By Mr. COCHRAN of Missouri: A bill (H. R. 14687) providing for the accounting of certain moneys made available to the Secretary of Agriculture pursuant to the provisions of section 2 of the Reconstruction Finance Corporation act of January 22, 1932, as amended, and for other purposes; to the Committee on Expenditures in the Executive Departments.

By Mr. DAVIS of Tennessee: A bill (H. R. 14688) to provide for fees for radio licenses, and for other purposes; to the Committee on Merchant Marine, Radio, and Fisheries.

By Mr. STEAGALL: A bill (H. R. 14689) to provide for the postponement of the payment of installments due on loans made by the Federal land banks, and for other purposes; to the Committee on Banking and Currency.

By Mr. CELLER: Resolution (H. Res. 382) for the consideration of an act relating to medicinal liquor; to the Committee on Rules.

By Mr. SIROVICH: Joint resolution (H. J. Res. 601) to create a commission to investigate and study problems with respect to the Indians in Alaska; to the Committee on Indian Affairs.

Also, joint resolution (H. J. Res. 602) providing for an investigation and study of problems with respect to the Indians in Alaska; to the Committee on Rules.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

Memorial from the State of Maine, memorializing the Senate and the House of Representatives of the United States to enact into law House bill 13999; to the Committee on Ways and Means.

Memorial from the State of Idaho, memorializing the Senate and the House of Representatives of the United States to enact into law House bill 413; to the Committee on the Public Lands.

Memorial of the provincial government of Cagayan, Tuguegarao, P. I.; protesting against the Hawes-Cutting bill, and urging Congress to enact a law granting the immediate and complete independence to the Philippine Islands; to the Committee on Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CELLER: A bill (H. R. 14690) for the relief of Harold Goldstein; to the Committee on Claims.

By Mrs. ESLICK: A bill (H. R. 14691) for the relief of Claude Almon Fox; to the Committee on Naval Affairs.

By Mr. SNELL: A bill (H. R. 14692) for the relief of Jane B. Smith and Dora D. Smith; to the Committee on Claims.

By Mr. STALKER: A bill (H. R. 14693) granting an increase of pension to Mary P. Bruner; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

10433. By Mr. BOYLAN: Letter from the R. H. Comey Brooklyn Co., opposing imports from Japan; to the Committee on Ways and Means.

10434. Also, resolution adopted by the Washington Board of Trade, Washington, D. C., on behalf of the citizens of the National Capital, respectfully protesting the accumulation of a surplus of District money in the United States Treasury and the proposed increase of taxes as indicated in the current appropriation bill; to the Committee on Appropriations.

10435. By Mr. CLARKE of New York: Petition of Rev. Robert Earle Gibby, pastor of the Methodist Episcopal Church of Ouaquaga, N. Y., and 51 other members of his parish, urging that the Sparks-Capper stop-alien representation amendment be brought to a vote in this session of Congress; to the Committee on the Judiciary.

10436. Also, petition forwarded by Rev. Robert Earle Gibby, opposing any change in the prohibition laws; to the Committee on the Judiciary.

10437. Also, petition of the Ladies Aid Society of the Methodist Episcopal Church and Harriet B. Root, secretary of the Marytha Society of the Methodist Episcopal Church, Cooperstown, N. Y., requesting our United States Senators, our Congressmen at large, and our own Congressman to vote against all legislation intended to nullify, weaken, or repeal the eighteenth amendment and the Volstead Act, and to vote instead for adequate appropriations for law enforcement and a campaign of education in law observance; to the Committee on the Judiciary.

10438. By Mr. DELANEY: Petition of the East Bay municipal utility district of Oakland, Calif., urging certain amendments to the revenue act of 1932; to the Committee on Ways and Means.

10439. Also, petition of Clarence Poe, president and editor of the Progressive Farmer and Southern Ruralist, advocating that the domestic allotment plan be amended to give relatively more benefits to small farmers and relatively less to big-scale farm operators, and also urging settlement of war debts to restore international commerce and so help farmers; to the Committee on Agriculture.

10440. By Mr. FRENCH: Senate Joint Memorial No. 5, State Legislature of Idaho, urging prompt passing of House bill 413, a bill to enlarge the Boise National Forest by adding thereto certain areas in Idaho; to the Committee on the Public Lands.

10441. Also, a joint memorial from the Legislature of the State of Idaho, House Joint Memorial No. 5, urging upon the Congress of the United States to eliminate from the amendatory act the provision authorizing the State in its discretion to add a portion of the annual income to the permanent funds; and upon the elimination of this provision urging upon the Congress that it immediately enact into law House bill 11058, a bill amending sections 5 and 8 of the Idaho admission act; to the Committee on the Public Lands.

10442. By Mr. FULLER: Memorial of the Forty-ninth General Assembly of the State of Arkansas, memorializing Congress to repeal the act creating the Farm Board; to the Committee on Agriculture.

10443. By Mr. GARBER: Petition of the Mutual (Okla.) Woman's Christian Temperance Union, expressing appreciation of support of prohibition laws; to the Committee on the Judiciary

10444. Also, petition of Bartlett Collins Co., Sapulpa, Okla., calling attention to the merit of the American Manufacturers Foreign Credit Insurance Exchange of New York and Chicago, and urging that necessary aid be extended to it to enable it to continue its insurance of foreign credits for its members; to the Committee on Banking and Currency.

10445. By Mr. HAINES: Petition signed by Rev. H. R. Wilkes and other members of the York County (Pa.) Ministerial Association, urging the United States House of Representatives to vote for the stop-alien representation amendment to the United States Constitution; to the Committee on Immigration and Naturalization.

10446. By Mr. JAMES: Telegram from Ironwood Association of Commerce, Ironwood, Mich., asking for economies to balance the Budget; to the Committee on Appropriations.

10447. By Mr. LARRABEE: Petition of Mrs. H. O. Pritchard and 111 other persons, representing missionary societies of various Protestant churches in Indianapolis, Ind., petitioning Congress to defeat the Howard resolution relating to Indian affairs in the Department of the Interior; to the Committee on Indian Affairs.

10448. Also, petition of Rev. Edwin E. Hale and 80 other citizens of Indianapolis, Ind., petitioning Congress to defeat all measures proposing modification of the Volstead Act or repeal of the eighteenth amendment, and urging all necessary appropriations for maintenance and enforcement of the eighteenth amendment; to the Committee on Ways and Means.

10449. By Mr. MARTIN of Massachusetts: Petition of John F. Leahy and seven other residents of East Taunton, Mass., urging a revaluation of the gold ounce and the correction of financial abuses associated with mass production; to the Committee on Coinage, Weights, and Measures.

10450. By Mr. MEAD: Petition of citizens of Erie County, Buffalo, N. Y., urging enactment of the stop-alien representation amendment to the Constitution; to the Committee on the Judiciary.

10451. By Mr. NELSON of Maine: Joint memorial of the Senate and House of Representatives of the State of Maine, memorializing Congress to enact into law the Hill bill, H. R. 13999; to the Committee on Ways and Means.

10452. By Mr. SNOW: Memorial of the legislature of the State of Maine, memorializing Congress to promptly enact into law House bill 13999; to the Committee on Ways and Means.

10453. By Mr. SUMMERS of Washington: Petition signed by Bertha Speck and 42 other citizens of Yakima, Wash., urging adoption of the stop-alien representation amendment to the Constitution; to the Committee on the Judiciary.

10454. By Mr. STALKER: Petition of Christine Stickney, secretary of Circle No. 4 of the Church of Christ, Elmira, N. Y., and 25 other members, opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10455. Also, petition of Mrs. R. R. Birch, secretary of the Ladies' Aid Society, and 500 members; Mrs. C. C. Squier, secretary of the Women's Home Missionary Society, and 190 members; and Annie D. Payne, secretary of the Women's Foreign Missionary Society, all of the First Methodist Episcopal Church of Ithaca, N. Y., opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10456. Also, petition of Oswald Baker and 25 other residents of Ithaca, N. Y., R. F. D. No. 2, opposing every legislative act that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

10457. Also, petition of Florence M. Wheat, secretary of Taylor Philathea Class, and 57 members of class of the Disciple Church, Elmira, N. Y., opposing the return of beer and the repeal of the eighteenth amendment; to the Committee on Ways and Means.

10458. By Mr. WASON: Petition of citizens of Groveton, N. H., favoring the stop-alien representation amendment to the United States Constitution; to the Committee on Immigration and Naturalization.

10459. By Mr. WEST: Resolution of the Woman's Home Missionary Society, Mount Vernon, Ohio, urging legislation which will establish a Federal motion-picture commission, declare the motion-picture industry a public utility, regulate the trade practices of the industry used in the distribution of pictures, supervise the selection and treatment of subject material during the processes of production, and provide that all pictures entering interstate and foreign commerce be produced and distributed under Government supervision and regulation; to the Committee on Interstate and Foreign Commerce.

10460. By the SPEAKER: Petition of the Sons of Philippines, Salinas, Calif., expressing their viewpoint on the Dickstein bill; to the Committee on Immigration and Naturalization.

10461. Also, petition of citizens of the District of Columbia, opposing the enactment of any blue law for the District of Columbia; to the Committee on the District of Columbia.

SENATE

THURSDAY, FEBRUARY 16, 1933

(Legislative day of Friday, February 10, 1933)

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

Mr. HATFIELD obtained the floor.

Mr. FESS. Mr. President, will the Senator from West Virginia yield to enable me to suggest the absence of a quorum?

The VICE PRESIDENT. Does the Senator from West Virginia yield for that purpose?

Mr. HATFIELD. I yield.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Cutting	Keyes	Schuyler
Austin	Dale	King	Sheppard
Bailey	Davis	La Follette	Shipstead
Bankhead	Dickinson	Lewis	Shortridge
Barbour	Dill	Logan	Smith
Barkley	Fess	McGill	Smoot
Bingham	Fletcher	McKellar	Steiwer
Black	Frazier	McNary	Stephens
Blaine	George	Metcalf	Swanson
Borah	Glass	Moses	Thomas, Idaho
Bratton	Goldsborough	Neely	Thomas, Okla.
Brookhart	Gore	Norbeck	Townsend
Bulkley	Grammer	Norris	Trammell
Bulow	Hale	Nye	Tydings
Byrnes	Harrison	Oddie	Vandenberg
Capper	Hatfield	Patterson	Wagner
Caraway	Hayden	Pittman	Walcott
Clark	Hebert	Reed	Walsh, Mass.
Connally	Hull	Reynolds	Walsh, Mont.
Coolidge	Johnson	Robinson, Ark.	Watson
Costigan	Kean	Robinson, Ind.	White
Couzens	Kendrick	Russell	

Mr. WALSH of Montana. My colleague [Mr. WHEELER] is absent owing to illness. I ask that this announcement may stand for the day.

Mr. NORRIS. I desire to announce that my colleague the junior Senator from Nebraska [Mr. HOWELL] is detained on official business of the Senate.

Mr. FESS. I wish to announce that the junior Senator from Wyoming [Mr. CAREY] is detained on official business. I ask that this announcement may stand for the day.

Mr. WAGNER. I desire to announce that my colleague [Mr. COPELAND] is necessarily absent from the Senate because of the death of his father. I ask that this announcement may stand for the day.

Mr. SHIPSTEAD. I wish to announce that my colleague [Mr. SCHALL] is unavoidably absent. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

WITHDRAWAL OF CLOTURE PETITION

Mr. BINGHAM. Mr. President, on behalf of those who signed the cloture petition regarding the motion of the Senator from Wisconsin [Mr. BLAINE] to take up the proposed amendment to the Constitution, in view of the fact that the vote was had on yesterday, I ask to withdraw the petition.

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

AMENDMENT TO THE CONSTITUTION—REPEAL OF PROHIBITION

Mr. REED. Mr. President, I wish to enter a motion to reconsider the vote by which the amendment of the Senator from Arkansas [Mr. ROBINSON], striking out section 3 of the committee amendment, was agreed to last night.

The VICE PRESIDENT. The motion will be entered.

Mr. GLASS. Mr. President, I desire formally to offer Senate Joint Resolution 202 as a substitute for Senate Joint Resolution 211.

The substitute is as follows:

Resolved, etc., That the following is proposed as an amendment to the Constitution of the United States, which shall be valid to all